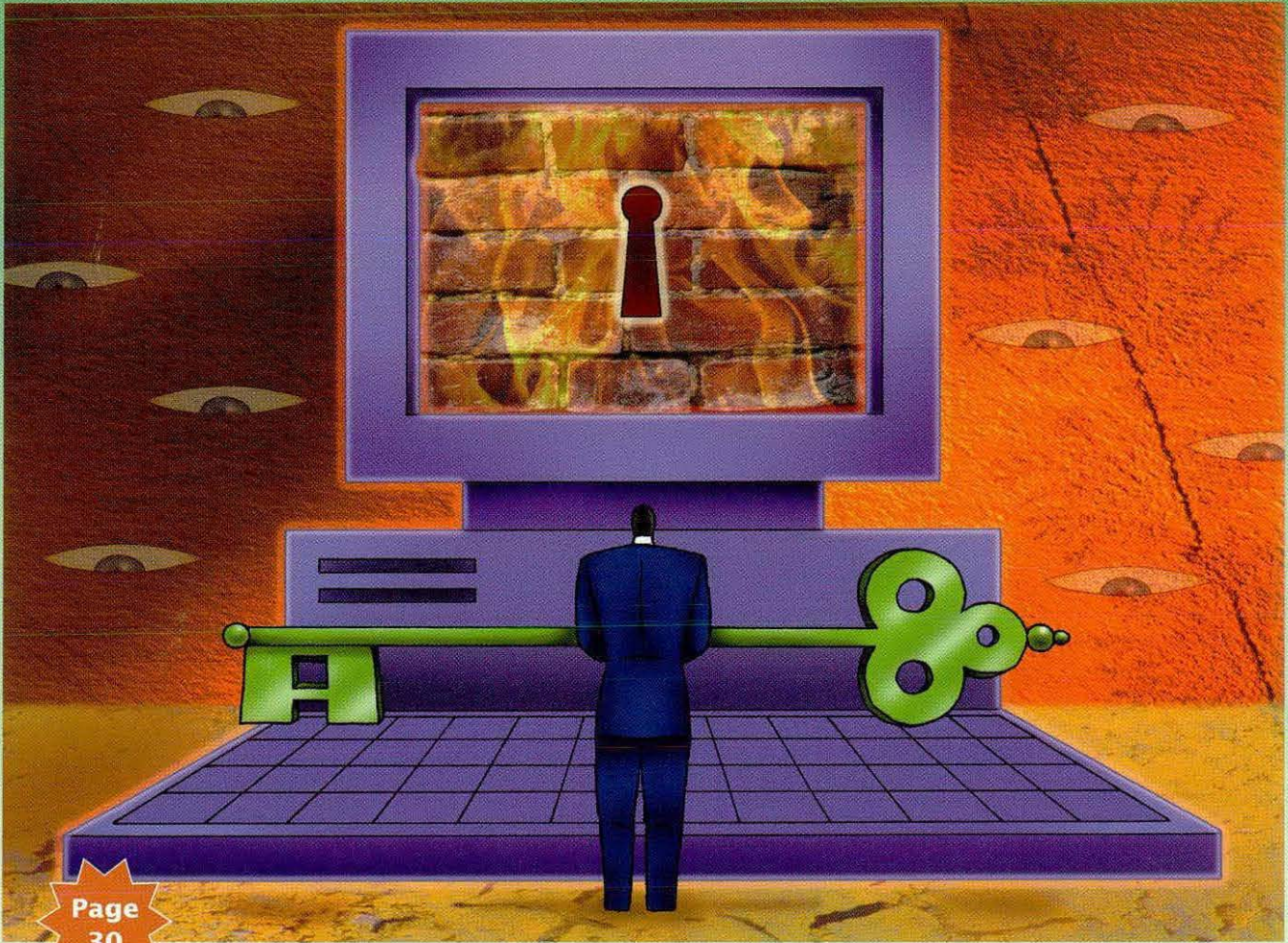


Washington State BAR NEWS

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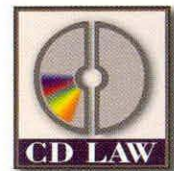


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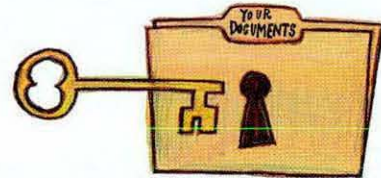
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At Hayne, Fox & Bowman, Mr. Duarte practices criminal law exclusively, defending felonies, as well as DUI’s and other serious traffic matters. He is a member of the Washington Association of Criminal Defense Lawyers, the WSBA Criminal Law Section and a graduate of the National College for DUI Defense conducted at Harvard Law School. He has also served as an instructor at the Northwest College of DUI Defense.



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Washington State Bar News (ISSN 886-5213) is published monthly by the Washington State Bar Association, 2101 Fourth Avenue, Fourth Floor, Seattle, WA 98121-2330, and mailed periodicals postage paid in Seattle, WA. \$10.51 of a regular member's dues is used for a one-year subscription. The annual subscription rate for inactive members is \$15. Nonmember subscription rate is \$24 a year. Washington residents add 8.6% sales tax.

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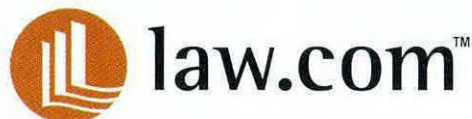
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Letters

Feedback on Additions to Board of Governors Continues

Editor:

I write to express my strong opposition to the proposal put forward by WSBA President Richard Eymann in the February *Bar News* to include a "minority" and a "young lawyer" on the WSBA's Board of Governors. On the surface, each proposal sounds like a good idea. A few moments of reflection will reveal just how poorly thought through these ideas are, and what a profound change they would make in the governance of the state Bar. I will not address the constitutionality or legality of these proposals. I have no doubt that others are busy assessing this. Rather, I will address the policy aspects of this choice.

For better or worse, we have an elected Board of Governors. Each of the Governors represents, and is responsible to, his or her constituency. This is how democracies function. We do not select specific constituencies as requiring their own representative; all are free to run and the winner wins. I, and I suspect most others, know very little about the candidates for the office of Governor from our respective districts. I cast my vote based on what the candidates have to say and whatever other information I glean from the materials they send. People choose to be candidates for Governor for all sorts of reasons. However, they all have to submit themselves to the voters.

Mr. Eymann proposes to do away with this process for minorities and young lawyers. He provides no really strong reason for not trusting the democratic process. He talks of the fact that by 2050 over half of the U.S. population will be "minorities." However, he fails to state why that is a reason to change how we select our leadership now. If "minorities" are, in fact, over half the population, and if, in fact, they are also over half the lawyers, then my bet is that they will also be able to elect members of the Board of Governors. The supposed problem will solve itself.

And Mr. Eymann is not truly worried about all minorities, just "racial minorities." However, there are lots of minorities — some are racial, some are religious, some relate to sexual preference, some relate to physical or mental functioning, etc.

Is each of these minorities entitled to a special seat on the Board of Governors? Nothing in Mr. Eymann's logic provides any reason why not. However, if we do go down that path then we have changed the Board of Governors from an elected body to a body composed solely of "special interests."

If the membership of the state Bar wishes to be governed in this fashion (which would be unique in the history of U.S. democracy) then I say we should be honest and actually vote on the proposition.

Sadly though, while Mr. Eymann is adept at threatening — he claims that he could have had the Board of Governors vote on the proposition without our input — he is poor at making his case. For example, how many minorities have run for the Board? Why haven't they run? When did they run? (If no minorities run now because they couldn't get elected 50 years ago, that's not a good reason to change how the Board is selected.)

Suppose this bad proposal were adopted. How would minority bar associations be selected as among the "chosen" entitled




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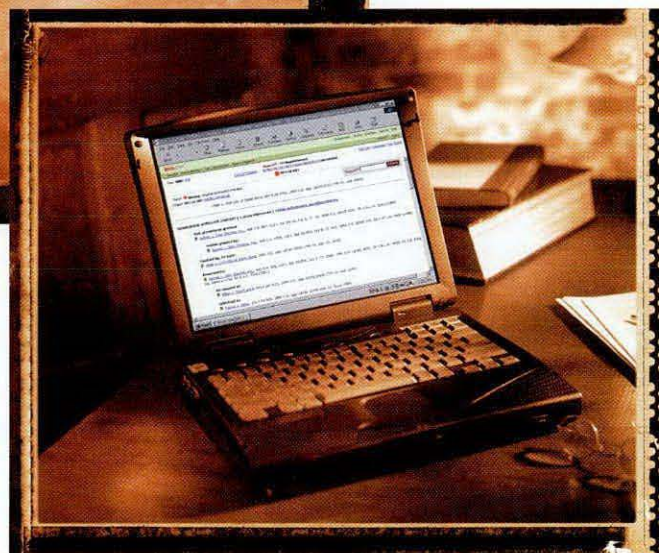
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to select a person for a seat on the Board? As I described above, there are lots of minorities; what basis does Mr. Eymann propose for selecting?

I have one last comment with specific reference to Board membership from the Young Lawyers Division. In most organizations, the younger members enter, learn the ropes, and work their way up. Most "young lawyers" do the same in the sections and in other bar associations. Furthermore, the YLD sends its officials to observe the Board of Governors' meetings and present or comment on various proposals. If there are so many young lawyers and they feel Board of Governors membership is necessary, why not get together behind a candidate and get him or her elected?

I hope the membership of the state Bar treats this proposal properly and signals its rejection.

*Harold Federow
Seattle*

Editor:

WSBA President Eymann has put forth a bold initiative to address the looming problem of minority exclusion in WSBA governance. His proposal took courage and generated significant and overdue discussion within the Bar, and exhibited extraordinary leadership.

The WSBA has been perceived, rightly or wrongly, as an old boy network which excludes those groups society has traditionally kept from the table. Nevertheless, any effort to bring banished voices into governance must be well-considered and must not be a token gesture to avoid addressing the inherently exclusionary system of the organization.

After much debate and reflection, the Asian Bar Association of Washington voted to support Mr. Eymann's proposal. We made this decision after several weeks of discourse within our organization. Our decision was not easy, nor was it unanimous.

We support the proposal for one simple yet compelling reason: We (minority attorneys) are not, nor have we been, at the table. Throughout its history, there has been only one minority board member, and never a president. Numerous institutional barriers have precluded minorities from participation in WSBA governance.

We have no voice in the leadership of the body which governs our profession. The Board of Governors has the power to set the agenda and take positions on key issues. The WSBA decides who is empowered to practice law, advocate, represent citizens, and fight for civil rights. A body with such power over not only lawyers, but in effect all citizens, must reflect the community.

Currently, the WSBA Governors are divided regionally by congressional district. The president must rotate between Eastern Washington, Seattle, and West-

ern Washington outside of Seattle. Why do we have regional diversity? Because it has long been recognized that a truly democratic process, i.e., a statewide election for all positions, would potentially create a Seattle-dominated board and quell the voices of smaller communities. Hence, each geographic region selects its own governor to assert and protect its interests. Logically, the same holds true regarding the minority position.

We do have many concerns about the proposal. First, would the creation of a minority position result in the remaining

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governors avoiding their responsibilities to minority communities? Will those governors expect the minority governor to represent all minorities on all issues? Will the institution also expect minorities to run for the minority position only? Is the creation of this position a way to avoid

addressing the institutional barriers obstructing minority participation in WSBA governance? After contemplating these issues, we are optimistic that vigilance and education will vitiate our concerns.

We hope that in the future, there will be no need for a designated minority po-

sition. Until that time, our voice must be heard, we must be at the table, and we must be our own messengers.

Yvonne Kinoshita Ward
President

Asian Bar Association of Washington

Editor:

It has come to my attention that the Washington State Bar Association is considering a proposal to add a minority position to its Board of Governors. As many of you may know, increasing racial and ethnic diversity at all levels of the legal profession is the subject of an American Bar Association initiative during my term as President. It is vital that the legal profession reflect our society. We must remain mindful that our general population is about 30 percent of color and in the foreseeable future will be 50 percent, while our profession is more than 90 percent white.

We are pleased at the positive response to the ABA initiative, and continue to encourage programs and projects to accomplish this important objective. Several years ago, positions for minority lawyers were established on the ABA Board of Governors. This development generally is viewed as a resounding success. As bar associations around the country consider how to enhance diversity in the profession, we commend the ABA experience for study and consideration.

William G. Paul
ABA President
Chicago, IL

WSTLA Packing WSBA Board?

Editor:

There is a situation that concerns me and I believe should concern all members of the WSBA. That is the fact that the members of the Washington State Trial Lawyers Association (WSTLA) have effective control over the governance of the WSBA. President Eymann, President-elect Peterson, and eight of the incumbent 11 governors are members of WSTLA, or American Trial Lawyers Association (ATLA), or both.

I have no quarrel with trial lawyers. My deceased partner, Grant Armstrong (who died in 1991), and I have been members of the American College of Trial Lawyers (ACTL) for a total of over 40 years. I was Washington State Chairman in 1992-93.

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As to the WSBA, my deceased partners, A.A. Hull (who died in 1961), Grant Armstrong, and I have been long-time members — they, since it was organized in 1933, and I, since 1950. All three of us were elected to the Board of Governors. (Mr. Hull was elected to the first Board in 1933 and served two terms.) All three of us served as President of the WSBA. (Mr. Hull completed the term of the elected President in 1939, his sixth year on the Board of Governors.)

The point of the foregoing is that trial lawyers and the WSBA are near and dear to my heart.

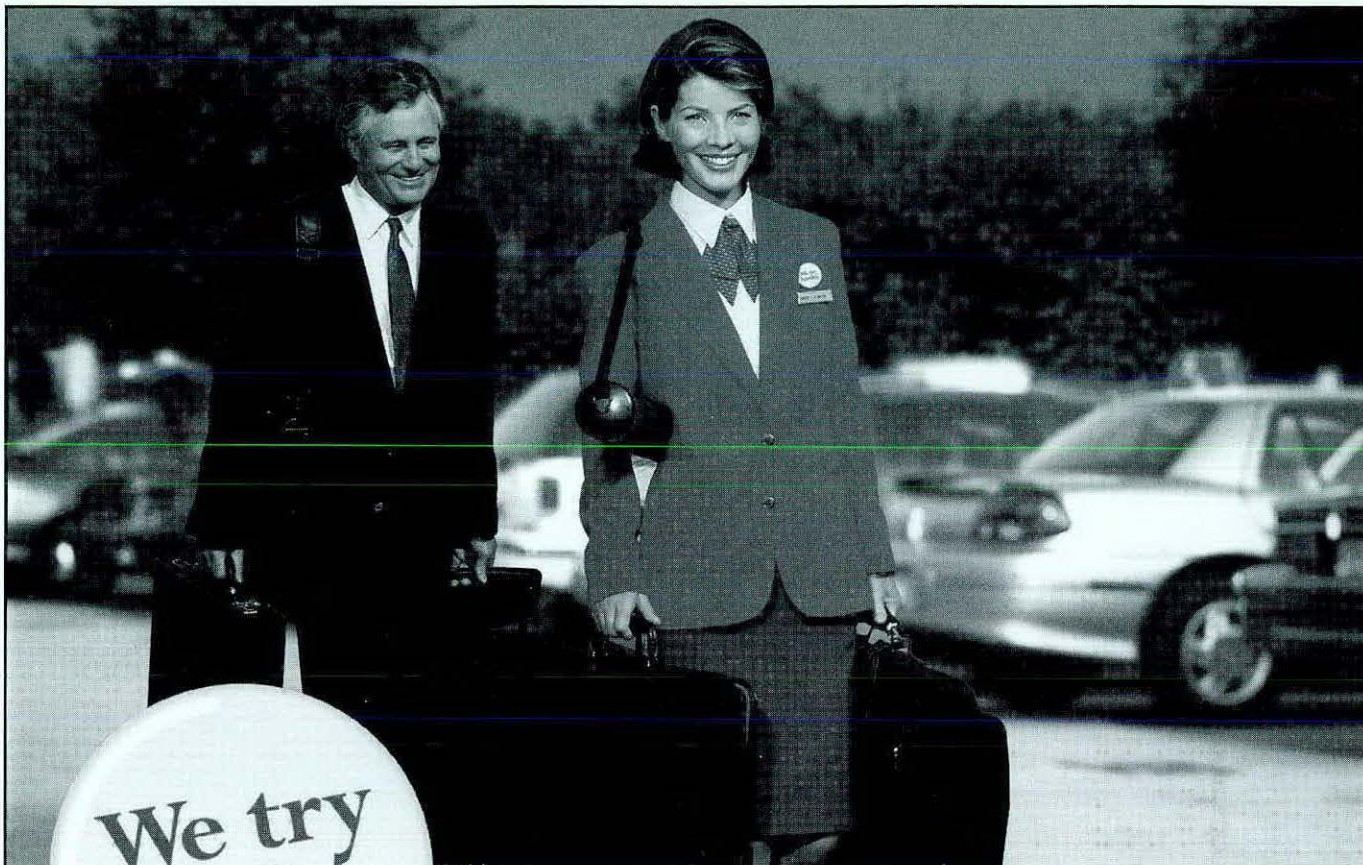
WSTLA is not just an association of trial lawyers, but one primarily dedicated to assisting plaintiffs in personal injury cases. It is billing a seminar — for members only — entitled “How to Hammer Allstate.” In WSTLA’s February 2000 issue of *Trial News* are the headlining articles “WSTLA Lobby Days Successful” and “How to Win Against Wal-Mart.” In the same issue, it lists the monies contributed to the association in 1999 by members. WSBA President Eymann, President-elect Peterson, and four incumbent Governors and/or their firms contributed a total of not less than \$37,200 nor more than \$72,794, according to the article.

The March 2000 issue of *Bar News* (p. 53) names the three Governors appointed to the Presidential Search Committee for year 2001-2002. Guess what? All are WSTLA or ATLA members.

In the February 2000 issue of *Bar News* (p. 19), President Eymann put out a plaintive cry for diversity on the Board of Governors. He advocates addition to the Board of lawyers who are not elected by members at large. I can hear him saying that plaintiffs’ lawyers represent people from all walks of life. Therefore a Board of Governors consisting only of WSTLA members would be truly diverse.

A reason for concern about centralizing membership of the Board of Governors is that, under Article XV of the WSBA Bylaws, the Bylaws may be amended by a majority vote of the Board of Governors at any regular meeting or at any special meeting called for that purpose.

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members of the WSBA. The petition must be filed within 90 days of the action that is the subject of the referendum. The complex procedure for referendums is in Sec. VII (I&J) of the Bylaws.

*J.A. Vander Stoep
Chehalis*

“Adjacent County” Now Legally Defined
Editor:

Recently I defended another attorney who filed a lawsuit against a county, in an adjacent county. Unfortunately, he and many other attorneys are unaware of the

fact that the legislature amended RCW 36.01.050 in 1997.

The statute now requires that an action against or by any county be commenced in the superior court of such county, or in the superior court of either of the two nearest counties. The statute further provides that the determination of the two nearest counties shall be made by the State Office of the Administrator for the Courts. The current listing for each county is included.

*David A. Thorner
Yakima*

Editor’s Note: The chart Mr. Thorner refers to can be found on page 55 of this issue.

Child Support Transfer Payment
Feedback

Editor:

Congratulations to John Mills for his courageous and truthful article. I fully agree that the issue he raises — the absence of child support transfer payments to (or even credits for) the “secondary” residential parent — is one of the most glaring injustices of that area of law as it is usually administered in Washington.

Based on my experience arguing that issue, however, I suspect the solution may have to be legislation.

*Michael John Wardell
Seattle*

Editor:

I read with some bemusement John Mills’ article, “Calculating Child Support Transfer Payments: A New Approach,” in the March issue (p. 37). Obviously Mr. Mills is and/or represents “nonprimary” parents. He does not seem to understand that the transfer payments are to provide the basic minimum that a child needs. If they can afford it, both parents will probably have to spend more than the amounts mandated by law. He also does not seem to understand that two parents who could not stay married to each other and live together successfully will never be able to agree on which one should buy the child’s winter coat, who should pay for the school photographs, etc. Clearly, one parent has to receive the transfer payment and then use it to pay for all of the child’s basic needs. It is hoped that both parents will then contribute additionally from their separate funds to enrich the child’s life with other than basic needs. I have not yet seen a “primary residential parent” go to Aruba on the “excess” child support he or she receives.


*Patricia H. Wagner
Seattle*

Paper or Plastic?

Editor:

I received the December issue of *Bar News* by mail several months ago. I am responding to the editor’s page of that issue. I didn’t

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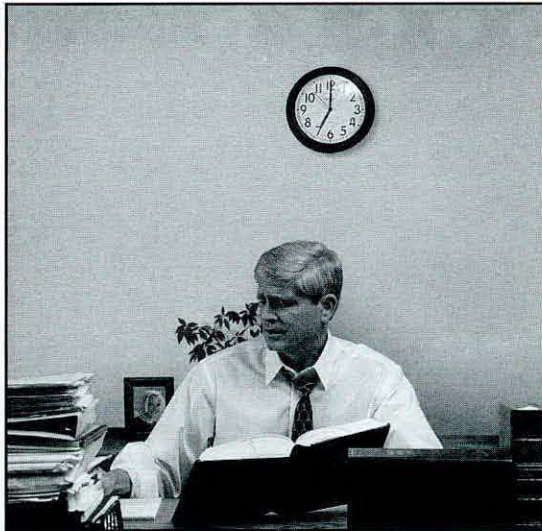
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begin reading that issue until February. It had been sitting on my desk waiting to be read. I was going to a health club in downtown Vancouver, and I thought I would read it there. I started to read it in the sauna, but it didn't work. I was sweating too much and the paper got wet. Could you publish a plastic version?

I thought I accidentally left that issue at the club, but I found it a couple of days ago at home and brought it to my office. I'm reading it today, thus the responsive e-mail. For now, if *Bar News* was only online, I probably would not have saved that issue. I don't like reading at the computer too long. But in paper form, I saved it. Someday I will have the electronic version that can go anywhere, even the sauna.

*Evan Hull
Vancouver*

Suspension Not Enough for Handgun Felonies

Editor:

I can only speak for myself, but as a deputy prosecutor, I am appalled that a lawyer can be convicted of two felony charges involving a handgun and only suffer a suspension from practice (suspension, p. 52, *Bar News*, March 2000). No wonder the public thinks the system is rigged in our favor.

*Charlie Blackman
Everett*

An Open Letter to the Washington State Bar Association Regarding Modern Censorship

Francis Fukuyama wrote a book a few years back entitled "The End of History." The thesis (vastly simplified) was that if history is defined as the battle between competing ideologies, then we are nearing the "end of history" as liberal democratic political systems gradually become accepted as the worldwide social norm. I have written elsewhere about the "End of First Amendment History," which I have defined as the fact that the big battles against censorship have been won, leaving current cases to bicker about the outer edges of First Amendment protection.¹

The biggest battles against censorship today are not battles against an authoritarian state, but battles for "hearts and minds."² These are battles for openness to

and acceptance of the existence of ideas one may despise: in a word, *tolerance*. These battles are not fought just in the public arena, but in numerous private conversations that take place every day.

I'm sure many members of the Washington State Bar Association's Young Lawyers' Division welcomed the return in the March issue of *De Novo* of former *De Novo* editor Evan Loeffler's first humor column since his retirement last summer. Upon Evan's retirement, *De Novo* received more letters lamenting the loss of his regular feature than we received on any other issue over the past several years. Yet the column printed in the March issue was not the first Evan Loeffler column submitted for publication in *De Novo* since his assumption of emeritus status.

Evan originally submitted the column entitled "A Field Guide to Clients." I believe the article is a funny, satirical look utilizing stereotypical labels including "the smart ass, the nervous nelly, the dumb ass, the best friend, the tightwad, the outrageous bastard, and the dead stiff," and giving "advice" on how to handle such clients. When I originally received the article, I decided to print it, and was actually elated that I had finally been able to get Evan to submit another piece.

The ruckus over this piece began with the WSBA staff's review of the galleys. The WSBA staff reviews all issues of *De Novo*, primarily to make sure *De Novo* doesn't libel anyone or otherwise create legal liability for the Bar. This humor column disturbed the WSBA staff to the point they felt the need to "bring it to the attention" of the WYLD Board of Trustees (BOT), even though explicitly disclaiming any "suggestion" not to print the article.

The article was discussed by the BOT at its February meeting, and following this meeting the Board instructed the production coordinator to inform the editor that the article was being pulled. Almost two weeks later, a conference call was held at which the major topics were the limits of the editorial discretion accorded to *De Novo's* editor and the "appropriateness" of printing the article in *De Novo*. There were also contentions that *De Novo* was not really a newspaper at all, but merely the public relations arm of the WYLD, and

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therefore openness to diverse and controversial content was not a desirable attribute of *De Novo's* publication policy.

At the conclusion of the conference call, it was established (at least to the satisfaction of some that participated) that the editor had discretion to print the article.³ As editor, I agreed to add *two* explicit disclaimers: a large warning that the article was satire, and an explicit statement in Evan's byline that "the views expressed in the articles are solely those of Evan Loeffler and are in no way, shape, or form

those of the WYLD." (See draft version of the galleys, on file with the *De Novo* production coordinator.) These disclaimers were in addition to the general disclaimer that runs in every issue of *De Novo* stating that the views expressed in the articles published are those of the authors, and not those of the WYLD, the WSBA or their governing bodies.

In the week following the conference call, the tactics changed. I received four separate e-mails from BOT members "requesting" that I not print the article. The

themes of these letters hadn't changed from the more forceful arguments made the week before. All of the letters felt that an article criticizing clients, even in a satirical and humorous fashion, was inappropriate for the WYLD newspaper. The letters also expressed concerns that the views contained in the article would be attributed to the WYLD.

Needless to say, I wholeheartedly disagree with these views. I believe that *De Novo* is a newspaper, not merely a public relations device, and should not shy away from controversial articles, so long as those articles concern the law or areas of interest to young lawyers. I do not believe that the BOT's fears regarding the "attribution" of the article to the WYLD are reasonable. In "legal" terms, I doubt that — particularly after the addition of *two* extra disclaimers — these fears have even a "rational basis." Any client or potential client who attributed these views to the WYLD when specific disclaimers stated that these views are not those of the WYLD would simply be wrong. The Bar cannot and should not base a publication policy on the possible mistakes of anyone who happens to run across the newspaper. I note, for example, that the Tacoma-Pierce County Bar Association's Bar News has run several cartoons on its back page over the past year that could be interpreted as unflattering to clients, apparently without protest.

Suppose the editor had received a letter to the editor from a young lawyer strongly criticizing certain groups of clients, for example a disgruntled legal services lawyer who criticized his/her clients (as a class) for a lack of education or a lack of initiative. Another not-too-far-fetched hypothetical would be a disgruntled plaintiff's personal injury lawyer who wrote an article strongly criticizing his/her former clients (as a class) as con artists and malingerers. Would the BOT seriously suggest that these articles should not be printed? That they were not important contributions on issues that affect WYLD members?

I believe the far better result is to publish these articles, and then publish every letter disputing them and every counter-article submitted. And if counter-speech is the better solution for a "serious" ar-

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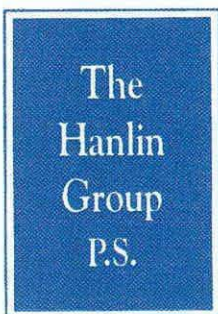
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ticle, why is it not the better solution for humor and/or satire?⁴

Humor and satire, even satire whose subject matter may be "objectionable," has repeatedly proved to be a valuable vehicle for social criticism. This form of expression has also been stubbornly subjected to attack, from Lenny Bruce in the 1960s to 2 Live Crew in the 1990s.

I believe there is room for the public relations aspect of *De Novo's* mission, as demonstrated by the president's column and the events listings, but that this aspect of *De Novo* is but a portion of *De Novo's* larger role as the WYLD's sounding board. *De Novo* is a place for all WYLD members to put their views forward on matters they view as significant to the profession, whether it be a serious criticism of a Supreme Court doctrine (see Ladson article, October 1999), or injecting a note of levity laced with criticism into a serious business. WYLD members should know that their views — if not libelous and if remotely connected to the practice of law — will be aired.

I have decided to resign my post as editor of *De Novo*, effective upon publication of the April issue. Prior to resigning, I had decided to run Evan's article in the June issue of *De Novo*, along with a version of this letter as an editor's column. I would urge the next editor to print Evan's article in an upcoming issue of *De Novo*. I sincerely hope that the WYLD membership will find the article funny, perhaps more than a little telling, and that WYLD members will exercise your own rights to let their fellow WYLD members know what they think.

Geoffrey William Hymans, the former Editor of De Novo, is an attorney working in Olympia. He can be reached at lshgwh@cs.com.

NOTES

1 See, e.g., *Free Speech Coalition v. Reno*, ___ F.3d ___ (9th Cir. 2000) (Virtual Child Pornography); *DCR, Inc. v. Pierce County*, 92 Wn.App. 660 (1998) (Proximity of exotic dancer as expressive element of "speech").

2 The best work documenting such battles is *Free Speech for Me But Not for Thee*, Nat Hentoff, HarperCollins, 1992.

3 This, I suspect, is likely to change with the scheduled revision of the WYLD Editor's Handbook, currently slated for this summer.

4 For those interested in the subject, possibly the best book on the importance of "objectionable" satire and parody as protected expression is *Jerry Falwell v. Larry Flynt*, Prof. Rodney A. Smolla, St. Martin's Press, 1988. I note that it may be hard to discern the intent of a humorist in writing his pieces, absent an editor's grilling of the author. I believe, however, that the task of discerning a humorist's intent, particularly where that intent may be a melding of both subtle criticism and the provoking laughter, is better performed by the reader.

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., May 10 for publication in the July issue. The editor reserves the right to select excerpts for publication or edit them as appropriate.

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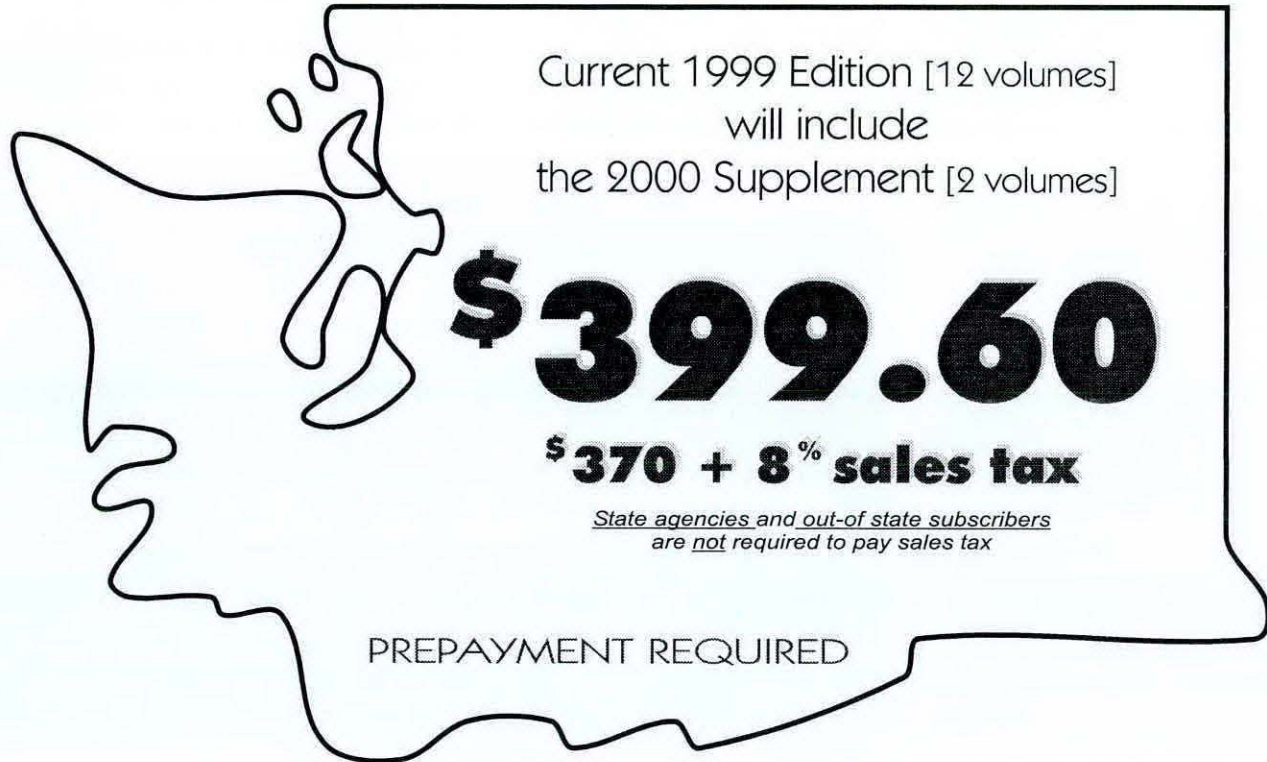
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Greedy Associates — An Appetite Suppressant

by **Judith Endejan**
Guest Editor

The other day I was looking for an appetite suppressant when a colleague at my firm directed me to the *greedy associates* bulletin board at <http://www.infirmation.com>. Like most web surfers, I felt a voyeuristic thrill clicking onto the site. This feeling quickly dissipated into appetite-suppressing dismay at what I saw.

The website allows associates (or alleged associates) to share anonymous salary information about law firms, and opinions about the quality of law practice in the Puget Sound region. The intent seems to be to promote mass exodus from the associate ranks of Seattle law firms unless mass salary increases occur. The thundering herd of exiting associates seems headed toward the law firm that will pay them the highest salary, most likely California-based firms seeking to emulate Silicon Valley successes here in the Northwest. Believing themselves to be woefully abused, *greedy associates* send messages like the following.

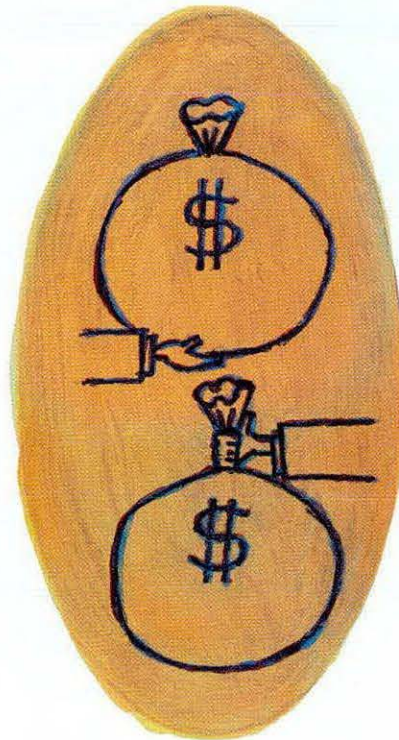
- *From: Anonseattle to: Money First*
Who cares until these cheapskate Seattle firms start showing us the money. Once a firm starts paying the market rate, then QOL, COL and prestige will take care of themselves. Give me almost anyplace at \$140,000 over Seattle at \$90,000.
- *Cashslave writes about the goal of raising first-year salaries from \$70,000 to \$100,000 for all practice areas:* Now that the Eastside corporate firms have upped the ante, those of us who are inclined toward litigation need one of two things to happen: 1) full-service firms “really” matching (as opposed to a “Perkins match”), or 2) the Eastside firms expanding and adding litigators to their quivers. According to a GP at one particular Eastside firm, the move to add litigation is imminent. Whether or not that was just pillow talk, I don’t know.

- *Phlypbish writes about associate exploitation in “backwater” Seattle:* Gawd, are you ever right, skek4billion. The only place you could get anyone to buy that is in a provincial, second-rate city like this. My friends in major markets laugh riotously about QOL arguments for all the reasons you mention. Plus, the work here stinks. Major market attorneys get the lead role on the sexy deals; we get the local counsel and scut BS.

QOL is the current buzzword that used to be “firm culture” — it’s as trite as “you just don’t get it.” What is the quality of a culture where your “partners” get rich off of your back and won’t share the benefits of the Great Economy of the Turn of the Century? They make money off us, not their clients — that’s wrong. And its not a culture I want to be a part of.

The American Heritage Dictionary defines a mercenary as “a person who serves or works merely for monetary gain.” What dismayed me the most about the exchanges on the website was the display of simple, raw mercenariness among new lawyers just entering the profession. If the newest generation of lawyers cares only for monetary gain, where is the legal profession headed? I don’t want to engage in the raging debate over proper associate compensation; the market will have to resolve this issue. Associate salaries will probably rise overall. But I’m concerned about the negative impact this attitude may have on the legal profession.

I may be naïve, but after 20 years of practice, I still believe law is a noble and learned profession with certain higher principles that distinguish it from other commercial enterprises. These principles are reflected in the law we swear to uphold and in the rules of professional conduct to which all lawyers must adhere. Without these principles and our com-



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-a former appeal client

mitment to serve, we would not have our legal justice system, the cornerstone of democracy.

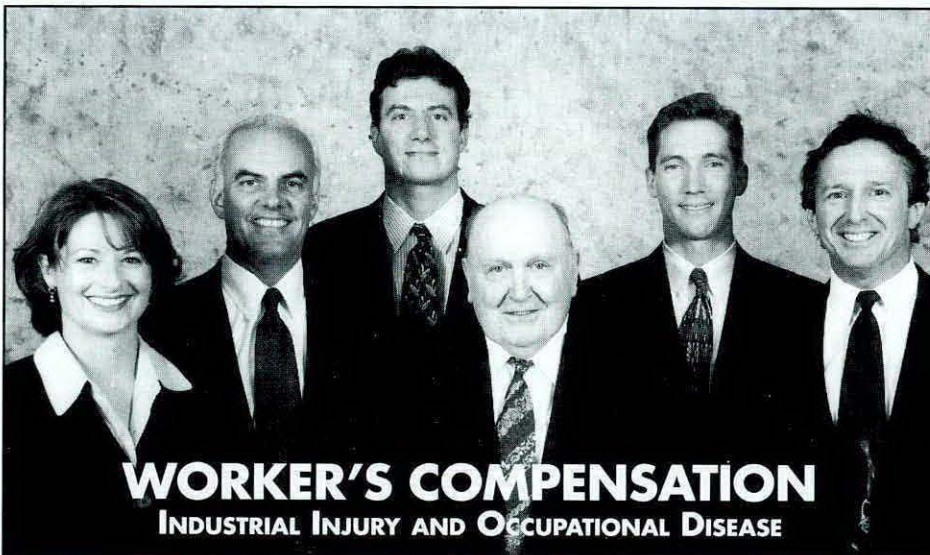
The non-monetary values which go hand-in-hand with these principles are undermined by the *greedy associate* movement. Take loyalty, for example. If *greedy associates* march to the highest bidder, how can they ever be loyal to a client, cause or firm? How about trust? If their preeminent value is economic self-interest, how trustworthy is the advice which will be forthcoming at each stage of their careers? Compassion is clearly a value at odds with their approach to the world, because it has no measurable economic value. So is a commitment to fairness, justice and public service.

It is unfortunate that *greedy associates* don't seek or even discuss firms or places to work which honor these values. They only seek the highest salaries. While a new lawyer should be choosy about where to start a career, that doesn't mean this choice should be dictated solely by money. The factors which go into that decision will ultimately mold the professional he or she becomes. Values, training, firm culture and lifestyle are all non-economic considerations which should not be dismissed so easily and cynically. The bottom-line question should be: Where should I go to gain the skills and adhere to the highest standards of the profession I have chosen? If the burdens of choosing this profession are too great for a young lawyer, he or she should make a different choice.

While *greedy associates* appear cynical, feckless and value-impaired, they may be only a small sub-set of the new attorney population. I truly hope that the majority of new lawyers do not mirror their views, but have instead chosen the law for reasons other than money.

Unless the majority recognizes that they chose a service profession and not a cash-cow business, and act accordingly, the legal profession will be reduced to a mercenary state which I and other like-minded souls will choose to leave. As Oliver Wendell Holmes, Jr. said: "And what a profession it [the law] is! . . . the calling is great when properly pursued."

In my view, these *greedy associates* "just don't get it," and they will miss this calling in pursuit of the highest bidder. ☞



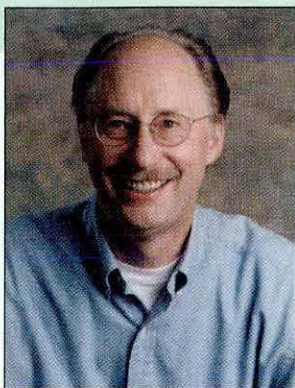
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Restoring Trust and Confidence: Is There any Hope?

by **Richard C. Eymann**
WSBA President

Is it really important for the public to trust our system of justice? Is the effort involved in the process of enhancing that trust worth the trouble?

Of course it is important. It is worth the trouble, especially to those of us who are actively engaged in the legal system. In the words of former WSBA President Mary Fairhurst, "We all have a responsibility to be faithful stewards of this critical element of our democratic structure." A more difficult question is, "What can we do that will have any impact?"

The topic of public trust and confidence is currently receiving overdue attention at the national level, as it must for years to come. Everyone seems to agree that to enhance the public's trust and confidence in our legal system, we must assure that people who become involved with it will be treated with fairness, respect and equality.

A New York State Bar task force recently began a process to study public trust and confidence. Public hearings have been held, including one in conjunction with the annual meeting of the New York State Bar Association. The people who testified at these hearings (citizens, representatives of civic and community groups, and members of the bench and bar) reflected diverse viewpoints, interests and contacts with the legal system. Five major problem areas were identified: 1) bias and prejudice; 2) access to justice; 3) judicial administration; 4) legal and judicial ethics; and 5) media portrayal and public understanding. The work of that task force has now exploded in scope, as the severity of the overall problem has become more apparent. New York's experience is not isolated. At the 1999 National Conference on Building Public Trust and Confidence in the Justice System held in Washington, D.C., virtually every state Chief Justice reported similar profound concerns.

Back home, there are those who think the system is not broken, just misunderstood. There is also a growing number who think the system needs fundamental change. An example is a proposal to eliminate jury trials in civil cases so that the system moves faster — a way to increase public trust and confidence. Those who think the system needs

only to be better or more fully explained in order to be more trusted tend to be proponents of better public education in such subjects as civics and other law-related topics.

Perceived unequal treatment in the justice system and expressed displeasure with the high costs of access to justice is a consensus diagnosis. At the very least, we face these public perceptions or realities in Washington:

- It costs too much to have a dispute resolved;
- The rich get a better deal in court than the poor;
- Our system still does not treat all people equally regardless of race, gender and ethnicity;
- Courts are designed for "insiders" (judges, lawyers and staff) rather than the public; and
- Lawyers are too busy to take a case because it's not profitable for them.

Our courts now utilize electronic communication and associated computer technology to be more efficient and deliver more service at faster rates, making effective use of technology to the extent funding is available.

At the last Board of Governors meeting, we received an oral and written report from GMA Research. In conjunction with the Office of the Administrator for the Courts, GMA Research conducted an extensive survey in 1999 of public confidence and other perceptions of the Washington court system. If there was any doubt that Washingtonians did not harbor negative perceptions of our legal system, that view has now been squelched. The results of this extremely informative survey are available on the Washington state courts website at <http://www.courts.ws.gov/survey.htm>. You can also link to the survey from the WSBA website at www.wsba.org. Among the survey results that struck me was this very disappointing one: "Respondents who reported a higher level of knowledge about the courts expressed lower confidence in the courts in their community." The survey was very clear that negative perceptions of our legal system, particularly among minorities, are real. These beliefs not only undermine the public's faith in the system, but raise questions about how we deliver legal services to all citizens, not just those who can afford it.

We have been very fortunate to have a Chief Justice who is forward-thinking and open to change. Chief Justice Richard P. Guy has fully endorsed the WSBA's Public Legal

Education effort. He has brought back the Bench-Bar-Press Committee to create better communication with the public. He has given the Board of Judicial Administration a greatly expanded role in the future of our judiciary and helped found Washington's Trust and Confidence Committee. He has traveled the state and nation listening to, responding to, and energizing his peers and constituents on these issues.

The WSBA has and will continue to do its part. Your Bar Association has taken seriously its duty to aid in the administration of justice. Our long-range plan includes emphasis on the preservation of fairness and smooth functioning of the courts. This is one of the highest common denominators that bind all lawyers, regardless of their area of practice.

I have come to the conclusion that some change in our system will boost the public's confidence. It does not mean we abandon such fundamental rights as the right to a jury trial. But we do need to build on the process that is beginning to take shape to meet public concerns. We simply need to provide more funding for the judicial process. Our courts now utilize electronic communication and asso-

ciated computer technology to be more efficient and deliver more service at faster rates, making effective use of technology to the extent funding is available. However, every judge I have talked with is looking for more and better resources. We need to make that point very clearly to our legislature and county commissioners. To allow our courts to remain substantially underfunded in this area is "penny wise and pound foolish." The increase in justice services demanded by the public is amazing. It is equally amazing how little additional funding for courthouse facilities is approved by politicians at both state and local levels.

We can also do a better job addressing the nature of justice. Every week in drug courts operating across the state, drug offenders are taking responsibility for their crimes and are on the road to rehabilitation. A significant number are regaining control of their lives because judges and court personnel care about their recovery. Local judges have taken the lead in developing and improving programs to address the increasingly crowded dockets of non-violent drug offenders. These efforts need to be enhanced.

Another example is family law. Few

areas of law are changing as rapidly as those that affect families. Because of shifting attitudes and new realities, the cases coming before probate, juvenile and domestic relations judges are far different and more complex than those of a decade ago. Some parents feel they have lost control of their children. In other families, children suffer from out-of-control parents. We need to simplify the family law system, making it easier for those families in distress to understand and navigate the legal waters. Better communication and coordination among courts, judges and lawyers are achievable goals.

I ask you, as members of the WSBA, to support these and other changes to make our legal system more responsive and fair to all who come before it. I also ask you to be ever mindful of the one over-arching reality upon which rests all of our ideals about trust, confidence and justice. As lawyers and judges, we *are* and *must* be held to higher standards. The highest standard by which we are measured is honesty and truthfulness. If the purpose of our justice system is to search for the truth, the search becomes futile if no one speaks or expects others to speak the truth. This is a principle that transcends our constitutional system and dates back at least to Hebrew law, which specifically forbids lying in a judicial proceeding. It is foremost in the public's eye.

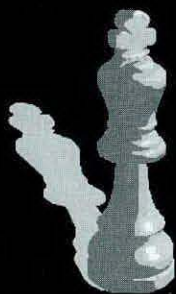
If we are to imagine a justice system that engenders trust and confidence, integrity is not an option — it is the essence. In a 1995 disciplinary hearing, the Supreme Court of Ohio stated, "The attorney's duty . . . is to uphold the legal process and to demonstrate respect for the legal system by at all times being truthful with the court and refraining from knowingly making statements of fact or law that are not true." These are words we must live by, not only for ourselves, but also for our clients and witnesses as well. It is the cornerstone of our justice system.

Each of us has many opportunities to remind, indeed require, that members of our profession are ultimately responsible for trust and confidence and the standards by which justice is pursued in America. There is no more important responsibility. ♣

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Future Trends in the Practice of Law

by Jan Michels

WSBA Executive Director

The Western States Bar Conference is an annual meeting of 14 western states. The WSBA sends the President, President-elect, Executive Director and second-year Governors to the conference. It is a fruitful gathering for learning what our friends and neighbors in the West are up to. The presentations are always timely and specifically relevant to us. Ward Bower of Altman Weil, an organization that has studied law firms and the practice of law for many years, gave a presentation entitled "The Future of the Profession," and drew on extensive surveying and observing, both nationally and internationally. The core of Bower's presentation focused on the potential forces at work on the practice of law for the next five to 10 years.

Five Primary Forces in the Future Practice of Law

1. It's a Buyers' Market

In a buyers' market, the customer drives decisions, sets terms and strategies, and evaluates costs. This is a permanent shift that means reduced profitability. Marketing and overhead costs are increasing faster than revenues. Some factors are:

- Escalating associate costs, driven by Silicon Valley and New York premium client bases;
- Billing rates that are increasingly competitive and heading downward;
- Rising senior partner compensation despite reduced contributions;
- Rapidly increasing technology costs (technology costs double every four years and are second only to the cost of support staff); and
- Clients' close scrutiny of bills.

2. It's a Mature Market

The profession of law is now considered a "mature market," with certain characteristics currently evident:

- Consolidations are numerous;
- "Branding" (name awareness) is required to sustain market share and is worth a premium of 10 to 20 percent in fees;

- Client sophistication, usually in the form of in-house counsel hiring lawyers for the legal needs of their business, is increasing;
- Marketing the firm's products and services is increasingly important, with a successful law firm needing to spend three to five percent of gross revenues on marketing;
- Lawyers are moving laterally from firm to firm; and
- There is an increase in "shake outs," with many firms not making it. Especially vulnerable are medium-sized general practice firms, and large single-city firms. Many firms already know they are in trouble and are shopping for merger possibilities.

Every lawyer and firm needs to redefine client relationships. The old vendor model of waiting for the customers to come to the service will not remain competitive.

3. Liberalization of Regulation

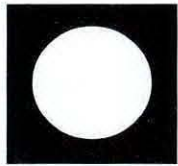
The mystique of law practice is gone. Fee scales will float and become much more market driven. There will be a demand for more

free speech in advertising. These factors will drive alternate forms of practice, like multidisciplinary practice and other innovative affiliations, and "consultant contracts." There will be the inevitable erosion of the independence of lawyers.

4. Globalization of Practice

The WTO is already asserting its authority over many professions. Many practice areas and transactions are increasingly international. The four models of international practice are: representation of foreign clients in domestic affairs, representation of domestic clients in foreign affairs, cross-border practice, and representation of foreign clients in foreign affairs (usually U.S. partners with local associates). Many clients, especially premium business clients, require some international services. Firms can gear up for this kind of marketplace by recognizing the trends toward:

- Global firms — most big ventures are now processed under New York and London law, but we will soon see an Asian presence (Hong Kong is the most likely). Global firms will prize persons able to overcome cultural barriers;
- International transactional firms; and
- In-bound legal work (foreign business directed to U.S. law firms).



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5. Technology

Technology will accelerate all of the above trends. There will be new opportunities and innovations. Technology will disperse legal information, legal forms, and the purchase of legal services.

What These Trends Will Mean for the Future of the Practice of Law

There will be hyper-competition for clients and for legal talent. Top legal talent may no longer be measured through law school grades and class standing, but instead be evaluated for creativity, innovation and marketing skills.

There will be increasing price competition and billing methods. The legal profession may need alternate provisions for fees; billable hours will not survive this new market.

There will be a growth imperative. Firms must provide growth opportunities to keep top staff. Clients' legal needs may outgrow what some firms can offer, and clients will choose the firm that best suits their needs and offers the highest value. Firms will either hire more lawyers or turn away work. The winners in this environment will be boutique firms and regional, national and/or international firms. To meet this growth imperative, every firm should develop and maintain a growth strategy. Possible strategies include:

- Growth through merger to help protect territory and round out the firm and its services;
- Growth through practice area expertise, by aiming to become a boutique firm (warning: specialized knowledge no longer lasts a lifetime but changes with the times);
- Growth through expansion of practice areas by becoming a full-service firm with specialty teams; and
- Growth through geographic expansion.

Every lawyer and firm needs to redefine client relationships. The old vendor model of waiting for the customers to come to the service will not remain competitive. Successful firms will give clients choices, find a way to differentiate themselves, and achieve brand-name recognition. Firms may need to create auxiliary businesses, services or products to adver-

tise and promote their legal services. All lawyers will need skills in marketing, good business practices and technology.

Suggestions for Small Firms

These trends carry a strong message for solo and small firms (fewer than five lawyers), which is roughly 70 percent of practicing lawyers. First, it will help to have a clear picture of what practice area a particular firm covers and to decline work that doesn't fit. For legal needs outside of what a small firm offers, develop ties to other firms and develop mutual referral systems. Second, a growth strategy is imperative, as is a plan for attracting and keeping talented legal staff. Third and foremost, cultivate clients and become their "general contractor." Be available to clients as an advisor and broker for other legal needs. A successful future in the practice of law will depend on positive client relations.

Bar Association Challenges in this New Environment

Bower also discussed what these trends mean for bar associations who have challenges too. Bar associations will need to be attractive and offer real value to members, including helpful and meaningful services. Members have already told us this at our town meetings and in the 1999 survey. And the time lawyers have to participate in WSBA activities will be at a premium, so we need to thank and reward those who do. The WSBA and its members need to concentrate on public relations and education about the core values of the justice system.

Change is Not a Choice

The choice is in how we respond to change. It is easy to think that these trends are only for metropolitan areas, or that they won't hit before retirement, or that "my" firm is different. WSBA Strategic Planning Goal No. 5 calls for the WSBA to respond to changes in the marketplace, and to discuss and frame possible responses. Bar leadership and staff will use the Altman Weil information to develop programs, brochures, CLEs and other services to help members accommodate this breakneck-speed change. ▀

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*Technology and Financial Services Industry
Consolidation Impacts on the American Consumer*

The Fight for Privacy

by U.S. Representative Jay Inslee

This article is sponsored by the WSBA's Civil Rights Committee as part of its mission to provide information and education about the law and legal system to both the public and legal professionals. The article was not authored by the Civil Rights Committee, and any positions and opinions therein are solely those of the author and not of the Committee or the WSBA.

Privacy is its own reward. Like the freedoms of speech and religion, the freedom from the violation of our expected sanctuaries of personal information may have little market, but it has its own fundamental importance to every American.

Our privacy — our freedom from intrusion into our personal lives — is at risk. The risk arises from the corporate consolidation of the financial services industry, the computer-driven interlacing of data banks, and the willingness of some to callously violate our privacy for profit. Two recent real-life examples demonstrate the emerging threat. In California, a major bank sold a list of thousands of credit card numbers to a telemarketing outfit, which happened to be led by a convicted felon. The telemarketing company promptly charged over \$43 million to the unsuspecting bank customers — all without their knowledge or consent. In Minnesota, another major bank sold a list of thousands of its customers' credit card numbers and other personal information to a different telemarketer. When this telemarketer began its round of calls using knowledge of the customers' most intimate financial affairs, people went through the roof — and rightfully so. The

bank was caught red-handed but still denied any violation of the law, only ceasing its odious practices for public relations purposes.

When I heard from one of my constituents that his bank in Washington was up to similar tricks, I proposed an amendment to the Financial Services Modernization Act (S900) that would stop this kind of practice. This was the opening salvo in what will be a long and arduous fight to protect American consumers' privacy.

While we were able to pass a first stage of privacy protection in S900, giving consumers the right to demand that banks not transfer their personal financial information out of the bank, there are two problems Congress still needs to address.

First, the burden should not be on consumers to demand that the bank stop violating their privacy. The burden should be on the bank to obtain customers' consent *before* the information sharing starts. Customers should have the right to "opt in" to information sharing, rather than having the burden of "opting out."

Second, there remains a loophole of titanic proportions, because banks may continue to disclose consumers' private information to affiliated corporations even over



U.S. Representative Jay Inslee introducing the Banking Privacy Act in Washington, D.C.

the specific objections of the consumers. This was not a problem before the passage of S900, but *now* banks are allowed to affiliate with hundreds of other institutions in every other business. Banks now have a reason to raid your checking and savings account information for every intrusive marketing scheme known to man.

It is possible that small independent businesses will suffer from not being able to offer consumers the same tailored packages. Of course, consumers may prefer to do business with banks that advertise that they do not share personal information with other businesses. It is necessary to also point out that most consumers would find it egregious for retailers to use personal information to *exclude* people from opportunities or services. For instance, S900 does not contain the medical privacy provision present in the House-passed version of the bill (H.R.10). As a result, an affiliated insurance company that is not wholly owned by a bank hold-

ing company can share medical information with its affiliates. While I am not aware of any company currently using shared medical information as a reason to deny loans to individuals, we must guard against this realistic concern.

The consolidation of financial services poses some interesting regulation and enforcement questions. My fight in Congress to preserve the right of states to enact more stringent consumer privacy protections than those offered at the federal level was successful. Enforcement of privacy laws may fall under a state's jurisdiction if the state has passed stronger laws. At the time of this writing, the Washington State House of Representatives is deliberating over privacy legislation passed by the Washington State Senate. Another 24 state legislatures are also considering privacy legislation.

Certainly, S900 calls for coordinated efforts among federal and state regulators charged with writing the rules for implementation. S900 requires federal banking agencies and other authorities, after consulting with state insurance authorities, to prescribe regulations regarding the disclosure of nonpublic personal information. These federal agencies have submitted proposed regulations for public comment. The regulations will not be finalized until these comments have been reviewed and a report issued (likely to occur in mid-May 2000). The agencies involved include the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, Secretary of the Treasury, and the Securities and Exchange Commission.

Federal regulations will have a great impact on the actual level of privacy achieved by S900, in part because a category of information, termed "publicly available information," is not subject to S900 disclosure and "opt-out" requirements. The level of privacy protection afforded under S900 will depend on what information the federal agencies decide is "publicly available information." For example, the agencies would have to determine whether the phone number and address provided by a consumer should be protected from third-party information sharing, when that information could also be

gained from another public source, such as the telephone book.

The emerging Internet-driven world also presents a host of privacy issues that go well beyond our present concerns regarding the financial services industry. To date, we in Congress have been trying to get leaders in e-commerce to develop and implement meaningful privacy protections without the necessity of governmental action. Many industry leaders, including those in our state, have done so, and others must follow their path if we are to avoid the necessity of congressional action in this field.

Our political ancestors recognized and protected our rights of freedom of speech and religion in the 18th century. It is up to us to protect that tradition against violations of our privacy in the 21st century. We should not fail to do so. *✍*

Jay Inslee is a member of the U.S. House of Representatives for the First Congressional District of Washington.

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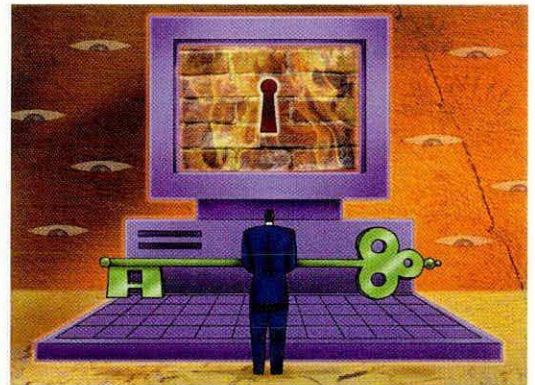
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The Privacy of Court Records: Striking a Delicate Balance

»
Very soon ... the JIS
will be able to keep in a
comprehensive
electronic form all court
records presently found
in individual paper files
stored in courthouses
around the state.
»

Would you be concerned if a person sitting at a computer terminal in the privacy of their own home could access all records maintained by Washington's court system on your traffic citations and any civil or criminal cases in which you have been a party, including the records from your divorce and the times you have been a witness or a juror?

Would you be concerned if Washington's court system made available all unsealed information about you in all court files in the state to any person requesting it, including the news media? Would you be concerned if, when applying for a job, your prospective employer had (unbeknownst to you) purchased a report from a commercial organization that obtained all the data on you in Washington's court information system and organized it so your prospective employer could use it to evaluate you for a job? None of these scenarios is a futuristic vision for the Washington State Judicial Information System (JIS).



I have chaired the Oversight Committee supervising the development of Washington's JIS for the last 4-1/2 years. According to independent analysts, we have one of the most efficient and effective judicial information systems in the United States. Over the years, we have changed our record-keeping system for the courts from one that is a mere index of case names with limited disposition data separately maintained at each level of the court system in individual paper files, to a unified electronic "person" database consisting of records from all levels of the court system for individuals, identified by their date of birth. The Legislature mandated this change in order to ensure that individuals with significant histories of drunk driving or domestic violence did not

slip between the cracks from one court to another. At present, our system is still essentially an index system with some additional information maintained regarding the outcome of cases. Very soon, however, the JIS will be able to keep in a comprehensive electronic form all court records presently found in individual paper files stored in courthouses around the state.

This means, for example, that all the unverified declarations in a family law file about misconduct by one parent or another, detailed financial information submitted in the course of a dissolution (perhaps including social security numbers), traffic records, and information from civil and criminal cases about Washington citizens will soon become easily accessible. These are, after all, public records. This

technological change has profound implications for privacy.


JIS was a pioneer in developing a policy to balance public disclosure of court records with personal privacy concerns. Some court records are confidential by legislative mandate. In some instances, judges may exercise discretion by court rule to seal certain court records that are particularly sensitive for the litigants. But recently, we have come to realize that our disclosure/privacy policy has not kept pace with rapid technological change. People have access to public courts records. But today, these records are more expansive and will become increasingly easier to access. Consequently, the JIS Oversight Committee has directed its Data Dissemination Subcommittee to revisit the policy on public disclosure and privacy, and develop a more reasonable balance between these concerns.

In October 1999, the first public hearing by Washington's judiciary on this disclosure/privacy policy was held in Olympia. The hearing was very enlightening, making it clear that we need to develop an appropriate balance between disclosure of public court records and personal privacy. This is particularly true for certain kinds of court actions where a person is compelled to disclose much of their personal and financial information.


Privacy has become a significant issue in both Olympia and Washington, D.C. Attorney General Christine Gregoire and Representative Jim Kastama have been talking about privacy of consumer records. Similarly, U.S. Representative Jay Inslee has offered legislation on the need for privacy in financial institution records. Very recently, the United States Supreme Court upheld a congressional act barring states from disclosing personal information which drivers must provide to the government to obtain a driver's license. The Court also ruled that a state may withhold arrestee information from a commercial firm seeking its disclosure.

At present, a number of media organizations and commercial firms have pressured the JIS Data Dissemination Subcommittee, as well as the Washington Supreme Court, to broaden access to court records. Ironically, a number of those organizations, normally very insistent that all court records be disclosed, have come to realize that privacy of personal infor-

mation may be of significant public concern. For example, one news organization recently editorialized that sensitive personal information such as bank account, credit card and social security numbers should not be routinely disclosed. Those news organizations might be surprised to discover that such information routinely becomes a part of court records in Washington, particularly in the dissolution setting.

 The court system must be sensitive to the appropriate balance between disclosure of public records and privacy with respect to very sensitive personal information demanded of individuals using our court system. At a minimum, the JIS Data Dissemination Subcommittee will recommend to the Washington Supreme Court a policy which balances the interests of public disclosure and personal privacy in court-maintained records. I have very strong views about such a policy. Citizens must be made aware that the information they provide to the court system becomes a part of a public record. They should be advised when any such public record is made available to third parties, whether a commercial firm or media organization.

The courts must also carefully consider whether certain kinds of information now demanded of litigants, particularly in the family law context, must become part of the court file at all. Not all sensitive information demanded of litigants should necessarily find its way into the public court file. Finally, judges need to be made aware of their authority to seal particularly sensitive court files from public disclosure. This authority now exists and should be used sparingly. But if the personal or financial information disclosed could be misused by third parties, judges should not hesitate to employ this power.

The JIS Data Dissemination Subcommittee, chaired by Judge C. Kenneth Grosse of the Court of Appeals, will develop an appropriate policy for consideration by the Supreme Court on this issue of disclosure and privacy of court records. The public needs to be aware of, and should demand, a sensitive policy that neither forbids all disclosure of records that are public, nor makes everything in a court file a matter of public information, no matter how damaging to the individual affected. 

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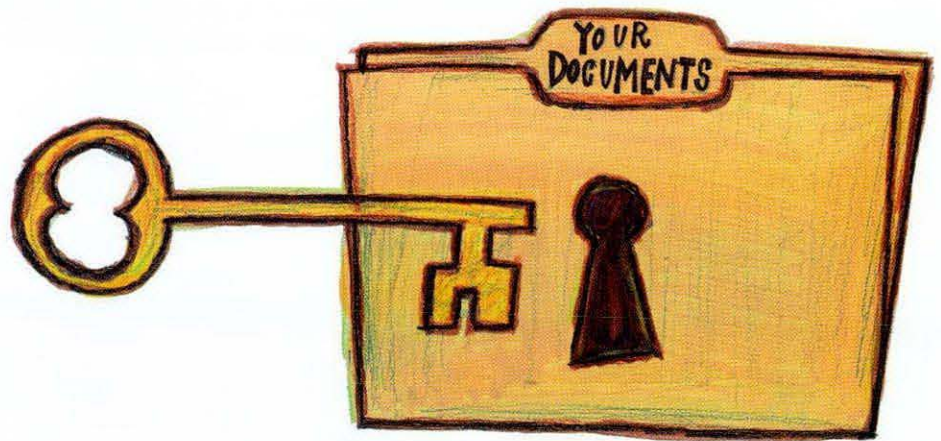
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and Al Gidari

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The Federal Trade Commission brought its first enforcement action targeted at the privacy practices of a website in 1998. GeoCities was accused of deceptive trade practices in its collection and use of personal information gathered from website visitors. At issue was a privacy policy that GeoCities posted but purportedly did not follow. This article discusses how the consent order reached with GeoCities can provide a model for acceptable information collection practices, and suggests that the consent order is relevant even to companies that do not currently post a privacy policy on their websites.



FTC Enforcement of Fair Information Practices

The 1998 Federal Trade Commission action against GeoCities, a popular and frequently visited website, was its first warning to companies that fail to adequately disclose their online information practices. The FTC's more recent action against Liberty Financial Companies (<http://www.ftc.gov/os/1999/9905/lbrtycmp.htm>) attests to the FTC's continued interest in online privacy.

GeoCities was the first FTC enforcement action to protect privacy on the Internet. The FTC charged GeoCities with deceptive practices with respect to its collection and use of personally identifying information, which includes a person's name, postal or e-mail address, phone number or any other information that alone, or in combination with other information, can be used to identify a person individually.

The FTC's complaint (<http://www.ftc.gov/os/1998/9808/geo-cmpl.htm>) alleged that GeoCities violated the Federal Trade Commission Act by impliedly or expressly misrepresenting how personally identifying information collected online would be used. The FTC also alleged that

GeoCities falsely or misleadingly represented that it was collecting and maintaining such information from children when the information in fact was collected directly by third parties hosted on GeoCities' site.

The FTC's action against GeoCities is important because the proposed consent order in the case (<http://www.ftc.gov/os/1998/9808/geo-ord.htm>) establishes objective benchmarks by which a company's online privacy practices can be evaluated. The consent order also establishes "safe harbor" provisions with respect to the location and content of a company's privacy policy. Although these safe harbors are not the only means of ensuring the adequacy of a company's practices, they are a useful model in creating a privacy policy the FTC will consider sufficient. The order's safe harbor provisions concerning the collection of personally identifying information from children anticipated the enactment of the Children's Online Privacy Protection Act (COPPA). The FTC's detailed regulations promulgated under COPPA became effective April 21, 2000 and require careful review by companies that collect information from children online.

Companies that post a privacy policy on their website should compare their policies to the GeoCities consent order and consider modifying their practices in light of its safe harbors. Companies that do not post a privacy policy, but collect and use personally identifying information without disclosing their practices, should not assume that the action against GeoCities is without relevance. The rigorous disclosure requirements imposed on GeoCities (including disclosure of "tracking" information and of backup archival copies) may signal that the FTC considers nondisclosure of certain information collection practices inherently misleading.

Indeed, the FTC's June 1998 report to Congress, *Privacy Online: A Report to Congress* (<http://www.ftc.gov/reports/privacy3/index.htm>) suggests that a company's decision not to post an online privacy policy may not insulate it from a charge of unfair or deceptive practices. Although the report notes that the FTC lacks authority to require the posting of privacy policies, it indicates that in certain circumstances practices may be inherently deceptive or unfair, whether or not the entity has publicly adopted fair information practices. It may be telling that the FTC's report considered online information practice statements to include those that "arguably raised an inference of at least one potential use" (such as "Click here to be on our mailing list"). (Report at 20.) This suggests that a statement about the use of collected information might be sufficient in some circumstances to trigger an obligation to disclose privacy practices fully.

It is possible, of course, that the strict disclosure standards imposed on GeoCities are more punitive than remedial and should not be read to have general application. The more cautious view, however, is that the FTC's action is relevant to companies that collect information online, whether or not they have an explicit privacy policy, particularly if their online practices suggest that information is collected for one purpose but is also used for other undisclosed purposes. For companies whose business operations involve Europe, adequate disclosure is especially important in view of the European Union's Directive on Privacy Protection. The directive establishes minimum standards for the collection and use of per-

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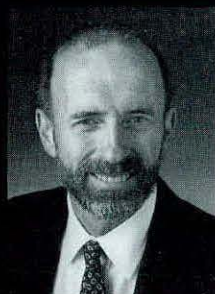
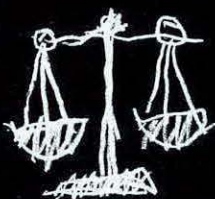


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sonally identifying information in the European Union, and prohibits the transfer of this information to countries whose privacy standards are deemed inadequate. A discussion of the directive and its implications for electronic commerce can be found at <http://www.perkinscoie.com/resource/ecom/euprivacy.htm> and <http://www.perkinscoie.com/resource/ecom/eusalent.htm>.

The GeoCities Consent Order
Location and Content of Privacy Notice
 The consent order requires GeoCities to provide a clear and prominent notice to consumers about its collection and use of personally identifying information on its home page and at each location on the website where such information is collected. The order also requires GeoCities to provide "reasonable" means by which

the information already collected can be removed from the databases of GeoCities or certain third parties.

The notice must fully disclose the company's practices, including what information is collected, its intended uses, and the third parties to whom the information will be disclosed (disclosure is defined broadly to include making information publicly available by any means including public posting on or through home pages, e-mail services, message boards or chat rooms). Although the privacy notice need not appear at locations where only "tracking" information is collected, the fact that information is collected must be disclosed.


INVITATION FOR PUBLIC COMMENT

on the Reappointment of U.S. Bankruptcy Judge Samuel J. Steiner

The current term of the Honorable Samuel J. Steiner, U.S. Bankruptcy Judge for the Western District of Washington, is due to expire **September 9, 2000**. The U.S. Court of Appeals for the Ninth Circuit is considering the reappointment of the judge to a new term of office of 14 years. The court invites comments from the bar and public about his performance as a bankruptcy judge. The duties of a bankruptcy judge are specified by statute, and include conducting hearings and trials, making final determinations, and entering orders and judgements.

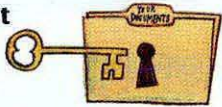
Members of the bar and public are invited to submit comments concerning Judge Steiner for consideration by the Court of Appeals in determining whether or not to reappoint him. Anonymous responses will not be accepted. However, respondents who do not wish to have their identities disclosed should so indicate in the response, and such requests will be honored.

Comments should be submitted no later than **Monday, May 15, 2000** to the following address:




Gregory Walters, Circuit Executive
Office of the Circuit Executive
P.O. Box 193939
San Francisco, CA 94119-3939
Attn: Reappointment of
U.S. Bankruptcy Judge Samuel J. Steiner
Fax: (415) 556-6179

The action against GeoCities was the FTC's first signal that disclosure of company practices with respect to the online collection and use of personally identifying information may no longer be truly optional.




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The notice requirement will be met if: 1) a clear and prominent hyperlink labeled "PRIVACY NOTICE" (directly linking to the privacy notice screen) is posted on the website's home page; 2) the privacy notice screen clearly and prominently discloses the company's practices with respect to the collection and use of personally identifying information (followed on the same screen by a button that must be clicked to make it disappear); and 3) a clear and prominent hyperlink appears on the initial screen at which the information is collected, accompanied by the following statement in bold: "NOTICE: We collect personal information on this site. To learn how we use your information, click here."

Some archived database information may be retained for site maintenance, computer file backup, preventing children from registering without parental consent, responding to inquiries from law enforcement agencies, or pursuant to judicial process. Even the retention of information for these limited purposes must be disclosed in the privacy notice.

In addition, GeoCities must contact certain third parties and obtain their agreement to stop using or disclosing this information and to remove it from their databases if requested to do so. GeoCities must stop doing business with these third parties if they fail to agree, or if GeoCities knows or should know they are failing to remove information from their databases upon request.

Company Training

The consent order requires GeoCities to establish an "information practices training program" for employees and volunteers involved in collecting or disclosing personally identifying information, including training in GeoCities' privacy policy, security measures to protect the information, and penalties for violation of the policy. Company officers, directors, managers, agents, and representatives involved in handling such information must receive a copy of the consent order.

Conclusion

The action against GeoCities was the FTC's first signal that disclosure of company practices with respect to the online collection and use of personally identifying information may no longer be truly optional. Although some industry analysts may speculate that not having a privacy policy is safer than having a misleading one, it is uncertain whether companies can take comfort in having no privacy policy if they collect information from online visitors, especially if their practices can be viewed as misleading. Given the FTC's recent activity, companies would be well advised to evaluate the costs and benefits of accommodating their practices to its basic standards. If a greater showing of industry self-regulation is not forthcoming, the GeoCities consent order may become the model for broader privacy regulation in the private sector. ☞

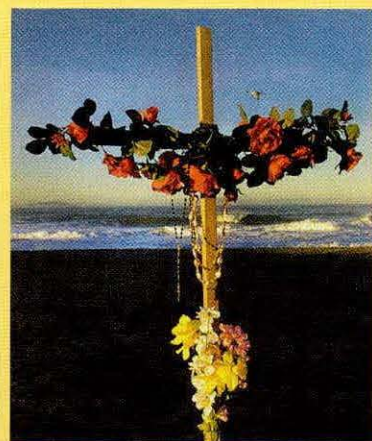
Marie G. Aglion is an attorney in the Seattle office of Perkins Coie LLP. Ms. Aglion's practice includes Internet and electronic commerce law and appellate advocacy.

Al Gidari is president of g-savvy.com.

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Aviation Law and Flight 261:

The April 2000 issue of *Bar News* featured an article by Robert F. Hedrick entitled "Aviation Law and Flight 261: A Few Thoughts on What's to Come." Since then, there have been legislative and other developments which may affect pending claims. The June issue of *Bar News* will include Mr. Hedrick's update on those developments. He can be reached at 206-892-2252 or hedrick@air-law.com.



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Building an Online Court Records Program

by **Jan Michels** • Executive Director, Washington State Bar Association

The Honorable Dale Ramerman • Judge, King County Superior Court

Roger Winters • Electronic Court Records Program Manager, King County Clerk's Office

This article has been published as "Management Note" in the *State Justice System Journal*, Vol. 20, No. 2 (1999), as well as in *The Court Manager*, Vol. 14, No. 3 (1999). The authors updated this version as of March 2000.

of a 24-hours-a-day/six-days-a-week filing operation that would cost an extra \$200,000 each year, papers simply cannot be processed any faster than the current five-day standard (from filing to having the updated file available for public and court access). This standard is becoming less acceptable to the Court and file

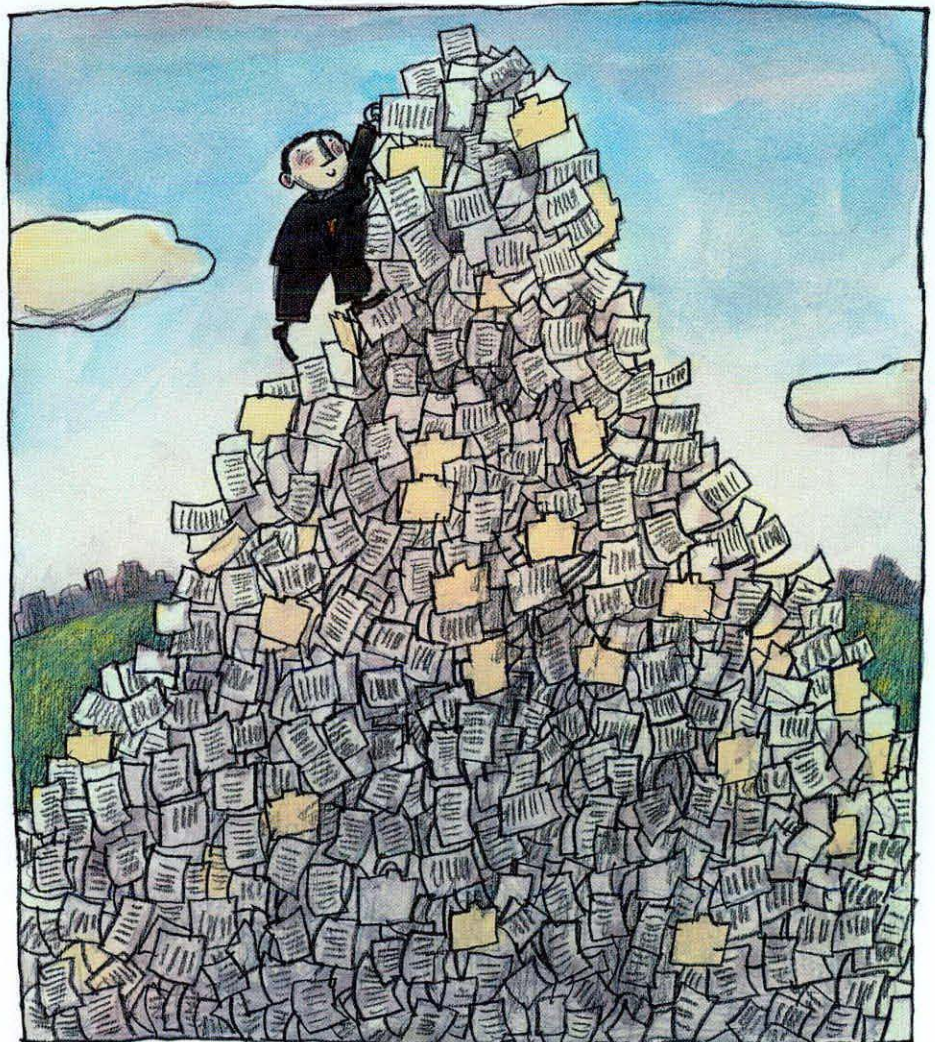
users, especially those whose expectations are shaped by today's high-speed computers and Internet usage.

To manage the many elements of ECR, it was necessary to develop a multiple-phase plan, allowing the first steps to begin without inhibiting progress in other phases of the program.

Introduction

Inspired by the 1994 Court Technology Conference, a group of Washington state trial court judges, court administrators, county clerks and data systems/technical staff from the Office of the Administrator for the Courts met for over a year to explore the potential for electronic court records. With a shared vision of eventual "seamless" data systems enabled in part by moving Washington courts from paper-based systems to electronic court records, and encouraged by technology developments in electronic commerce and hypertext markup, the group began actively seeking an Electronic Court Records (ECR) program for the King County Superior Court. The Court approached the State Justice Institute (SJI) with a grant proposal to help find expert process and planning support as the project began.

The King County Superior Court has 75,000 annual filings, an average of over 600,000 case folders on open shelving at any given time, and more than 7,800 documents filed each working day. This means over eight feet of paper enters the clerk's office daily. This volume has created the logistical crisis that forced the Court to seek alternate record-management solutions. The court clerk studied all the alternatives, and found that short



The Phases

(1) **Core ECR:** This established the basic infrastructure of ECR. Document imaging and workflow are now implemented in the clerk's office. Paper files will be retained until subsequent phases are completed.

(2) **Law, Safety and Justice (LS&J) Connectivity:** This follows Core ECR and gives judges and other King County law, safety and justice agencies direct access to images. This phase is expected to be implemented in late 2000.

(3) **Electronic Filing:** This will be developed in 2001, enabling the public and attorneys to file digitally signed, word-processed documents with the clerk. The basic ECR vision emphasizes the supplanting of hard copy and images by allowing digital filing that uses standard formats, forms and templates.

(4) **Document Access and Distribution:** This phase will make court records accessible electronically for the public and attorneys.

Phase one (Core ECR) has been implemented in King County. Phases two and three will provide connectivity with electronic files for the Court and the County's law, safety and justice business partners in late 2000.

The project makes a distinction between "digitized" and "digital" documents. The distinction has been pivotal to understanding the issues and benefits of electronic court records. "Digitized" documents originate in hard copy and are made into electronic images through scanning. "Digital" documents are created electronically through word processing and are the ideal format for electronic records. We doubt we will ever see a "paperless court" or have "paperless offices," but we are intent on having a "paperless court record" where the *legal original* record is the electronic document, whether digitized or (preferably) digital.

There is some value in merely digitizing court records, but this alone is too similar to keeping hard-copy records. Images are only partly suitable as online records. A fully digital court record will take advantage of all the features of electronic documents. It will permit text

searches, use data tables, allow for hyperlinked references, enable electronic transmission, protect with computerized security, and more. Digital documents and signatures, the dynamics of the World Wide Web, and other features of new technology will make ECR programs truly valuable to our courts.

Infrastructure

While the technology for electronic court files is here now, the business infrastructure is not. Many electronic court-records projects leave business infrastructure issues undiscussed. Where issues like the following are raised, they must be resolved individually within projects. Solutions are court-specific and projects are not easily transportable. These are critical issues for lawyers and litigants. Unless we rethink basic legal practice questions that relate to electronic files, we will force our electronic court-records projects to act like hard copy systems. Some critical questions follow:

- *What is the record?*

An online file involves new features of electronic tools and techniques which digital documents enable, and it requires rethinking what the "file" is. An electronic court file is a fundamentally different thing. What needs to be in the record, how does it need to be presented, and to whom? What information is important to mark up for searches and self-execution in our automated environment?

- *How can one navigate an online electronic court record?*

Electronic records demand new navigation tools. With paper files, there are physical cues people use to find the information they need (e.g., paper color, typical file locations, or special cues like "blue backs"). In electronic files, familiar cues are gone. To use electronic files, we need new kinds of indexing and search tools to make them user-friendly.

- *What equipment is needed?*

Using an electronic record requires new tools for note taking and referencing. We must put technology resources into print-

ers as well as monitors for those who will continue to rely on hard copy. In legal matters, there will not only be a need for hypertext to "jump" to legal and legislative references, but there will also be a need for easily understood ways to make cross-references to information in other parts of a document, case or law book.

- *Is all case record information suitable for general access?*

Electronic files will break down both time and space paradigms. The public accessibility of legal files has been somewhat limited by the inconvenience of going to the courthouse to wait for a turn to review the one-and-only file. Multi-user and remote access to case records will be significantly different. This raises questions

A fully digital court record will take advantage of all the features of electronic documents. It will permit text searches, use data tables, allow for hyperlinked references, enable electronic transmission, protect with computerized security, and more.

about whether or not some information in case files should be available to the public for searching and general review. The loss of the de facto privacy afforded by public files that can be viewed only with significant effort may require a rethinking of the availability of information in court files. Failure to deal with this shift in the perception of privacy may discourage use of court processes that have online records, or cause a backlash.

- *Is the pleading its content or its format?*

Given the software flexibility used to make digital documents, which the recently approved American Bar Association resolution calls for, we must face the tough issue of whether the "document" is its content or format, or both. Mass format conversions to meet standards for storage or retrieval, enhancement of images for the visually impaired, or reducing documents to ASCII might mean that pagination, special effects and other aspects of

appearance and presentation will be changed. There is as yet no consensus developed about the vitally important issue of whether documents are content alone, or content and appearance.

- *What should the guidelines for records retention be?*

Another key infrastructure matter relates to archiving electronic records. We know paper is not permanently archival, so we use microfilm or fiche to preserve documents over the centuries. Electronic records cannot be displayed without the operating system and software that created them. Must we bite the bullet and send images of our electronic records to microfilm or fiche storage at huge costs? Perhaps this is a time to focus on storing the most important parts of case files and disposing of the rest.

- *Who owns the electronic record, and can access be at a cost?*

There are other infrastructure issues to address, including the more obvious ones like security, confidentiality and privacy. The ways in which we resolve the issues of who owns the information and who pays for what kind of access will help determine whose work it is to mark up electronic documents or create templates and forms which will make them the most useful in an online file. A baseline issue for any court is whether the electronic court file belongs to the public, the judicial branch, the legislature or public-records archivists, for the answer to that question determines who owns the record for purposes of setting policy, collecting fees, and keeping the record and access methods current.

- *How should the electronic record be cited?*

How do attorneys cite to other electronic records if page breaks, line numbers and formats are allowed to change?

- *What authentication levels are needed?*

When is a personally affixed signature (pen-and-ink or digital) required, and when can we forego it or rely on less stringent authentication for some documents? What are the indices of authenticity in electronic documents, and how

is validity proven in the face of a challenge?

- *Can some court record information be a table?*

Can data (appearances or scheduling information, for instance) be maintained in tables, without any actual counterpart in hard copy?

- *Is multimedia record information acceptable?*

Will multimedia be allowed as part of the future of court records (video depositions, phone message recordings or digital pictures)?

Conclusion

There are no successful large-scale court projects using fully digital court records. However, some courts, like King County, believe that goal is within reach. Many other Washington counties are implementing digitized court records and Internet access to their records. The Judicial Information System has begun a project for the electronic transmittal of traffic citations to the courts. The recent American Bar Association resolution calling for non-proprietary systems for government (court) records to be available on the Internet at no cost may serve as a beacon for the future of electronic court records. The principles are sound, but court leaders and clerks must master the details to mitigate the issues discussed here.

While the difficult issues could be resolved on a court-by-court basis, we are likely to find better solutions if there is more widespread dialogue on the issues. Serious thought must be given to what actually constitutes the legal record, what business infrastructure is needed to capitalize on the potentials of digital court records, and how to answer the legal practice questions that will allow the potential benefits of digital court files.

In the 1930s, model rules of court were adopted and brought a semblance of uniformity to court procedure. For court record maintenance and access in the electronic age, when the Internet shapes our expectations regarding the availability of information, a hodgepodge of digital record systems for our courts would be a setback for access to justice. *Z*

The Road to a Paperless Court

by Paul L. Sherfey

In several previous *Bar News* articles, including Robert S. Appgood's explanation of Extensible Markup Language (XML) (October 1999), you have read about recent progress toward a paperless court. Even a couple of years ago, this idea seemed interesting, perhaps hopeful, but definitely distant. Yet throughout the state, primarily driven by members of the Washington State Association of County Clerks, concrete steps are being taken toward paperless courts. One by one, clerk's offices are beginning to implement and phase in electronic records. Their efforts are rapidly changing the way their offices conduct business, and will also soon change the way members of the Washington State Bar Association conduct the business of lawyering.

Background

The management of paper is costly. In King County, for example, the clerk's office receives over 7,000 documents daily, the equivalent of a stack of papers 10 feet high. Moving this volume of papers through the necessary steps of filing, docketing, judgment recording and file creating takes tracking mechanisms and time. It is subject to error, including lost, misplaced or misfiled documents. The eventual need to store these files (King County has over two million case files) creates storage costs, retrieval costs and maintenance costs.

Paper records are limiting. How often have you gone to your clerk's office to view a file, only to be told that the record has been delivered to the court or is currently being reviewed by someone else, and thus is not accessible? In those courts with a significant volume of papers, the file may be in a remote storage warehouse — accessible, but perhaps not today. For many clerk's offices, microfilming offered an interim solution. Yet many of the same limitations which exist for paper records apply to microfilming. There are similar costs for maintenance and storage, and only one person is able to view the microfilm at any given time.

Solutions

To begin addressing these issues, several clerk's offices throughout the state have undertaken projects to move legal documents into electronic form. A growing majority of county clerk's offices have begun scanning paper documents, creating digitized images of legal documents for access on an electronic screen. In some counties, this effort is starting with cases at the end of their case life (archived files). In other counties, the effort involves scanning new documents on new cases as they are filed with the clerk's office. Numerous vendors are now available to assist in this transition. This first phase of electronic records allows more immediate access to the record. Even if counties choose to go no further with electronic records, remote access from law firms to the digitized image can eventually occur. Progress on this scanning phase is rapid statewide.

The experience in King County of developing this initial step reflects the learning of many clerk's offices throughout the state. Before automating the process, workflow is re-engineered to best capture efficiencies and benefits of a future electronic records scanning system. Selection of a vendor to assist in the design and implementation of the system allowed for testing. The King County Department of Judicial Administration staff now work with the electronic image, rather than hard copy, for all new cases filed January 3, 2000 or after. In practical terms, this means that for new cases, the paper is scanned on day one, and on day two the hard copy is in the case file. Staff then work with the electronic image for establishing judgments, docketing, calendaring and funds-receipting tasks. This reduces the possibility of lost or misplaced documents and assures that each necessary step is completed before the electronic image of the document moves to the next required work station.

However, the greatest challenge — and the greatest gain — is in the next phase: electronic filing. Electronic filing will allow for creation of documents, using standard word-processing equipment, prepared in a form which allows for encoding the included data to enable "take offs" from that data (i.e., eliminating keystrokes by clerk's office data entry staff), which can be transmitted directly from law offices and public legal service agencies to the court.

The digital records significantly improve upon the digitized or scanned hard copy, in that digital records allow for a significant shift in the operational components of the practice of law. Digital records allow lawyers to prepare a filing on his or her PC, using the transparent XML markup language. This digital document is then transmitted electronically to the clerk's office and is simultaneously transmitted to any central record-keeping unit within the law office. Once received by the clerk's office, the key data is "lifted" automatically into the state's data repository (SCOMIS), because of the XML language's ability to segregate specific data elements, thereby eliminating data entry by the clerk's office. The bench and public then subsequently view the documents at PCs connected to the Internet.

In addition to allowing clerk's office staff to work more effectively with images rather than hard-copy documents, a significant eventual benefit is that access to the legal record can occur via PC terminal. Initially, this means access limited to public terminals in a clerk's office. Eventually, however, the records will be accessible via a PC on the attorney's desk. Electronic access also means simultaneous access. The parties, judge, court staff and public will all be able to view the same document at the same time. In King County, our goal is to achieve this by early 2002.

Benefits to the Bar

This final "e-filing" phase of the program in King County offers numerous benefits for members of the Bar Association, including:

- Reducing storage requirements within law firms. Documents may be held electronically both at the law office and at the clerk's office, eliminating the need for paper records and paper storage, both costly elements of law office administration. This also assures that the records of the law firm and those of the clerk's office are consistent.
- Reducing the need for legal document delivery between the law firm and the clerk's office. Again, this is currently a cost to firms and litigants.
- Allowing for immediate access to all filings. This provides the opportunity for all counsel to be fully aware of all documents which have been filed with the county clerk.

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- Allowing parties to pay filing fees using credit cards simultaneous with the filing of the initiating document. This reduces the need to prepare checks and the corresponding tasks of administering such accounts.
- Avoiding costly trips to the courthouse to access the legal case file. The ability to access the legal file directly from the law office allows the attorney and client immediate access in a private, comfortable setting.
- Eliminating the possibility of "lost" papers and files, whether in the law firm or at the clerk's office.
- Improving confidential record security. Confidential records in electronic form can have numerous technology "walls" built around them, which confidential records in hard copy form generally cannot.
- Simplifying appeals process/designations. Attorneys will be able to designate specific documents as part of an appeal and electronically transmit those documents to the appellate court.
- Speeding the process. As a result of the XML markup language capabilities, case data needed by the law firm or the court can be "lifted" from the electronic document and used to "populate" the database. Additionally, internal steps within the law firm pertaining to paper documents will be significantly reduced.
- Eliminating the wait to use the court files. Both digitized and digital documents allow for immediate and simultaneous access to the court file, either from a public terminal in the clerk's office or from an Internet-connected PC in a law office.

This is not to say that the transition process is easy. Numerous challenges exist to implement e-filing, including assuring that the XML markup language is useable by law offices, that issues of access are fully understood and debated, and that members of the Bar come to understand and embrace its advantages. Yet given the benefits of e-filing and working with electronic documents, we are well positioned to address the challenges and begin the dialogue. ▣

Paul Sherfey is the King County Director of the Department of Judicial Administration, more commonly thought of as the King County Superior Court Clerk.

Access to Justice

The Digital Divide and Digital Justice: Do Clients Need a Technology Bill of Rights?

by Jean Holcomb

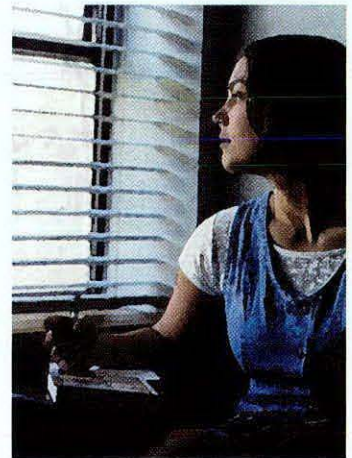
Last April, members of the Access to Justice Board's Communications and Technology Committee discussed the diverse ways that advances in technology create or breach access barriers for clients. Concerned about the dual role technology plays in the lives of those for whom the access to justice network functions as a safety net, the Committee determined that efforts should be taken to explore the need for a technology bill of rights. The Committee created a project outline to provide a roadmap for engaging ATJ network members across the state in a discussion about the drafting of this document.

One opportunity for such a discussion will occur at Celebration 2000 in Spokane. On Saturday, September 16, the Committee and the conference planning committee will jointly sponsor a program whose goal is to help attendees identify barriers to the achievement of digital justice. Planners envision that the program, entitled "The Digital Divide and Digital Justice: Do Clients Need a Technology Bill of Rights?" will generate enthusiasm for the bill of rights project. This program will also set the stage for the creation of a document which will become a core statement expressing beliefs about the role technology plays in advancing the interests of clients served by the civil equal justice delivery system.

The program's featured speaker will be New York attorney and technology consultant Richard Zorza, who will talk about the role technology plays in delivering services to poor and middle-income communities. Among the topics Zorza and other panelists will discuss are how to identify and assess barriers to the achievement of digital justice.

Structuring the framework needed to create a technology bill of rights requires finding answers to the following questions outlined by the Committee:

- Who will play a role in steering the project?
- Who will be the drafters?
- How will technology access issues be spotted as they relate to justice system processes and information resources?
- How will rights be articulated and strategies designed to ensure that rights are protected?
- How will standards for the review of technology as applied to justice system processes and information resources be publicized?
- What sort of document will be created?
- What forums will review the document?
- Who will be signatories to the document?
- What timeline would be realistic for the creation of the document?



- What steps must be taken to ensure that the benchmarks established in the document become part of a living process?

While the term “digital divide” stands as a buzzword to describe the gulf between those who have access to computers and the Internet and those who do not, the underlying problems of access defy a simple explanation driven solely by financial means. A recent survey conducted by National Public Radio, the Kaiser Family Foundation and Harvard University’s Kennedy School of Government defined the digital divide as one not limited to race, income or education. Rather, the survey found the persistent divide to be *access* to technology and the Internet, whether from home or from outside the home (e.g., workplace or courthouse). Often, because of time and privacy constraints, using computers and connecting to the Internet from outside the home makes the experience more difficult.

As corporations, government and the courts embrace technology and deliver products and services via the Internet, gateways to critical information close for those without technology skills and access points. Many government technology projects begin as duplications of existing practices. The next generation of projects built on the power of technology to assimilate and manage information might never be available to users in formats other than electronic, such as paper. Yet the potential exists for technology to provide the keys to break down existing access barriers. As technology plays a more dominant role in information delivery systems, the advocacy community’s traditional role of speaking for the disenfranchised becomes even more critical.

While market forces continue to make technology more accessible, simply providing access to computers, networks and information will not address the demands of populations with special needs. Mentoring and training will continue to be critical factors tied to building a viable bridge over the digital divide for these populations. Significant research and study efforts have focused on such issues as training and support, access to equipment, privacy and cost factors. Attention also centers on critical issues involving

As corporations, government and the courts embrace technology and deliver products and services via the Internet, gateways to critical information close for those without technology skills and access points.

Internet content-related barriers such as lack of cultural diversity, lack of access to local information, literacy and language barriers. For an online information environment based primarily on the corporate business model, the focus has not been to provide content targeted to the needs of people with limited literacy or English language skills, or with distinctive cultural practices and beliefs. Appropriate online content for these potential audiences for Internet services will develop only as these segments of the community and their advocates become directly involved in the development of government and corporate services.

While an examination of issues tied to digital divide barriers highlights challenges for the clients of the access to justice community, technology also holds the key for innovations of great promise. Technology has the potential to facilitate the creation of information and service delivery systems that are color, culture, ability and age blind. To encourage the development of innovative technology-based solutions to justice system barriers, a technology bill of rights could be shared with content providers in both private and public sectors. As an expression of core values of the access to justice community, a document such as this could be tied to principals expressed in the Hallmarks¹ document and to other fundamental expressions of belief such as the Constitution. A bill of rights might serve as a framework for encouraging government and private sector entities to create new resources to fill service gaps. The document could also function as a tool for reviewing existing technology applications, and assessing their functionality as enablers of justice. The technology bill of rights could be used to ensure that the developers of new products and services for access to justice clients consider and create design function-

ality to help bridge the digital divide.

Consider how such a document might be used in projects currently underway to develop electronic court filings and digitize existing court records. The first phase of many of these model projects limits both the subject matter jurisdictions may cover by electronic filings and the entities that may file actions. Before electronic filings become the only mechanism for initiating an action, however, the designers of court filing technology and members of the access to justice community could meet to discuss the implications of universal electronic filing and access to court records. The design team could be encouraged to address barriers to universal access, with consideration given to developing community access points. System training for special-needs audiences would be built into the implementation plan. The bill of rights document would provide the underpinning for ensuing discussions.

To learn more about the digital divide and digital justice issues, explore the following websites:

- The Center for Democracy & Technology (www.cdt.org)
- The Digital Divide network (www.digitaldividenetwork.org)
- The Electronic Frontier Foundation (www.eff.org)
- National Public Radio (www.npr.org/programs/specials/poll/technology/)

For information about participating in this important discussion and attending the Celebration 2000 Saturday program featuring Richard Zorza, contact Committee Chair Robin Lester at robinl@kcba.org or 206-340-2570. ☞

Jean Holcomb is the Law Librarian at the King County Law Library and serves as a member of the ATJ Communication and Technology Committee and the Celebration 2000 program planning committee. She may be reached at 206-296-0940; by e-mail at jean.holcomb@metrokc.gov; or by fax at 206-205-0513.

NOTE

¹ *Hallmarks of an Effective Civil Legal Service Delivery System* is a set of guidelines adopted by the ATJ board in 1995 for reviewing, planning and implementing a viable legal service delivery system for low-income people.

Changing Venues

All the World's a Stage

Doug Tingvall, in-house counsel for John L. Scott, has a secret second life starring in musicals around the Puget Sound area. Having previously held major roles in productions through the Gilbert & Sullivan Society and the Bellevue Opera, rumor has it that he'll next appear as Emile in an Everett revival of "South Pacific."

Honors and Awards

The Honorable **Joseph Farris** of Seattle was elected Chair of The Fellows of the American Bar Foundation at their 44th annual meeting in Dallas in February.

The Spokane County Bar Association has honored **Richard D. McWilliams** with the annual "Smithmoore P. Myers" Professionalism Award. Attorneys **Lewis Orland** and **Donald McMannis** were also recognized by SCBA for over 50 years of law practice each.

Ronald M. Gould, former WSBA President and member of the Board of Governors, has been officially sworn in as a circuit judge for the United States Court of Appeals for the Ninth Circuit in Seattle.

Joan Fitzpatrick has been named the holder of the new Jeffrey and Susan Brotman Endowed Professorship at the University of Washington School of Law. **Jeffrey Brotman**, the founder and chairman of Costco Inc., earned his law degree from UW in 1967.

Dorsey & Whitney LLP has announced that **Irwin Treiger**, a partner in the firm's Seattle office, has been nominated by the American Bar Association Nominating Committee to serve on its Board of Directors. The nominees will be presented to the ABA House of Delegates in New York in July.

The Honorable **Robert J. Bryan**, a federal judge on the United States District Court for the Western District of Washington, has been appointed to a four-year term on the Board of the Federal Judicial Center in Washington, D.C. This organization is the research, education and planning agency of the federal judicial system.

Thumbs Up to...👍

Foster Pepper & Shefelman PLLC in Seattle, for their new free program designed

to help pro se litigants represent themselves in the court process. **Christine Allen**, the firm's public service counsel who devotes nearly 100 percent of her time to pro bono work, taught the first class in mid-February. Future teachers include firm attorneys **Marco Magnano, Jr.**; **Al Willert**; **Steve Jones**; **Roger Pearce**; **Susan Wright** and **Brian Buckley**.

Movers and Shakers

Laura Sealey has opened Sealey Law Offices in Kent. She has represented personal injury victims and victims of sexual abuse in Western Washington since 1985.

Perkins Coie LLP in Seattle has added **Carl Crow** to its tax department as a partner. His practice will focus on federal and international taxation of business transactions for limited liability companies and partnerships.

Woodcock Washburn Kurtz Mackiewicz & Norris LLP, a firm specializing in patents, trademarks and copyrights, will open an office in Seattle in late spring of this year.

Lee E. Johnson has been elected chairman of the management committee at the intellectual property firm of Christensen O'Conner Johnson & Kindness in Seattle. Johnson's area of practice encompasses patent prosecution, trademarks, copy-

plex federal and state tax planning and litigation.

Shaukat Karjeker will head the new offices of Merchant & Gould, an intellectual property firm opening soon in Seattle. **Lawrence Lycke** will also be a partner at the firm, which is expected to employ 10 lawyers by this summer.

John L. West has joined the Seattle firm of Hillis Clark Martin & Peterson as of counsel. His practice will continue to emphasize corporate matters, including emerging business, technology and e-commerce. Also joining the firm is **Howard F. Jensen**, whose practice will be in the areas of land use and environmental law matters.

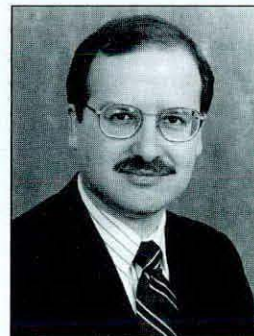
Kenneth W. Masters has joined **Charles K. Wiggins** as a member of their newly incorporated practice, Wiggins Law Offices PLLC, which focuses on civil appeals.

Karr Tuttle Campbell has announced the addition of **Jill T. Whitney** as an associate in the firm's business and finance department's tax and transaction practice group, where she will practice business law with an emphasis in taxation.

Lisa I. Toth has become an associate at Greenen & Greenen PLLC in Vancouver. Her practice will focus on family law, criminal law and bankruptcy.



Rehman H. Bashey



John H. Gadon



Todd R. Hargrove

rights, licensing, and general intellectual property business counseling and management.

Rehman H. Bashey has been elected partner at the law firm of Lane Powell Spears Lubersky LLP in Seattle, where he concentrates his practice in appellate litigation, and professional and products liability litigation. **John H. Gadon** has joined the firm's Portland office as a partner, and will focus his practice on com-

Todd R. Hargrove is now an associate with Groff & Murphy PLLC in Seattle. He served as a law clerk in Divisions I and II of the Washington State Court of Appeals, and will focus his practice on complex commercial litigation with an emphasis on construction disputes.

David K. Daggett has joined Preston Gates & Ellis LLP in Spokane as an associate in the technology and intellectual property area. New associates in the firm's

Seattle office include Laura K. Clinton, Joshua Clanagelo-Bryan, Paul E. Fogarty and R. Gibson Masters. Newly of counsel are Sam Z. Haviland, Norman S. Milks and Susan D. Wray.

Holmes Weddle & Barcott in Seattle has added Jay Rodne as an associate. He practices admiralty and maritime law with an emphasis on maritime personal injury defense, vessel financing and commercial law.

Shane G. Hernandez has joined the firm of Raugust & Associates in Spokane.

Timothy L. McMahon has joined Stoel Rives LLP in the land use practice group, and will have offices in both Vancouver and Portland.

Susan K. Servick has moved in another direction, becoming an associate at Quane Smith LLP in Coeur D'Alene, Idaho. Her areas of practice include governmental tort and civil rights defense, real estate errors and omissions defense, criminal defense and family law matters.

Short Cressman & Burgess PLLC in Seattle has added new associate Bradley A. Evens, who splits his practice between the areas of family law and commercial litigation.

In Memoriam

Albert Prince, who sat on Bellevue's first city council and served as its first park board chairman, passed away February 11 at the age of 81. He was known for his colorful bow ties and the ability to see humor in many situations.

Seattle attorney Walter J. Reseburg, Jr., a 1939 graduate of the University of Washington School of Law, passed away March 23 at the age of 84. In addition to maintaining a private law practice, he was appointed U.S. Court Commissioner in 1959, a position he held until the early 1970s. An avid baseball fan, he played and coached the game throughout his life.

Former Graham & Dunn attorney Charles Layton Sayre passed away February 22 at the age of 82. He co-authored a chapter in the WSBA's first *Commercial Law Deskbook*, and continued to handle mandatory arbitration matters until his health forced his full retirement from the law. He was also an enthusiastic steelhead fisherman. ☞

The WSBA Lawyer Services Department offers these four programs:

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

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

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

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

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

Have You Visited www.wsba.org Lately?

The WSBA website is a major resource of online information for WSBA members. The website is updated frequently (at least once a week), so be sure to visit often for up-to-date information on...

Practice tips from the WSBA

Law Office Management Assistance Program

Bar News online

including an archive of past articles

CLE information about upcoming seminars

Links to law-related and government websites

Sections overview of section activities, calendar of events, links of interest to section members, etc.

Young Lawyers Division calendar of events, *De Novo*, public-service programs, etc.

And much more!

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The Board's Work

by **Sherrie Bennett**

Governors Grapple with Practice of Law Issues

At their March 31st meeting in Kelso, the Board of Governors continued to struggle with defining the practice of law in a fast-changing environment.

The Board had a very spirited discussion about reciprocity rules that would allow attorneys from other states to practice law in Washington. Governor **Walt Krueger** pointed out that there is increasing interest from lawyers in other states to practice Washington law. Governor **Jim Deno** suggested there should be more study on multidisciplinary practice issues. Governor **John Powers** thought that at some point in the future, lawyers from other states might have to register as "doing business" in this state, much like foreign corporations currently do. President-elect **Jan Eric Peterson** suggested that the multidisciplinary practice issue might be sent to the membership for feedback, considering the possibility that some WSBA members may be indifferent to the issue or think spending members' money on the issue is not worthwhile.

Governor **Stephen Henderson** aptly categorized out-of-state lawyers practicing in Washington without a license, unauthorized nonlawyers practicing law, and multidisciplinary practice as three issues which must be resolved in the process of defining the practice of law in Washington. Governor Deno reiterated that there is currently no mechanism in place to prevent out-of-state lawyers and nonlawyers from engaging in this practice, and small firms and solo practices simply don't have the marketing power of the larger companies. He predicted that Bar members could be "swept aside" unless the WSBA takes steps to address these issues directly. The Board will continue to tackle this

panoply of issues surrounding the definition of the practice of law at the May 19th meeting in Yakima.

Disciplinary Diversion Becomes a Reality

The Board approved new rules designed to divert some types of disciplinary grievances into fee arbitration, mediation, law office management assistance, lawyer assistance programs, psychological or behavioral counseling, monitoring, restitution and continuing legal education programs. President-elect **Jan Eric Peterson** described the diversion program as "the final spoke in the wheel of a national model for discipline systems" that was eight years in the making and involved many hours of hard work by such WSBA well-knowns as **Wayne Blair**, **Peter Ehrlichman**, **Anne Ellington**, **Christopher Pence** and **Leland Ripley**.

ODC Consumer Affairs Presentation

Felice Congalton gave the Board a report on the Office of Disciplinary Counsel's consumer affairs unit, which handles all complaint calls to the WSBA and meets with members of the public who have grievances regarding a lawyer's conduct. The staff also attempts to resolve disputes about possession of client files and communication problems between lawyers and clients.

MCLE Implementation Committee Report

The Board approved the final report of the MCLE Implementation Committee, which was formed to prepare the implementation of the proposed new APR 11 currently under consideration by the state Supreme Court. The proposed rule amendments would make major changes in the MCLE program, clarifying the relationship between the MCLE Board and the

Board of Governors regarding the MCLE Board's budget and personnel. Continuing legal education sponsors would report attendance to the WSBA. The WSBA would be required to maintain attendance records, and semi-annually provide members with updates of their credit status. Additionally, the MCLE Board would be authorized to designate accredited providers who will not be required to seek pre-approval of individual courses; and members would be allowed CLE credits for certain pro bono activities, self-study, writing and editing. Implementation is pending the Supreme Court's approval of the new rule.

Diversity Discussions Continue

The Board watched a slide presentation by GMA Research on a 1999 Washington state survey on how the public views the courts. The survey results measured the attitudes and perceptions of African American, Hispanic, Asian and Caucasian populations. The presentation spurred a discussion led by Governor Deno regarding diversity issues within the WSBA. The Board heard from **Yvonne Ward**, President of the Asian Bar Association of Washington, on the issue of whether the Board should expand its membership to include minority and young lawyer seats.

Ms. Ward stated that, after much careful consideration, the Asian Bar Association supports the concept, but hopes that it would not need to be a permanent measure. She mentioned that the various minority bar associations have a history of cooperation and would likely be able to select a governor from within their joint membership. Ward emphasized that many minority lawyers feel these decisions should be made by the minority members themselves and not foisted upon them by others who do not or could not understand their perspective. She also stated that there is a historical and institutional distrust of the Bar Association by minority members, and that it has been perceived as an exclusive, closed system. Governor **Jenny Durkan** suggested that it may be time to rethink how governors are chosen, pointing out that the current selection process emphasizes regional and geographic diversity. ☞

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The Sad Story of an In-House Lawyer

by **Barrie Althoff** • *WSBA Chief Disciplinary Counsel*

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

This article looks at some employment law ethical issues facing an in-house counsel at a start-up company. It presents a hypothetical situation and examines some common ethical issues under Washington's Rules of Professional Conduct.

Fact Statement

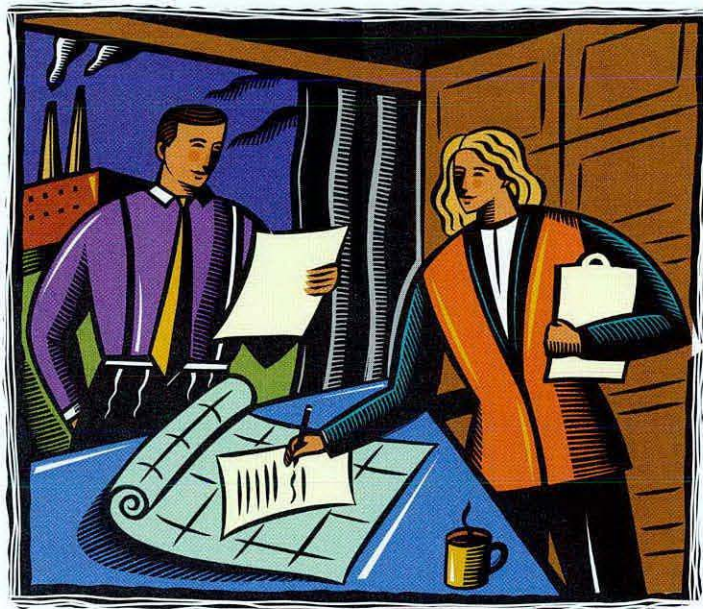
Last year Joan (all names are fictitious) graduated from law school, was admitted to the Eastcoast State Bar, and immediately started work at a handsome salary with stock options as sole in-house counsel and vice-president of personnel for SuperMegaRock.com, a small start-up corporation located in SillyCons Valley, Westcoast state. The company, formed one year earlier by its president, Bob Zooks, a flamboyant former rock musician, seeks to be the dominant rock music Internet site to attract advertisers wanting to reach a youthful audience.

Joan got the job on a tip from her long-time friend Sally, the company's vice-president and chief financial officer, whom Bob hired immediately after she got her M.B.A. After Joan began work at the company, Sally told her that when Bob hired her (Sally), he said he only hired young women for the company because it made him feel young, and besides she was really beautiful. Joan replied that she, too, really liked working with young people.

Joan liked her work and coworkers. She told Sally she felt flattered and trusted when Bob consulted her, often late at night, about complex confidential personal legal matters involving his ex-wife,

even though, as Joan admitted, she did not always understand the legal issues. Bob told her several times he was glad she was representing him personally. She felt the same way when Sally asked her advice on personal legal problems. Sometimes, Joan asked Sally's advice on Bob's personal legal matters.

The day before the scheduled closing of the company's initial public securities



offering, Sally and Joan had lunch together at a very popular and always crowded restaurant. Joan noticed that Sally looked troubled. Their conversation at the restaurant went like this:

"Joan, you've been my lawyer and my long-time friend, and I really need to talk to you about some things that have come up in my job and life."

"Sally, you know you can rely on me to keep a secret and help you. Why, we've been best friends for years and I owe my job to you!"

"Thanks Joan. I knew I could rely on you. I'm kind of mixed up on something. Tomorrow, when SuperMegaRock.com goes public, we'll both be gazillionaires with our stock options! Well, maybe not

that rich, but at least millionaires! Can you believe it? Here we are, just barely out of school, and we can soon retire!"

"Yes! It's hard to believe, isn't it? And I owe it all to you, Sally! Thanks!"

"But, you know, Joan, while I want the company to succeed and want us to get rich, I'm scared. I don't want to get into trouble. When I first got here, Bob showed me how to keep the financial reports. We were losing lots of money at the time and he convinced me no one would be hurt if we jiggled the numbers just a little to make things look better. He said if we didn't, everyone would lose their jobs. I didn't like it, but I didn't think a little adjustment would hurt much, and, besides, I really wanted this job. When I signed off on the reports, Bob always took them from me saying he would personally walk them over to our outside auditors.

"Well, Bob knew how much I wanted the job. He kept telling me I needed to be a team player. I soon found out what he meant by that. He finally wore me down, so I've been sleeping with him for three months. I don't like it, but I want the job.

"But I don't want you to tell anyone about it. I'm so embarrassed, especially since Amanda, whom Bob fired last month from the shipping department, told me in confidence last night that Bob had also repeatedly demanded she become a team player. Amanda pretended she didn't know what Bob meant, but Bob kept sending her suggestive notes, and finally he told her explicitly what he wanted. Amanda refused and was fired on the spot. I told her I wouldn't tell anyone, so just pretend I didn't say anything about her. But it just makes me so mad!"

Joan, her hand trembling, reaches for her wine glass and takes a long drink as Sally goes on.

"Yesterday afternoon I was doing a final numbers check for tomorrow's closing. The numbers were way off. They simply didn't make sense. This morning, when Bob was out, I found in his office copies of the financial reports he gave to the outside auditors. I compared them with my reports. Here they all are. I want you to keep them to protect me. I couldn't believe it! Bob changed all my reports to show that the company was making big money when in fact it was losing money. All those false reports have my name on them! And if that's not enough, as I walked into the restaurant today, I saw Bob's ex-wife. She had a silly smirk on her face. Without saying a word, she handed me this ruffled paper and walked off. It shows Bob was convicted and served time for embezzlement eight years ago! That sure isn't in the company's offering prospectus! Joan, I'm so very glad you're my lawyer and will look out for me!"

Joan, turning very pale, reaches again for her wine glass as she decides what to say and do.

What should Joan say and do? Does Joan have any ethical problems? What are they? Assume that Eastcoast state and Westcoast state have each adopted Rules of Professional Conduct identical to Washington's.

Discussion of Ethical Issues

Joan should first finish her glass of wine, relish it, order another, and perhaps a third. She should then reach for her cellular phone and dial ETHICS-101 for immediate help as she peruses help-wanted advertisements. When she gets home that night, if she reaches for another glass of wine, she should instead call her bar association's Lawyers' Assistance Program. She should then get a good night's sleep in anticipation of her search for a new career. In the morning, she should think about some of the following ethical problems which she needs to resolve.

1) Unauthorized Practice of Law

Joan, admitted to the Eastcoast State Bar, practices as in-house counsel in Westcoast state for SuperMegaRock.com. She is not

licensed to practice in Westcoast state.

Whether an in-house counsel needs to be licensed to practice in each jurisdiction in which he or she gives legal advice varies from jurisdiction to jurisdiction. Jurisdictions usually require in-house counsel to be licensed in at least one jurisdiction. Thus, Joan could not have simply graduated from law school and become in-house counsel without having been licensed to practice in any jurisdiction. Some jurisdictions require licensing in their jurisdiction only if the in-house lawyer engages in litigation, while others require it whether the in-house lawyer advises the corporate client or represents it in litigation. Some jurisdictions, like Washington state, permit a lawyer already licensed in one jurisdiction to choose either a full license to practice by meeting the usual full admissions requirements, or a limited license to practice with reduced admission requirements. Washington APR 8(f). Limited licensing requires the in-house lawyer to limit his or her practice exclusively for the benefit of the corporation by which he or she is employed. Some states, such as Washington, also provide reciprocal admissions for lawyers licensed in other jurisdictions with corresponding reciprocal admissions provisions.

Jurisdictions permitting an in-house lawyer to practice law without being licensed in their specific jurisdiction, or permitting a limited license for an in-house lawyer, do so only for the lawyer's practice with the corporate entity. If the lawyer represents anyone other than the corporate entity, the in-house lawyer must be licensed to practice law in that jurisdiction.

Joan provided legal advice to the company, to Bob and to Sally, all of whom think of Joan as their lawyer. Even if Joan did not have to be licensed in Westcoast state to practice law exclusively for the company, by providing legal advice to Bob and Sally she lost any in-house lawyer exemption. She is thus likely violating Westcoast state's criminal statute governing the unauthorized practice of law. Her unlicensed representation of Bob and Sally in Westcoast state also likely violates Eastcoast state's RPC 5.5(a), which prohibits a lawyer from practicing law in a jurisdiction where doing so violates the regulation of the legal profession in that juris-

dition. This violation likely subjects Joan to disciplinary action in Eastcoast state.

2) Assisting the Unauthorized Practice of Law

We do not know whether Joan's rendering of personal legal services to Bob and Sally was merely a personal decision by Joan, or whether it was a result of a formal or informal company plan or practice to make legal counsel available to employees as a fringe benefit of employment. If the company has such a plan or practice, it may itself be engaged in the unauthorized practice of law through its unlicensed agent, Joan. Thus, Joan may not only be engaged herself in the unauthorized practice of law, but may also be assisting another person (the company) in the unauthorized practice of law. RPC 5.5(b) prohibits a lawyer from assisting a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law. This violation may also subject Joan to disciplinary action in Eastcoast state.

3) Conflicts of Interest

Joan has ethics problems from her multiple client representations and her failure to clarify who, at any given moment, is her client and to whom she has duties of loyalty, independence and confidentiality. Her dual capacity as in-house lawyer and as vice-president of personnel magnify these problems.

Several RPC provisions, principally RPC 1.7 and RPC 1.8, limit Joan's ability to represent multiple clients. RPC 1.7(a) prohibits her from representing a client if the representation will be directly adverse to another client, unless certain requirements are met. RPC 1.7(b) prohibits her from representing a client if the representation may be materially limited by her responsibilities to another client or to a third person, or by her own interests, unless certain requirements are met. RPC 1.8 lists various specific prohibited transactions. The American Bar Association's RPC 1.13, not adopted by Washington, clarifies that when she represents an organization, she represents the entity through its representatives (directors and officers) and does not personally represent the representatives.

Conflict of interest rules are routinely enforced more through civil litigation than through the disciplinary process. The immediate practical remedy for litigation conflicts is often disqualification from the conflicting representations and possible loss of legal fees related to the representations. In non-litigation contexts, the conflict is often less obvious and more likely to be discovered after significant investment of time or resources in the representation. In part, this is because lawyers tend to treat conflicts-checking as a one-time task rather than a constant surveillance of each representation as persons or entities fade in and out.

If Joan's representation of Bob and Sally is limited to their respective personal, non-company legal matters and does not relate to their positions as employees of the company, Joan could probably represent them (unless those personal representations conflict with one another, as discussed below) while also representing the company. In the course of the representations, however, what was initially not a conflict situation may become a conflict necessitating her withdrawal or disqualification from all representations, and possible discipline.

When Sally speaks to Joan at the restaurant, Joan's role is at first unclear. Sally's initial statement that Joan has been her lawyer and long-time friend, and that she needs to consult Joan about some things that have come up in her job and life, suggests she is seeking a mixture of legal and personal advice from her lawyer friend. Joan's role as vice-president of personnel further complicates the issue. Joan should have been very alert to the ambiguity of her roles and have immediately clarified what she could talk to Sally about. Further, while Sally does not seem to be addressing Joan as the company's lawyer (as opposed to being Sally's own lawyer), some of Sally's comments (for example, about there being no disclosure in the company's prospectus about Bob's prior embezzlement conviction) could be read as being directed to Joan as the company's in-house lawyer. Sally's comments about age and gender discrimination and sexual harassment are relevant to Joan as both in-house lawyer and as vice-president of personnel. Sally's comments to Joan at the end of their

conversation indicate that, by then, Sally thinks of Joan as her lawyer who is going to look out for her. Joan's multiple representations have firmly ensnared her in an ethics net.

Joan also has other conflicts problems. Since the conversation quickly turns to accounting irregularities in which Sally and Bob are both deeply involved, Joan has a conflict, since the interests of Sally, Bob and the company are all directly involved and are likely each opposed to the other. Since Joan is in-house counsel for the company and her client is the company as an entity, she cannot represent Sally (or Bob) as to their falsification of accounting records. Because of her conflicts, however, Joan would likely also be disqualified from representing the company in any action against Sally or Bob.

Joan is also conflicted as to Sally's disclosure of an unwanted sexual relationship with Bob, and of Amanda's being fired by Bob for refusing such a relationship. Sally's telling Joan not to disclose this information does not help Joan. Sally and Amanda (and likely others) have possible sexual harassment and gender- and age-discrimination claims against Bob and the company. Joan should have informed Sally at the beginning of their conversation that she represents the company and not Sally, and thus that she could not keep anything secret from her client, the company. At the same time, as vice-president of personnel, Joan needs to know the information about the possible claims. Joan's multiple conflicting roles make it impossible for her to represent the company, Sally or Bob.

Joan's representation of Bob in personal legal matters regarding his ex-spouse would likely disqualify Joan from representing the company or Sally (or Amanda) in any claims against Bob. When Bob's ex-spouse delivers to Sally evidence of Bob's embezzlement conviction, and Sally shows it to Joan, Joan is once again in a quandary. As lawyer for the company, Joan has an interest in disclosing this information to the company's management (which may or may not include Bob), especially in view of the company's imminent public offering of its securities. But as counsel for Bob, neither Joan nor Bob would likely want the information further disclosed.

Joan's stock options when the company

is going public may give rise to a personal conflict of interest in her representing the company, Sally or Bob. If a financial interest *may* materially limit Joan's ability to represent the company, Sally or Bob, RPC 1.7(b) prohibits Joan from undertaking or continuing one or more of those representations. Mere ownership of a modest amount of company securities should not, of itself, be sufficient under RPC 1.7(b) to constitute a conflict between an in-house lawyer and the lawyer's representation of the company. Nor should the mere existence of the imminent public offering of itself be sufficient to limit Joan's ability to represent the company, subject to her specific responsibilities as to that offering. But even if her role as lawyer for the entity did not clearly preclude her from representing Bob or Sally as to their falsification of accounting records, her personal financial interest in seeing a successful public offering may limit her ability to do so.

Likewise, Joan's and Sally's long-time friendship may materially interfere with Joan's ability to represent the company, or for that matter, Bob, in connection with any of the accounting irregularities, possible sexual harassment, or age- or gender-discrimination claims.

Joan has effectively conflicted herself out of most of her work. She may not represent Sally (or Amanda) in any sexual harassment/discrimination claims they may have against the company or Bob, nor may she defend Sally against any claims the company or others might bring against her as to the accounting irregularities. Joan may not defend Bob against any sexual harassment, or age- or gender-discrimination claims that Sally, Amanda or other employees might have against Bob. Because of her conflicts, Joan may not represent the company in any claims it has against Bob or Sally as to accounting irregularities or their non-disclosure, or as to sexual harassment, or age- or gender-discrimination, nor could she defend the company in any claims others may have as to those issues.

4) Maintaining Client Confidences and Secrets

Joan is obliged to respect the confidentiality of communications to her both un-

der the RPCs and under the applicable attorney-client privilege statute.

ABA Model RPC 1.6 prohibits a lawyer from revealing "information relating to the representation of a client" unless the client consents after consultation, or the disclosure is impliedly authorized in order to carry out the representation, or in certain other cases. Washington's RPC 1.6 is similar, although instead of referring to "information relating to the representation of a client," it refers to the client's "confidences or secrets." The terminology section of Washington's RPCs states that "'confidence' refers to information protected by the attorney-client privilege under applicable law, and 'secret' refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client."

In addition to the ethical or professional obligation to maintain client confidences, all states have a separate evidentiary rule governing the attorney-client privilege assuring confidentiality as to certain attorney-client communications. The RPC provision is broader than the attorney-client privilege.

Joan's conduct suggests several RPC violations. Joan could ask Sally's advice on Bob's personal legal matters only if she needed information from Sally on Bob relevant to those matters, gave Sally only the least possible amount of information needed for her to respond, and advised her of the confidential nature of the inquiry. Otherwise, Joan will have breached RPC 1.6 since Sally is neither a lawyer being consulted nor on Joan's legal staff, nor would the "implied" authorization be applicable.

Joan also has confidentiality problems as to the restaurant meeting. Joan and Sally met at a very popular and always-crowded restaurant. This puts into doubt satisfaction of the requirement under the statutory attorney-client privilege that there be a reasonable expectation of confidentiality as to the communication. If the requirement is not met, then even assuming an attorney-client relationship existed between Joan and Sally as to their conversa-

tion, the conversation would be discoverable in litigation.

Joan's dual role as in-house lawyer and as vice-president of personnel also raises issues. Making a lawyer a vice-president of personnel does not insulate every communication to her as attorney-client privileged or as protected under RPC 1.6 if the lawyer was not in fact acting as a lawyer at the time. If Sally talked to Joan in her capacity as vice-president of personnel, there would be no attorney-client re-

Competent representation requires a lawyer to have knowledge of applicable court rules, including those governing the lawyer's ethical and professional responsibilities, such as those set out in the RPCs.

lationship and hence no attorney-client privilege, nor would the communications be protected by RPC 1.6. However, given the uncertainty of her roles and the fact that Sally thinks of Joan as her counsel, Joan could not disclose that information.

When Sally told Joan she needed to talk to her about some things in her job and life, Joan told Sally that Sally could rely on her to keep a secret and help her. Since Sally told Joan that the conversation involved her job, Joan, as in-house lawyer, should immediately have cautioned Sally that she represents the company and could not assure her that the information she provides could be kept confidential. Joan, knowing about the accounting irregularities, possible sexual harassment, and age- and gender-discrimination claims, was obliged to her client, the company, to act on that information. At the same time, Joan told Sally she would keep information confidential. Joan's obligations as lawyer for the company and as lawyer for Sally directly conflict with one another. She will have to withdraw from representation of both — no easy task for an in-house counsel with stock options on the eve of an initial public offering!

If Joan engaged in the unauthorized practice of law as to either the company, Sally or Bob, arguably there is no attorney-client evidentiary privilege or duty under RPC 1.6 to maintain client infor-

mation, confidences or secrets. Such a contention would likely fail, however, since the rule and privilege usually apply where the client reasonably believes an attorney-client relationship exists even if the "attorney" is not licensed to practice law, or is an imposter. Sally's and Bob's beliefs that Joan is their attorney are reasonable, and thus both may rightfully claim their communications with Joan are privileged under the statute and protected under RPC 1.6. Thus, even if Joan or the company were unlawfully engaged in the practice of law, since Joan is not licensed to practice law in Westcoast state, communications with her would still be protected by the attorney-client privilege and RPC 1.6.

5) Competence

RPC 1.1 requires a lawyer to provide competent representation to a client. This requires the lawyer to have the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Joan is barely out of law school and has been thrust into complex legal situations. Her conduct raises numerous questions as to her competence. She provided legal assistance to Bob on his complex legal matters involving his ex-spouse even though she did not always understand the legal issues. She also felt the same way when Sally asked for her advice on personal legal problems. Competent legal representation requires that she understand her client's matters.

Competent representation also requires a lawyer to have sufficient knowledge to recognize legal problems. Sally told Joan of Bob's statement to her that he only hired young women because it helped him stay young — and that Sally was beautiful. The statements and underlying hiring practices may support age- and gender-discrimination claims against the company, and raise a red flag as to possible sexual harassment. Joan's reply to Sally that she also liked to work with young people suggests that she missed the legal significance of Sally's comments.

Competent representation requires a lawyer to have knowledge of applicable court rules, including those governing the

Disciplinary Notices

lawyer's ethical and professional responsibilities, such as those set out in the RPCs. Joan's repeated and multiple violations of her obligations to avoid conflicts of interest and to maintain client confidences and secrets evidences incompetence.

Conclusion

Joan's situation is not all that uncommon. An inexperienced lawyer is often thrust into situations which call for greater knowledge and experience than the lawyer possesses. This is especially true where the lawyer is in sole practice or is the only in-house lawyer. Even an experienced lawyer providing services for a fast-growing company, such as a dot-com company, may be sorely tested when cutting-edge legal and business issues appear daily with little or no time for considered responses. In such start-up companies, it is not unusual for management either to ignore legal issues, or to assert a lack of time or resources to deal with any "collateral issues" while the very existence of the company is at stake. Failure to deal with such basics, however, undermines the company's and management's future, and clouds their ability to attract capital and survive as a public corporation.

A lawyer in such a situation can meet her ethical obligation of competence only by having considerable experience or by study and consultation with knowledgeable experienced counsel. The isolation of a lawyer in sole practice or as the only in-house lawyer makes such study and consultation crucial.

The most basic ethical question a lawyer must ask and answer is "Who is my client?" Until the lawyer correctly answers that question, the lawyer is in great peril of violating his or her ethical duties. Among the most difficult ethical rules for a lawyer to master are the conflict of interest rules — the very rules that help a lawyer determine whether in fact he or she may safely and ethically represent a potential client. Unless the lawyer lives these rules, however, the lawyer will repeatedly be placed in situations of owing impossibly conflicting obligations to multiple clients. The lawyer likely will satisfy none of the clients and will subject himself or herself to malpractice suits and disciplinary action. *LD*

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.

Disbarred

Barbara Beatty (WSBA No. 17968, admitted 1988), of Seattle, has been disbarred by order of the Supreme Court effective March 23, 2000, following a hearing. The discipline is based on her Alford plea to two counts of securities fraud involving two clients.

In 1992, Ms. Beatty began soliciting investment contracts to finance construction of six houses in Algona, Washington. She raised \$229,000 from four investors. She did not invest any of her own funds in this project. Ms. Beatty misrepresented several material facts to the investors, including: 1) they would earn 30 to 50 percent return on their investments, with no reasonable basis in fact; 2) their investments would be fully secured, when Ms. Beatty's equity in the property did not fully secure any of the investments; and 3) she would have a buyer for each house prior to it being built, although she built only two houses and did not have a buyer until after the houses were completed. After the project failed, Ms. Beatty failed to fully repay the investors.

Two of the investors were Ms. Beatty's clients. One, a 69 year-old woman, told Ms. Beatty that she was in failing health and that she worried about having enough money to live on prior to making the investment. Ms. Beatty told the client this was a safe investment. Relying on Ms. Beatty's statements, the client invested \$25,000. More than a year elapsed between the time the project failed and when Ms. Beatty communicated this to her client. She gave the client a promissory note calling for \$500 monthly payments.

The other client invested \$42,000 in Ms. Beatty's project. Shortly after making this investment, the client's job situation changed, and she requested to withdraw her investment. Ms. Beatty returned

\$10,397.71, but convinced the client to leave the remainder. After several unanswered phone calls, the client retained counsel and filed a complaint against Ms. Beatty. Ms. Beatty sent the client \$10,000, but never disclosed that she was no longer managing the project.

Ms. Beatty pled guilty to two counts of securities fraud. Between the time of the plea and sentencing, Ms. Beatty repaid both clients' principal with interest. As a result, one count was dropped and Ms. Beatty was sentenced on the other. She received 60 days' home detention, 30 days' community service and 12 months' probation.

Ms. Beatty's conduct violated RLD 1.1(a), (i) and (p), stating that a lawyer may be subject to discipline for conduct evidencing a disregard for the rule of law; conduct reflecting adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer; and conduct demonstrating unfitness to practice law.

Linda Eide represented the Bar Association. Thomas Coe represented Ms. Beatty. The hearing officer was Lish Whitson.

Disbarred

Charles W. Burns (WSBA No. 12957, admitted 1982), of Montana, has been disbarred by order of the Supreme Court effective March 23, 2000, following a default hearing. The discipline is based upon abandoning his practice without notice to his clients, failing to properly deal with client funds, failure to diligently represent clients, and negotiating settlement checks with forged endorsements and converting client funds to his own use.

Abandonment of Practice

In December 1997, Mr. Burns transferred to inactive status with the Bar Association. Shortly after this date, he left Washington, abandoning his practice. He failed to notify his clients of his absence, make arrangements for another lawyer to take over his client matters, or return files and documents to his clients. The Bar Association appointed a file custodian, who found unopened mail, unfiled documents, and client files with little or no work or client contact. Mr. Burns' con-

duct violated RPC 1.15(d), requiring a lawyer to take steps to protect clients' interests when withdrawing from representation.

Trust Account Issues

The Bar Association audited Mr. Burns' trust account after he transferred to inactive status. The auditor found that Mr. Burns did not keep sufficient records to accurately track client money paid to his office. Additionally, in several client matters, Mr. Burns failed to deposit client funds into his IOLTA trust account; failed to deposit client funds into a separate IOLTA account with interest paid to the client, when this would provide a net positive return for the client; failed to promptly pay or deliver client funds to client upon request; and failed to return unearned advance fee or cost deposits.

Mr. Burns' conduct violated RPC 1.14, requiring lawyers to deposit all client funds paid to the lawyer into an interest-bearing IOLTA account; maintain complete records of all client funds, securities and other properties coming into the lawyer's possession; and promptly pay or deliver client funds to the client upon request.

Lack of Diligence and Communication

In three client matters, Mr. Burns failed to act with reasonable diligence and promptness in representing clients. In these same matters, he failed to keep the clients reasonably informed about the status of their legal matters. Mr. Burns' conduct violated RPC 1.3, requiring lawyers to act with reasonable diligence and promptness in representing clients; and RPC 1.4, requiring lawyers to keep clients reasonably informed about the status of their legal matters and promptly comply with reasonable requests for information.

Dishonest Conduct

In three client matters, Mr. Burns knowingly endorsed settlement checks for his clients without the clients' knowledge or consent, negotiated the checks with forged endorsements, and intentionally converted the clients' funds to his own use. Mr. Burns' conduct violated RPC 8.4(b), prohibiting committing a criminal act (theft) that reflects adversely on the law-

yer's honesty, trustworthiness or fitness as a lawyer in other respects; and RPC 8.4 (c), prohibiting engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Failure to Respond to Office of Disciplinary Counsel's Requests for Response

Mr. Burns failed to respond to the Office of Disciplinary Counsel's written requests for response in five matters. Mr. Burns' conduct violated RLD 2.8(a), requiring lawyers to promptly respond to any inquiry or request made for information relevant to grievances or other matters under investigation concerning a lawyer's conduct.

Jean McElroy represented the Bar Association. Mr. Burns represented himself. David Tuell was the hearing officer.

Suspended

Gregory L. Samuels (WSBA No. 19497, admitted 1990), of Vancouver, B.C., Canada, has been suspended by order of the Supreme Court of Washington, dated February 11, 2000. The Supreme Court's order of reciprocal discipline, pursuant to RLD 12.6, is based on the Hearing Panel for the Law Society of British Columbia's

October 8, 1999 order for a 90-day suspension. The Washington Supreme Court ordered that Mr. Samuels' Washington suspension run concurrently with the British Columbia suspension.

In 1996, Mr. Samuels represented two clients in an assault case in Delta Provincial Court. He intended to obtain diversion for these clients. In March 1996, The Crown advised Mr. Samuels that diversion would not be acceptable. In May 1996, three days prior to trial, Mr. Samuels applied to the Court to adjourn (continue) the trials. When it appeared that the Court would not grant the motion, Mr. Samuels told the Court that he had spoken with the clients' mothers, and implied that his contact was recent. In fact, Mr. Samuels had not contacted the clients' mothers for a considerable time prior to the hearing. Mr. Samuels later admitted to implying to the judge that he had recently spoken with his clients' mothers, knowing that this was inaccurate. Mr. Samuels wrote a letter of apology to the judge and made changes in his practice. Mr. Samuels' conduct was misleading and constituted professional misconduct.

Douglas J. Ende represented the Bar Association. Mr. Samuels represented himself. ☞

WSBA Service Center... at Your Service!

Communicating with the WSBA has never been easier! The Service Center can help you with status changes, licensing fees, course accreditation, requests for forms, seminar registrations, CLE credits, section membership, publications, address changes, status certificates, events, dates and deadlines...and much more!

800-945-WSBA / 206-443-WSBA
questions@wsba.org



Board of Governors Candidate Biographical Statements

Please note: ballots will be mailed after May 15, 2000. Deadline for voting is 5:00 p.m., Thursday, June 15, 2000. Ballots will be counted on Monday, June 19, 2000 at the WSBA office.

1st Congressional District

Ken Davidson

Ken Davidson

At the beginning of the 21st century, our profession and the courts face considerable challenges in operating a legal system that is effective and open to all. In response, the WSBA must provide leadership to:

1. Support adequate funding for all components of the justice system;
2. Promote public education of and respect for the law, the courts and the work of our profession;
3. Assure delivery of quality legal services; and
4. Provide better ways to make the justice system responsive, fair and accessible.

I am pledging my time and skills to the Board of Governors to carry out these objectives. Serving on the BOG, I will draw on my experience from 25 years of private practice, five years on the Access to Justice Board, and many different roles in the King County Bar Association, the East King County Bar Association, the American Civil Liberties Union, the Washington State Trial Lawyers Association, and other worthy organizations. I look forward to addressing the challenges ahead.

5th Congressional District

William D. Hyslop, Peter Karademos and John M. Riley III

William D. Hyslop

A Spokane native, Bill has practiced law at Lukins & Annis, P.S. in litigation and construction law since 1980. Between 1991 and 1993, he was the U.S. Attorney for the Eastern District of Washington.

In June, Bill is completing his term as president of the Spokane County Bar Association. This has included serving six years on the board, and serving as chair of the Professionalism, CLE and Superior Court Liaison committees. At the WSBA, he chaired the 2000 Bar Leaders Conference and served on the 1999 Bar Leaders Conference Committee. An advocate for access to justice, Bill is a former vice-chair of the Equal Justice Coalition, and has served on several LAW Fund/EJC lobbying efforts for legal services funding. This past year, he helped facilitate the WSBA's long-range planning meeting in Spokane, and he attended the ABA Bar Leaders' National Institute. He belongs to the WSBA Litigation and Public Procurement and Private Construction Law sections.

His education includes a J.D. from Gonzaga Law School (1980), a Master of Public Administration from the University of Washington (1977), and a B.A. from Washington State University (1973). He has also been very involved in leadership roles in many state, community, political and civic activities. These include serving as co-chair of the Citizens for Spokane Schools, chair of the campaign committee that led to Spokane's new arena, and past-president of the WSU Alumni Association.

Please contact Bill at 509-455-9555 or whyslop@lukins.com with your WSBA concerns and issues. He wants the WSBA to be responsive to you, and he wants to hear from you.

Peter J. Karademos

My name is Peter J. Karademos. I am from the 5th congressional district, practicing in Spokane. I have been licensed since October 1974. I am running for a position on the Board of Governors because I have always been very much involved in serving my fellow attorneys through the Bar Association. I wish to continue in that endeavor. I have served on the Family Law Executive Committee for the WSBA for seven years, and have been very involved in the support of legislation beneficial to my fellow attorneys. I personally was involved in the most recent modification of the Child Placement Modification statute. I have been extensively involved in the support and passage of 2000 relocation legislation. I am also a member of the Legislative Committee for the WSBA, working on the passage of legislation. I wish to continue those types of tasks through a seat on the Board of Governors. I believe that the individuals who serve on the Board of Governors play a very important part in the passage of new rules or new legislation that affect all of us. I pledge to work hard. I am respectfully requesting your support.

John M. Riley III

I am a partner at Witherspoon, Kelley, Davenport & Toole P.S. I received a B.A. from Whitman College, and my J.D. from Gonzaga School of Law. I am a Spokane native. I practice primarily in business and real estate-related law.

I believe that I am uniquely qualified for the 5th district governor position, in that during my 20 years of practice, I have spent a substantial portion of my time in Bar Association activities. I served as chair of the Spokane County Bar Young Lawyers in the early 1980s. I was a board member, officer or president of the WSBA Young Lawyers Division from 1983 to 1988. From 1990 to 1992, I served as a trustee of the Spokane County Bar Association and was a member of the WSBA Legislative Committee. In 1993, I was elected to the Executive Committee of the Real Property, Probate and Trust Section, where I served as chair and am now finishing my term as past-chair. I also have served on the WSBA CLE Committee and have served four years on the WSBA Resolutions Committee, the last two as chair. Since 1983, I have attended many Board of Governors meetings. I have been faculty/author or chair of 12 WSBA CLEs since 1992.

I would be honored to serve on the Board of Governors. I have been a lawyer in a small firm, a large firm, as well as general counsel for a corporation. I know the life and needs of the 5th district lawyers. I will focus on making sure the Board meets your needs.

7th-West Congressional District

Lucy Isaki and Harry McCarthy

Lucy Isaki

Admitted to practice in 1977 after graduation from UPS, Lucy is a Senior Assistant Attorney General and handles complex defense litigation. She was a partner at Bogle & Gates at the time of its dissolution.

Lucy is completing a term as president of the King County Bar Association. She is past-president of the Seattle Chapter of Washington Women Lawyers, and past-chair of the board of visitors at Seattle University Law School. Lucy was KCBA's delegate to the ABA House of Delegates, president of the Legal Founda-

Biographical Statements

tion Board in 1995, and chair of the Equal Justice Coalition in 1998. She was a liaison to the WSBA Board of Governors, and has served on several Bar committees.

Harry McCarthy

Since 1973, I have resided in Seattle with my family and practiced law. For the last two years, I have served as a judge pro tempore for the Superior Court and for the District Court of King County. During 1999-2000, I have taught trial advocacy as an adjunct professor at the University of Washington Law School. I have also been active on the Professionalism Committee of the WSBA. From 1973 to 1998, I practiced as an Assistant U.S. Attorney in Seattle. For the last four years of my career in the office, I served as Chief of the Criminal Division.

Opportunities for Service

Judicial Information System Committee (JISC)

Application deadline: May 31, 2000

The Board of Governors of the Washington State Bar Association is accepting letters from members interested in serving a three-year term on the Judicial Information System Committee. The WSBA member will be nominated by the Board of Governors and appointed by the Chief Justice. The JISC 2 specifically states that the Chief Justice shall consider for appointment only those individuals who have demonstrated an interest and commitment to judicial administration and to the automation of judicial systems and functions. Incumbent is eligible for reappointment.

The JISC is the policy-level steering committee for the court's automation system. The committee is chaired by the Chief Justice and composed of four members from the appellate court level, four members from the superior court level, four members from the courts of limited jurisdiction, and three at-large members from outside the judiciary. The at-large members are comprised of one member from the WSBA, one member from the Washington Association of Sheriffs and Police Chiefs, and one member from the Washington State Association of Prosecuting Attorneys.

Persons wishing to be considered for this nomination should submit a letter of interest and résumé by May 31, 2000 to the Office of the Executive Director, 2101 Fourth Ave., Fourth Fl., Seattle, WA 98121-2330, or e-mail oed@wsba.org.

WSBA Presidential Search

The Board of Governors of the Washington State Bar Association is seeking applicants to serve as President for 2001-2002. Pursuant to Article IV(A)(2) of the WSBA Bylaws, the President's primary place of business is that area west of the Cascade mountain range generally known as Western Washington, but outside of King County.

Applications will be accepted through May 15, 2000, and should be limited to a current résumé, a concise application letter stating interest and qualifications, and no less than five or more than 10 selected references. Endorsement letters received by May 31, 2000 will be considered by the Search Committee and the Board of Governors. Applications and endorsement letters should be sent to the WSBA Executive Director, 2101 Fourth Ave., Fourth Fl., Seattle, WA 98121-2330.

Confidential interviews with the Presidential Search Commit-

Upcoming BOG Meeting

The next meeting of the Board of Governors will be held May 19-20 at Cavanaugh's at Yakima Center in Yakima.

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

tee will be conducted May 16-31, 2000 at the WSBA office. In addition to these interviews, candidates will be invited to the June Board of Governors meeting for an interview before the full Board of Governors in open session. Direct contact with the Governors is encouraged.

The person selected to be the WSBA President will have an opportunity to provide a significant contribution to the legal profession. While prior experience on the WSBA's Board of Governors may be helpful, there is no requirement to have been a Governor or to have had previous experience in Bar activities. The candidate must be willing to devote a substantial number of hours to WSBA affairs and be capable of being a positive representative for the legal profession. The position is unpaid. Some expenses, such as WSBA related travel, are reimbursed.

The commitment begins in June 2000. The term as President-elect will begin at the Annual Business meeting in September 2000. In September 2001, at the WSBA's Annual Business meeting, the President-elect will assume the position as President of the Association. The President-elect will be expected to attend two-day Board meetings every six weeks, as well as attend numerous subcommittee, section, regional, national and local meetings. During his or her service, the candidate will also be required to meet with members of the Bar, the courts, the media, and public and legal interest groups, as well as be involved in the Bar's legislative activities. Appropriate time must be devoted to communication by letter, e-mail and telephone in connection with these responsibilities.

Presidential Search Committee:

J. Richard Manning, Chair

Jenny A. Durkan, Daryl L. Graves

Washington Pattern Jury Instructions Committee

Application deadline: May 31, 2000

The Board of Governors of the Washington State Bar Association is accepting letters of interest from members interested in serving a four-year term on the Washington Pattern Jury Instructions Committee. The four-year term will commence on July 16, 2000. Incumbent is eligible for reappointment.

Committee members review, discuss and vote upon instructions in the civil or criminal area as drafted by subcommittees or staff. The committee meets monthly in Seattle on Saturday for three to four hours (except July and August), and requires a considerable time commitment. It is a large committee with over 30 members, both judges and lawyers, including two WSBA representatives.

Please submit a letter of interest and résumé to the Office of the Executive Director, 2101 Fourth Ave., Fourth Fl., Seattle, WA 98121-2330 or e-mail oed@wsba.org.

Judicial Campaign Forums

The Washington State Judicial Ethics Advisory Committee will be conducting two candidate forums focusing on issues which arise in judicial campaigns, and the applicable provisions of the Code of Judicial Conduct. Each forum will include a question and answer session. Panel members will include members of the Ethics Advisory Committee and a representative of the WSBA Office of Disciplinary Counsel.

The first forum, in Spokane, will be Wednesday, May 24, 2000 from 5:00 to 7:00 p.m. The second forum will be in Seattle on Thursday, June 8, 2000 from 5:00 to 7:00 p.m. Specific locations are yet to be determined. To attend one of the forums, please call 360-357-2114 and leave your name, address and telephone number. Confirmation will be mailed to you a few weeks before the forum and will include the location. There is no cost for attending. Candidates and campaign committee members are welcome to attend. Updated information about locations will be available at the Washington State Courts website at www.courts.wa.gov.

Navigating Route I-695

The Albers School of Business and Economics at Seattle University is sponsoring "Navigating Route I-695: Where Are We Headed?" The day-long conference examining I-695 and its broader impacts, will be June 13, 2000 at Seattle University's Pigott Hall. For more information, call the Albers School of Business and Economics at 206-296-5700, or e-mail I-695@seattleu.edu.

Employment Law Litigation Program

The National Employment Law Institute will present an advanced-level program on trial tactics, June 8-9, 2000 in San Francisco. Program topics will include harassment litigation, jury trial techniques, litigating FLSA cases, and the use and misuse of psychiatric and psychological experts. Registrants will receive the *Employment Law Litigation Manual* prepared exclusively for the program. Seating is limited, so advanced registration is recommended. For complete program and registration information, call 303-861-5600.

Gender Equality in the Legal Profession

The King County Bar Association will sponsor a CLE examining the "glass ceiling" in the Puget Sound legal community on May 11, 2000. This CLE is designed as the first step toward identification of a glass ceiling, and determining how it provides artificial barriers to the advancement of women in law. The program will feature outstanding members of the legal profession including Mary Fairhurst, Karen Mathis, Hon. Margaret McKeown, Lish Whitson and Hon. Mary Yu. Approval is pending for two ethics CLE credits. For more information or to register, contact the KCBA at 624-9365.

American Prepaid Legal Services Institute to Host Conference

The American Prepaid Legal Services Institute will host its annual conference May 31-June 3, 2000 in Vancouver, B.C. The conference will include concurrent tracks for attorneys, administrators and marketers of prepaid legal service plans. Sessions for attorneys include the basics of being profitable, and advanced technology. Administration and marketing topics include dispute resolution, and selection, retention and evaluation of attorneys. For a conference brochure and registration form, call 312-988-5751 or e-mail lunealbrown@staff.abanet.org.

Sports Law Conference to Highlight Media and Ethics

The media publicity that comes with representing professional athletes and teams will be the primary topic of discussion at the Sports Lawyers Association annual conference, May 18-20, 2000 in San Francisco. Additional highlights include presentations on the role of a lawyer agent, industry consolidation, and the globalization of athletics. For more information, contact the SLA at 703-437-4377, ext. 4070, or visit their website at <http://www.sportslaw.org>.

Access Information About Court Fax Filing

The WSBA Court Improvement Committee has assembled basic information about fax filing procedures for the Washington courts which accept fax filings. You can access this information via the Committee's web page at www.wsba.org/c/cic/home.htm.

King County Superior Court Changes Hearing Days

Effective May 2000, the King County Superior Court Clerk's Office will be changing its Eastside ex parte hearing days from the first and third Wednesday of each month to the first and third Thursday of each month. The first Thursday hearing will be May 4, 2000. As with the current schedule, the hearings will be conducted in the afternoon only. For more information, contact Paul L. Sherfey at 206-296-7866.

Celebration 2000



Join your colleagues September 13-16, 2000 for the largest legal gathering in state history! Members of the Washington State Bar Association, Washington State Judiciary and Access to Justice community will meet in Spokane to celebrate "Working Together to Champion Justice." Highlights include a

blockbuster, WSTLA-produced mock-trial program; section-sponsored CLEs; exciting workshops and plenary sessions; and numerous social functions. The WSBA has room blocks at several hotels near the Convention Center, but space is going fast. Based on the number of early registrations already received, a large crowd is anticipated at Celebration 2000. Register by June 30 to take advantage of lower conference fees. For detailed program and registration information, contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or visit the WSBA website at www.wsba.org/cele2000.htm. Celebration 2000 promises to be a unique, productive and enjoyable event. We hope to see you there!

Notice of Deadline for Filing WSBA Resolutions

Pursuant to WSBA Bylaw Article VII, Section F, Resolutions, any 10 active members of the WSBA may present a written resolution to the Board of Governors for consideration at the WSBA's Annual Business Meeting, which will be held Friday, September 15, 2000 at 11:45 a.m. at the Spokane Convention Center in Spokane, Washington.

Resolutions must be filed with the WSBA Executive Director at least 90 days before the annual meeting (by 5:00 p.m., Monday, June 19, 2000) and must be accompanied by a written report explaining the resolution. The resolution and explanatory report together shall not exceed a total of 1,000 words. Please submit resolutions to the Office of the Executive Director, 2101 Fourth Ave., Fourth Fl., Seattle, WA 98121-2330.

The Board of Governors will refer any resolutions addressing issues within the purposes of the WSBA to the Resolutions Com-

Calendar

BUSINESS LAW

Business Law Section Midyear

June 2-3 – Seattle. 10.25 CLE credits, including 1 ethics. By WSBA-CLE and Business & Tax Law Sections; 800-945-WSBA or 206-443-WSBA.

COMPUTER LAW

Computer Law Institute

June 2 – Seattle. 6.5 CLE credits estimated. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

CREDITOR/DEBTOR

New Changes to Bankruptcy Code — Chapters 7 & 13 (TELE-CLE)

June 27 – Seattle. 1.5 CLE credits estimated. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

DISABILITY LAW

Disability Law

May 5 – Spokane. 3.75 CLE credits. By Spokane County Bar Association; 509-477-2665.

DISPUTE RESOLUTION

4th Annual Northwest Institute for Dispute Resolution

May 15-19 – Moscow, ID. CLE credits TBA. By University of Idaho College of Law; 208-885-6541.

Training to Be a Professional Mediator

May 25-26 – Seattle. 15 CLE credits, including 1 ethics. By Alhadeff Mediation Services; 206-281-9950.

Training to Be a Professional Mediator — Advanced Sessions

May 17, June 14 – Seattle. CLE credits TBA. By Alhadeff Mediation Services; 206-281-9950.

ELDER LAW

Elder Law

May 10 – Spokane; May 17 – Seattle. 6 CLE credits estimated. By WSBA-CLE and Elder Law section; 800-945-WSBA or 206-443-WSBA.

EMPLOYMENT LAW

Worker's Compensation Seminar: What's New and Social Security, Too

May 18 – Seattle. 6 CLE credits, including .5 ethics. By WSTLA; 206-464-1011.

Employment Law

June 16 – Seattle. CLE credits TBA. By WSTLA; 206-464-1011.

ENVIRONMENTAL LAW

Environmental and Land Use Law Section Midyear

May 18-20 – Eastsound. 11.5 CLE credits, including 1.5 ethics. By WSBA-CLE and ELUL section; 800-945-WSBA or 206-443-WSBA.

mittee. Those purposes are set forth in Article I of the WSBA Bylaws and General Rule 12 of the Washington Court Rules.

The Resolutions Committee will hold a public hearing to consider the views of the proponents and opponents of resolutions on Thursday, September 7, 2000 at 1:30 p.m. at the WSBA office. Proponents and opponents of resolutions are urged to attend the hearing or to present their views in written form for consideration by the Resolutions Committee. Proposed resolutions will be published in the August 2000 issue of *Bar News*.

Members of the WSBA Resolutions Committee are: John M. Riley (Chair), Julia Dooris, William Fleck, Lee Kraft, Thomas Loftus, Teresa Morris, Stephen Pfeifer, Edward Ratcliffe, John Schultz, Joan Sullivan, Michael Zeno and Bob Welden (WSBA staff liaison).

Summer of Justice 2000

Summer of Justice 2000, the Equal Justice Coalition's effort to increase public support for civil legal services in Washington, hits the road on May 18, 2000. Summer of Justice staff and volunteers are traveling to communities around the state to promote public support for, and awareness about, civil equal justice. Specific activities include:

- Distributing self-help legal materials at community events;
- Sponsoring free legal clinics at locations around the state;
- Co-hosting open houses and information fairs at community action agencies and clinics;
- Connecting legislators and reporters with community members concerned about equal justice;

- Supporting fundraisers for programs that provide legal services to low-income people;
- Coalition-building with other organizations that have a stake in access to justice.

It is not too late to be a part of this innovative public outreach campaign that celebrates the role that equal justice plays in all of our communities. For more information, call Erin Hyppa or Caitlin Davis Carlson at 206-447-9168.

2000 Inland Empire Directory of Attorneys

The Spokane County Bar Association is pleased to announce that the 2000 Inland Empire Directory of Attorneys is now on sale. The directory includes listings for attorneys in eastern Washington and northern Idaho, as well as listings of Washington and Idaho Courts, County Clerks, Trial Court Administrators, County Assessors, and County Treasurers throughout Washington and Idaho. The cost is \$45 plus 8.1 percent sales tax. To order a directory, call 509-477-6032 or use the website at <http://www.spokanebar.org/membership/memberdir.html>.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in April 2000 is 6.166 percent. The maximum allowable interest rate for May 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 <http://www.wsba.org/barnews/>.

Washington State Adjacent Counties Pursuant to RCW 36.01.050 — Updated 6/2/98

Adams	Spokane/Lincoln	Lewis	Thurston/Cowlitz
Asotin	Columbia/Garfield	Lincoln	Spokane/Adams
Benton	Franklin/Yakima	Mason	Thurston/Grays Harbor
Chelan	Douglas/Grant	Okanogan	Ferry/Douglas
Clallam	Jefferson/Kitsap	Pacific	Grays Harbor/Lewis
Clark	Cowlitz/Skamania	Pend Oreille	Spokane/Lincoln
Columbia	Whitman/Benton	Pierce	Thurston/King
Cowlitz	Wahkiakum/Lewis	San Juan	Skagit/Island
Douglas	Chelan/Grant	Skagit	Snohomish/Whatcom
Ferry	Stevens/Okanogan	Skamania	Clark/Klickitat
Franklin	Benton/Walla Walla	Snohomish	King/Skagit
Garfield	Columbia/Asotin	Spokane	Lincoln/Pend Oreille
Grant	Chelan/Kittitas	Stevens	Ferry/Spokane
Grays Harbor	Pacific/Thurston	Thurston	Mason/Lewis
Island	Skagit/Snohomish	Wahkiakum	Cowlitz/Pacific
Jefferson	Clallam/Kitsap	Walla Walla	Columbia/Franklin
King	Snohomish/Pierce	Whatcom	Skagit/Island
Kitsap	Pierce/Mason	Whitman	Spokane/Garfield
Kittitas	Yakima/Grant	Yakima	Kittitas/Benton
Klickitat	Skamania/Yakima		

ETHICS

Ethical Dilemmas in Mediation

May 9 – Seattle. 1.5 CLE ethics credits. By JAMS; 206-622-5267.

ESTATE PLANNING

Estate Planning with Pension and IRA Benefits

May 19 – Seattle. 4 CLE credits pending. By KCBA; 206-340-2578.

FAMILY LAW

Family Law Section Midyear

June 23-25 – Spokane. 14.25 CLE credits, including 2 ethics pending. By WSBA-CLE and Family Law section; 800-945-WSBA or 206-443-WSBA.

Children's Rights

June 15 – Seatac. 6 CLE credits estimated. By WSBA-CLE and YLD; 800-945-WSBA or 206-443-WSBA.

FREE CLES

Top 10 Mistakes New Lawyers Make

May 17 – Seattle. 1 ethics credit. By WSBA Young Lawyers Division; 206-684-4526.

GENERAL

Young Lawyers Division Midyear

May 4-7 – Winthrop. 8 CLE credits, including 2.25 ethics. By WSBA-CLE and YLD; 800-945-WSBA or 206-443-WSBA.

Intellectual Property for the Non-specialist

May 5 – Seattle. 6 CLE credits pending. By KCBA; 206-340-2578.

Solving the Top 10 UCC Problems: Article 2 & Article 9

May 5 – Portland. 6 CLE credits pending. By Oregon State Bar; 503-684-7413.

Spanning the Millennia...Paper, Electronics & Beyond

May 8-10 – Seattle. CLE credits TBA. By Puget Sound Chapter of ARMA; 253-383-3791.

Washington Tax-exempt Organizations

May 10 – Seattle. 7 CLE credits. By Lorman; 715-833-3940.

Public Procurement & Private Construction Law Section Midyear

May 11 – Seattle. CLE credits TBA. By WSBA-CLE and PPPC Law section; 800-945-WSBA or 206-443-WSBA.

5th Annual Human Resources Institute

May 11-12 – San Francisco, CA; May 18-19 – Washington, D.C. CLE credits TBA. By National Employment Law Institute; 303-861-5600.

Business Succession Planning 2000: Tools for the Next Generation

May 12 – Portland. 5.5 CLE credits, including 1 ethics pending. By Oregon State Bar; 503-684-7413.

Generation Skipping Transfer Tax

May 19 – Seattle. 4 CLE credits pending. By KCBA; 206-340-2578.

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.

Financial Planning Association of Puget Sound Regional Conference

(featuring Congresswoman Jennifer Dunn and writer Nick Murray)

May 20 – Seattle. CLE credits TBA. By FPA; 206-623-8632 or 206-628-6616.

Nuts and Bolts Series

June 1 (*Civil Litigation*), June 7 (*Business*), June 15 (*Bankruptcy*), June 22 (*Estate Planning*), June 29 (*Criminal Law*) – Seattle. CLE credits TBA. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Trial Evidence

June 2 – Portland. 5.5 CLE credits, including .5 ethics pending. By Oregon State Bar; 503-684-7413.

Low-impact Injuries

June 6 – Vancouver. CLE credits TBA. By WSTLA; 206-464-1011.

Handling Auto Accident Cases

June 9 – Portland. 7 CLE credits pending. By Oregon State Bar; 503-684-7413.

Legislative Update (TELE-CLE)

June 12 – Seattle. 1.5 CLE credits estimated. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

GUARDIAN AD LITEM

2000 Inter-County Guardianship Guardian Ad Litem Training

(annual mandatory registry training)
May 11-12 – Seattle. 12.25 CLE credits, including 1 ethics pending. By KCBA; 206-340-2578.

HEALTH LAW

Health Law: Refresher & Primer

May 4 – Seattle. 3 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

First Annual Health Law Institute (includes refresher course)

May 5 – Seattle. 10 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

LITIGATION

Using Evidence to Your Advantage

May 17 – Seattle; May 24 – Spokane. 6.75 CLE credits, including 1.5 ethics. By WSBA-CLE and YLD; 800-945-WSBA or 206-443-WSBA.

Litigation Section Midyear

June 23 – Seattle. 6.5 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Professionals

APPEALS

**Charles K. Wiggins
&
Kenneth W. Masters**

We handle or assist on all types of civil appeals in the state and federal courts, from consulting with trial counsel to post-Mandate proceedings.

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is available for consultation and referral of plaintiffs' claims of medical or dental malpractice against healthcare providers and hospitals.

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PUBLIC PROCUREMENT & PRIVATE CONSTRUCTION LAW

Public Procurement & Private Construction Law Section Midyear

June 15 – Seattle. CLE credits TBA. By WSBA-CLE and PP & PC Law section; 800-945-WSBA or 206-443-WSBA.

REAL ESTATE

Fundamentals of Real Estate

May 19 – Portland. 7 CLE credits pending. By Oregon State Bar; 503-684-7413.

REAL PROPERTY, PROBATE & TRUST

Real Property, Probate & Trust Section Midyear

June 2-4 – Stevenson, WA. 12 CLE credits estimated. By WSBA-CLE and RPPT Section; 800-945-WSBA or 206-443-WSBA.

TAXATION

1st Annual Oregon Taxation Institute

June 9-10 – Stevenson, WA. 9 CLE credits pending. By Oregon State Bar; 503-684-7413.

Nonprofit Business Organizations

June 29 – Seattle. 6.75 CLE credits estimated. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

APPEALS

Margaret K. Dore

Former law clerk to
Washington State Supreme Court
and Washington State
Court of Appeals

Passed CPA exam in 1982

Special interest in appeals
regarding family law, probate
and real estate

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please call 206-727-8213.

INSURANCE

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former adjunct professor of
law at UPS and former in-house
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association or referral in
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APPEALS

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Michael T. Schein

are available for referral,
consultation or association on
all issues relating to appeals and
the appellate process.

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AHRENS & MALNATI, P.S.
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206-624-6271

ETHICS & LAWYER DISCIPLINE

Leland G. Ripley,

former Chief Disciplinary
Counsel (1987-94), is available
for consultation or
representation regarding all
aspects of professional
responsibility or
discipline defense.

206-781-8737

LABOR AND EMPLOYMENT LAW

William B. Knowles

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

206-441-7816

PROBATE & GUARDIANSHIP

Mary Anne Vance,

co-author of the chapters on
Estate Planning and Probate in
Butterworth's *Washington Civil
Practice Deskbook*, is available
for association, consultation
or referral of probate
and guardianship cases, both
contested and noncontested.

THE LAW OFFICE OF
MARY ANNE VANCE, P.S.
1111 Union Bank of California Ctr.
Seattle, Washington 98164
206-682-2333
fax: 206-682-2382
e-mail: maryanne@vancelaw.com
www.vancelaw.com

Announcements

CAUSEY LAW FIRM

is pleased to announce that

Susan C. Andrews, JD, CRC

has become of counsel to the firm.

Ms. Andrews has over twenty years experience as a vocational rehabilitation counselor, and owned and operated **Seattle Vocational Services** for over fifteen years prior to commencing the practice of law in 1997. She has been nationally certified since 1985. Along with counseling injured workers, Susan regularly testified as an expert witness in Board of Industrial Insurance Appeal proceedings, and in cases before state and federal courts. Susan's practice will emphasize the litigation of workers' compensation and Social Security disability cases involving vocational issues.

401 Second Avenue South #303
Seattle, Washington 98104
206.292.8627 or 800.223.4529
clf@causeylaw.com • www.causeylaw.com

CHANDLER FRANKLIN & O'BRYAN

is pleased to announce the opening
of our Seattle Office

Jon Peter Ferguson, Managing Attorney
Formerly Senior Counsel and Antitrust Section Chief
Washington State Attorney General's Office
Co-Lead Counsel – Washington State Tobacco Litigation
Co-Lead Counsel – West Coast Gasoline
Price Fixing Litigation

Jeffrey Parker Bean
Formerly Assistant Attorney General, Torts Division
Washington State Attorney General's Office
Counsel for Washington State Tobacco Litigation
And Washington State Investment Board Litigation

The Parfitt Building at Wharfside
175 Parfitt Way S.W., Suite 140
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(formerly Franco, Asia, Bensussen & Coe)

Announces its formation effective
November 1, 1999

The firm will continue to emphasize the practice of law in the areas of real property, commercial transactions, counsel to start-up companies, estate and probate, and general litigation.

Harold B. Coe
John A. Coe
Mark G. Sanders

Albert M. Franco, Of Counsel
Edward M. Bensussen 1924-1996

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Seattle, WA 98101-1855
Telephone 206-624-5622
Fax 206-625-9218
hcoe@coeandsanders.com
jcoe@coeandsanders.com
msanders@coeandsanders.com
Affiliated Offices – Portland, Oregon

ELLIS, LI & MCKINSTRY PLLC

ATTORNEYS AT LAW

is pleased to announce that

Lana M. Floyd

has joined the firm as an associate

Ronald E. McKinstry	Andrew J. Toles
Chi-Dooch Li	Troy S. Anderson
Michael R. McKinstry	Kyle D. Netterfield
Jan P. Olson	Nathaniel L. Taylor
Daniel J. Ichinaga	Kristen K. Waggoner
Steven T. O'Ban	Lana M. Floyd
Keith A. Kemper	A. Chad Allred

Two Union Square
601 Union Street, Suite 4900
Seattle, Washington 98101-3906
206-682-0565 • Fax 206-625-1052
elm@elmlaw.com

DAVID A. LEEN

is pleased to announce the opening of his new firm:

DAVID A. LEEN & ASSOCIATES, PLLC *Attorneys at Law*

We will continue our commitment to excellence in general civil, criminal and appellate representation of small businesses and individuals with emphasis on consumer rights.

Sheila M. O'Sullivan,
an associate with the firm, will continue her general practice with emphasis in the areas of bankruptcy, estate and probate, small business, contracts, real estate and consumer matters.

Visit us on the web at: <http://www.davidleen.com>
520 E. Denny Way
Seattle, WA 98122
Phone: 206-325-6022
Fax: 206-325-1424

Lory R. Lybeck and James P. Murphy
are pleased to announce the continuation of
their decade of practice together
in the formation of

Lybeck ♦ Murphy LLP

Mr. Lybeck and Mr. Murphy will continue
their practice in the areas of professional liability,
products liability, personal injury, employment
law and environmental litigation with:

Elizabeth A. Cooper
Kara R. Masters
F. Drew Zavatsky

All formerly with Hoffman, Hart & Wagner

The firm has moved to:
110 Island Corporate Center
7525 S.E. 24th Street
Mercer Island, Washington 98040
Telephone 206-230-4255
Fax 206-230-7791
e-mail: lawyers@lybeckmurphy.com

KENYON LAW FIRM, PS

proudly announces a name change to

KENYON DORNAY MARSHALL, PLLC

THE MUNICIPAL LAW FIRM

We are pleased to announce that the following attorneys have joined Michael R. Kenyon as principals in the firm:

MARGITA A. DORNAY
Chair of the Firm's Prosecution Practice
Drug and Felony Forfeitures
Police Training

ROBERT F. NOE
Tukwila City Attorney
Adult Entertainment Litigation and Regulation Ordinances
Land Use & Real Property

LISA M. MARSHALL
Maple Valley & Duvall City Attorney
Public Infrastructure Improvements
Land Use

BRUCE L. DISBEND
Sammamish, Pacific & Lake Stevens City Attorney
Land Use
Public Sector Labor & Employment

We are also pleased to announce the expansion of our firm with the addition of the following associates:

SIMON STOCKER
Seattle University School of Law, 1998
Formerly with the City of Kent

AARON J. WOLFF
Seattle University School of Law, 1999, Cum Laude
Formerly with the City of Federal Way

STEVE C. KARIMI
Pepperdine University School of Law, 1998
Formerly with the Office of the King County Prosecuting Attorney

ELIZABETH A. ABBOTT
Pepperdine University School of Law, 1984
Elizabeth served as a Deputy District Attorney for
Los Angeles County for 12 years

Since 1993, Kenyon Dornay Marshall, PLLC has provided practical advice and a full range of legal counsel to Washington municipalities.
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The law firm of
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WALLACE, PLLC**

is pleased to announce that

Dawn S. Perry
has been elected to membership in the firm
and that

**Tera H. Schreiber,
Peter J. Mintzer, Jessica B. Wasman
and J. Zachary Lell**

have joined the firm as associate attorneys.

Seattle
1601 Fifth Avenue
Suite 2100
Seattle, WA 98101
206-447-7000

Wenatchee
Riverfront Center
1 Fifth Street, Suite 200
Wenatchee, WA 98807
509-662-1954

www.omwlaw.com

The law firm of
**OGDEN MURPHY
WALLACE, PLLC**

is pleased to announce that

James L. Vandeberg
has joined the firm as Of Counsel
and that

**Shea Wilson, Vicki E. Orrico
and Derek W. Woolston**

have joined the firm
practicing in Securities and Corporate Finance.

Seattle
1601 Fifth Avenue
Suite 2100
Seattle, WA 98101
206-447-7000

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Wenatchee, WA 98807
509-662-1954

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MILLS MEYERS SWARTLING

is pleased to announce that the
following attorneys have joined the firm.

David M. Schoeggl
(Formerly of Lane Powell Spears Lubersky LLP)

Raymond S. Weber
(Formerly of Lane Powell Spears Lubersky LLP)

Julie L. Wilchins
(Formerly of Short Cressman & Burgess PLLC)

Mr. Schoeggl, Mr. Weber and Ms. Wilchins
will continue their practices in the areas of aviation;
insurance and tort litigation; insurance coverage;
and commercial, contract and bad faith litigation.

1000 Second Avenue, 30th Floor
Seattle, Washington 98104-1064
206-382-1000
Facsimile 206-386-7343

**SCHIFFRIN OLSON
SCHLEMLEIN & HOPKINS, PLLC**

is pleased to announce that

Theresa A. Goetz
has been promoted to Member status.

Ms. Goetz's practice will continue to be
concentrated in the areas of construction,
and commercial and civil litigation,
including real estate and corporate matters.

**DAVID W. SCHIFFRIN
ROBERT L. OLSON
GARTH A. SCHLEMLEIN
JAMES T. HOPKINS
THERESA A. GOETZ**

2701 First Avenue, Suite 300
Seattle, Washington 98121
Telephone 206-448-8100
Fax 206-448-8514

James A. Smith, Jr. and James R. Hennessey
are pleased to announce the formation of

SMITH & HENNESSEY PLLC

A law firm specializing in business
and tort litigation, dispute resolution,
and general counseling.

The Burke Building, Suite 500
316 Occidental Avenue South
Seattle, Washington 98104
Telephone: 206-292-1770
Facsimile: 206-292-1790
info@smithhennessey.com

Charles K. Wiggins
and
Kenneth W. Masters

are pleased to announce the incorporation
of their practice together as

WIGGINS LAW OFFICES, PLLC

We will continue to handle appeals in the
state and federal appellate courts and to consult
with lawyers regarding appellate issues and trial
court matters likely to result in an appeal.

241 Madison Avenue North
Bainbridge Island, WA 98110
206-780-5033
web page: c-wiggins.com

SONG OSWALD & MONDRESS PLLC

is pleased to announce that

Michael P. Monaco
has become a Member of the firm.

Mr. Monaco is an honors graduate of the
Hastings College of Law, University of California,
where he served as Associate Managing Editor
of the Hastings Law Review. His undergraduate
degree is from Stanford University.

Mr. Monaco will continue his ERISA fiduciary
counseling and litigation practice on behalf of
employee benefits plans, trusts and their sponsors.

SONG OSWALD & MONDRESS PLLC

720 Third Avenue, Suite 1500
Seattle, Washington 98104
Telephone 206-398-1500
Facsimile 206-398-1501
Email: som@somerisa.com

WOLFSTONE, PANCHOT & BLOCH, P.S., INC.

Attorneys at Law

is pleased to announce that

Howard (Terry) Hall
has joined the firm as of counsel

Mr. Hall's practice emphasizes representation of
individuals, companies and nonprofit organizations in
defense of toxic tort, products liability and employment
cases on a local and regional basis. His experience also
includes representing individuals, companies and
organizations in environmental and employment
matters and general litigation.

The firm continues its practice in the areas
of real estate, business law, estate planning and
administration, family law and all aspects of litigation.

Stanley G. Bakun, Lynn P. Barker, Kenneth A. Bloch,
Kay L. Brossard, Robert L. DiJulio, Dudley Panchot, Kevin M. Paulich,
Raymond J. Petersen, Bradley S. Wolf, Edwin G. Woodward

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Downtown Seattle: Office share in the historic Colman Building. One office available plus secretary/assistant space; telephone system, copier, fax, conference room, etc. Perfect for ferry commuter. Call Guy W. Beckett, 206-264-8134.

Downtown Seattle office space: Bank of California Building, large office with southern view (\$1,150). Includes conference rooms, library, receptionist, voice-mail, kitchen. Available now. 206-623-5221.

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Land use, environmental law and litigation firm seeks attorney with at least three years' experience in these practice areas. Excellent oral, writing and research skills required. Competitive salary and excellent benefits. Send cover letter and résumé to: Heidi Herr, McElroy Law Firm, PLLC, 700 5th Ave., Ste. 5850, Seattle, WA 98104; fax 206-654-4161.

Are the "2,000 billables per year" ruining your life? Are you experienced in construction/lien law? Our small, busy-but-sane, downtown Seattle firm is looking for an attorney with at least one year's related experience. Send résumé

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Litigation associate: Small, well-established Eastside firm seeks litigation attorney with minimum three years' experience in Washington commercial and civil litigation practice. Must excel at working both independently and in a team environment. Must possess strong analytical, research and writing skills. Excellent people skills are critical. Merger of existing firms possible. Send cover letter, résumé and two writing samples to: WSBA Bar News Box 599, 2101 4th Ave., 4th Fl., Seattle, WA 98121-2330.

Experienced attorneys — Redmond: Practical, prior experience in technology and Internet agreements, corporate counsel role, or integrated estate planning and asset protection for growing Eastside firm. Send résumé to: Bob Sailer, Judd & Sailer, PLLC, PO Box 86, Redmond, WA 98073.

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perience in the following practice areas: intellectual property transactions, including trademark registration, copyright protection, computer software licensing, technology transfers, trade secret protection, and general intellectual property law; securities law, including private placements, public offerings and '34 Act compliance; business transactions, including mergers, acquisitions, secured transactions, loan agreements, and other commercial transactions; real estate law, including purchases and sales of real estate, commercial leasing, like kind exchanges, and real estate-based financing; land use law, including zoning, growth management, SEPA/NEPA compliance, subdivisions and lot line adjustments, condominium conversions, and related administrative procedures; and tax law, including all aspects of domestic and international tax matters, as well as entity formations and transactional documents. CPA or LL.M. in taxation required. Candidates should have excellent academic and professional credentials, dedication to client service and desire to work as part of a team. Salary and benefits are competitive. Please send cover letter and résumé to: Mr. Len Roden, Recruiting Coordinator, Lane Powell Spears Lubersky LLP, 1420 5th Ave., Ste. 4100, Seattle, WA 98101-2338 or e-mail rodenl@lanepowell.com.

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Attorney: AV-rated Seattle insurance defense firm seeks associate with minimum two years' experience as judicial clerk or in practice. All responses confidential. Submit résumé and references to: Hiring Partner, Johnson Christie Andrews & Skinner, 701 5th Ave., Ste. 7400, Seattle, WA 98104; fax 206-623-9050.

Associate position: Betts, Patterson and Mines, PS, is accepting applications from individuals desiring to do first-rate legal work on challenging matters in a collegial and supportive environment. Excellent analytical and writing skills required. At least two years' experience in complex litigation or solid background in finance preferred. 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.

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Davis Wright Tremaine LLP seeks a real estate/land use associate to join its Bellevue office real estate practice. The person hired will work on a variety of land use and commercial real estate matters, including matters related to telecommunications facilities. Candidates must have at least two years' experience, superior academic credentials and excellent writing skills. Send résumé, transcript and writing sample to: Dee Hayward, Recruiting Coordinator, Davis Wright Tremaine LLP, 10500 N.E. 8th St., Ste. 1800, Bellevue, WA 98004. Visit our website at <http://www.dwt.com>.

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Associate or contract attorney: Small AV-rated Seattle law firm seeks attorney for sophisticated transactional and business litigation matters. Only candidates with at least one year of related experience, top academic credentials and superior writing skills will be considered. We offer a challenging practice, an opportunity to work independently, and potential for growth. Send résumé, transcript and writing sample in confidence to: Christina Gamache, Adolph and Gamache, PS, 701 5th Ave., Ste. 7100, Seattle, WA 98104; fax 206-682-3203; e-mail cgamache@adolphlaw.com.

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Seeking two attorneys for new Tacoma insurance defense office. Minimum requirements include at least four years' civil jury trial experience in Pierce County courts. Send letter and résumé to: Tony Vidlak, 900 4th Ave., Ste. 1470, Seattle, WA 98164; fax 206-689-4282. No telephone calls.

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Please contact the Law Office of Brian J. Kelly if you have information regarding the last will and testament of Henry Andreessen, Winlock, WA. 360-748-9281.

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