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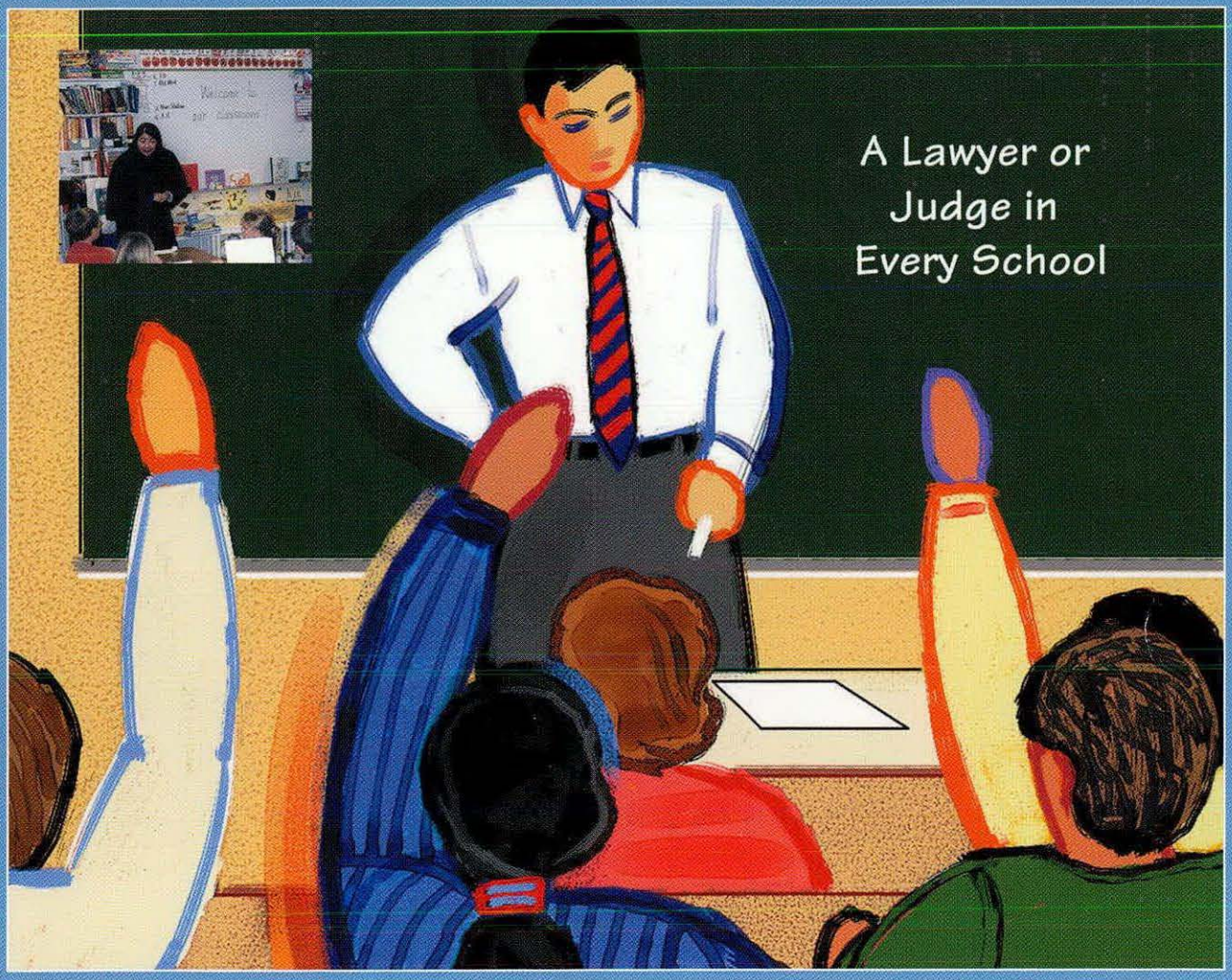

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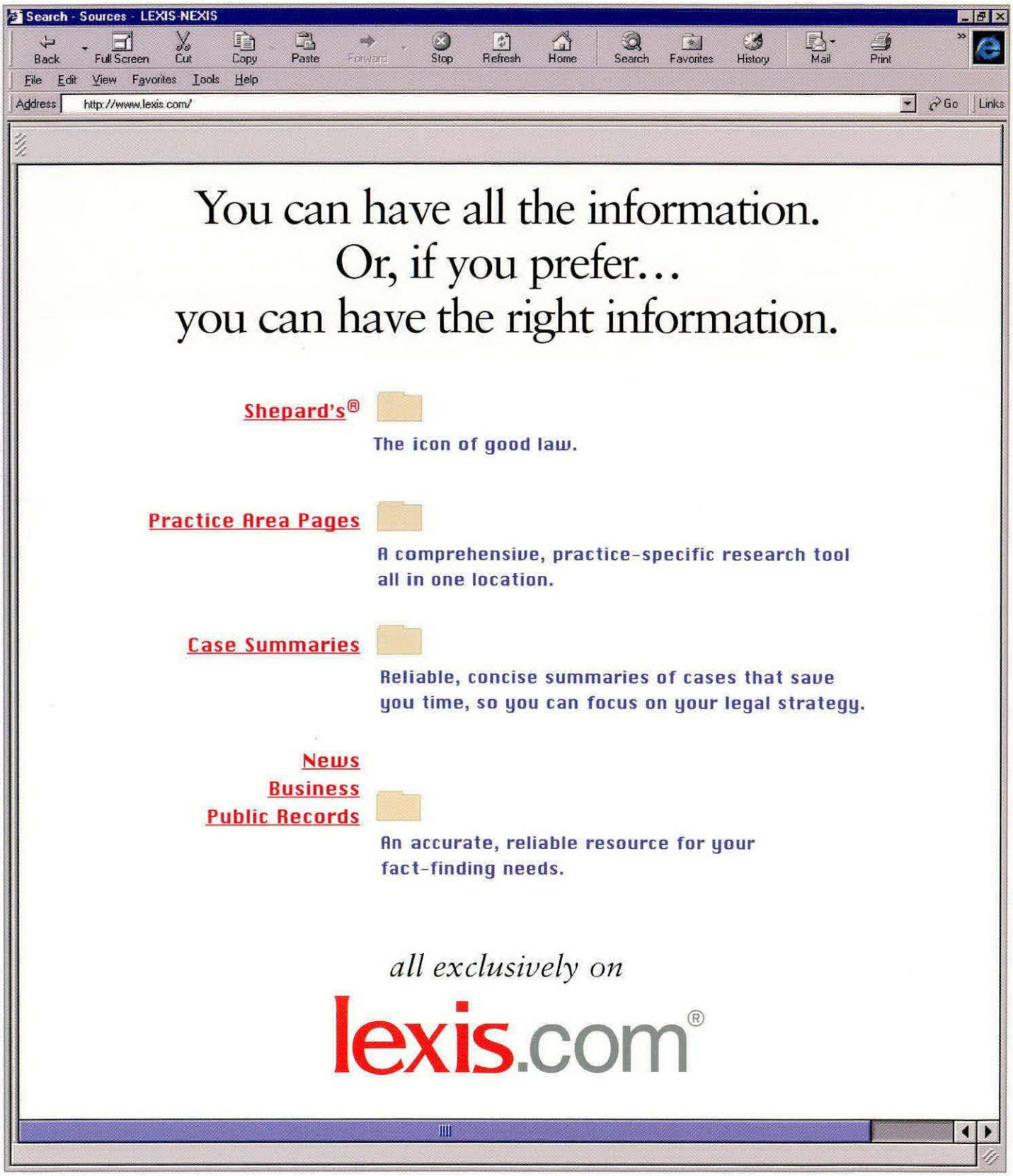

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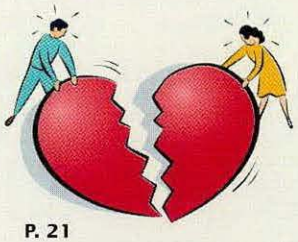

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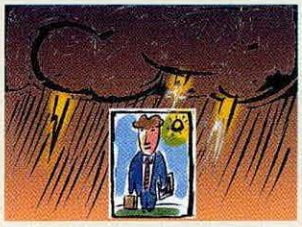

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Working together to champion justice.

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

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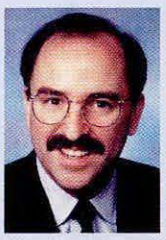

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Minority Positions for "Underrepresented Groups"

Editor:

When I saw that the Board of Governors had approved two minority positions for "underrepresented groups" I was more than a little mystified. I have been following the relatively lengthy debate, and never really thought the result would be the vote the board eventually achieved. I follow the Bar's goings-on pretty regularly, and even know a couple of past and present governors. I have always had the impression that the governors were selected in a largely democratic fashion, or at the very least, that any member of the Bar was potentially eligible to hold a position as a governor. To my knowledge, the board has never had a practice of actively excluding candidates on the basis of race, age, sex, or any other arbitrary designation. I also was not able to find any evidence that anyone on the board had actively sought to counter the interests of any person or group based upon race, religion, sex, etc. Thus, I have been hard pressed to see where there has been an actual problem of underrepresentation of any segment of our society.

I am left with the conclusion that the board acted to provide the two positions for one of three possible reasons. One is that the actions of the board have had either the intended or unintended results of acting to exclude the interests of some minority group(s), and they are now seeking to remedy that. I cannot see any evidence whatsoever that the board has acted in such a fashion. A second possible conclusion is that the board is pandering to minority groups for political gain or for the sake of good appearance. This seems a bit too cynical a conclusion, and one I choose not to accept at this time. The third and most likely scenario is that the board is seeking to correct a perceived problem that does not actually exist. This bothers me, because the result is that the board is singling out some group(s) of people for special attention for reasons that are less than obvious, thereby skewing the balance of representation that, at least on its face, appears to be determined by nondiscriminatory bases.

I suspect that the majority of the Bar's members are white. I suspect that the majority are also male. I also accept, solely for the sake of argument, that this may be due in part or in whole to discriminatory acts of generations before me (I am 37). I like to think, however, that the Bar strives to represent all of its constituents in equal measure without regard to what they look like, whom they worship (or don't), or any other sort of discriminatory basis. Perhaps I am being naive. Whether that is true or not, I certainly have not seen evidence in my 12-plus years as a member of this Bar that the board has been actively or tacitly engaging in any discriminatory practice, and to my reading of the debate that has been carrying on, no one has presented any such evidence. I am left with the sad conclusion that the Bar has just taken a rather dramatic step to remedy a nonexistent problem.

I am, however, willing to look at this positively. I am a mutt, a mixed breed. I am also overweight, I tend toward obsessive-compulsive disorder (although in pretty mild form), and I need glasses to read. Thus, I am asking the board to address my sisters and brothers in creating one of these positions to represent my previously underrepresented class: overweight, farsighted, Irish-Scottish-Austrian-German-Welsh-

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French-English, thirty-somethings with OCD. We have been ignored for far too long, and would ask the governors to dedicate one of the newly created positions for our underrepresented clan. Thank you.

Tom Pacher
Coupeville

Response to Isaki Article on IOLTA

Editor:

I am responding to the article by Lucy Isaki (*Bar News*, March 2001, p. 19) defending the IOLTA program against a 9th Circuit decision which rules that the program is an unconstitutional taking.

The program is unconstitutional, but for a different reason from that advanced in the 9th Circuit. Courts have to be neutral and magistrates have to be detached. If they are not, then their decisions violate the due process clause and the republican form of government clause of the Constitution. In the case of IOLTA, the Washington Supreme Court has enacted what amounts to legislation whose primary purpose is to fund and subsidize Columbia Legal Services (CLS). The subsidy is an important part of the CLS budget. But, neither the Supreme Court nor any other court can be neutral in a case brought by CLS, because the court has already expressed its sympathy by providing funding for CLS. For example, it would be embarrassing for any court to find a CLS lawyer in contempt after the Supreme Court has subsidized that lawyer.

Reciprocally, CLS lawyers are compromised, because half of the function of a lawyer is to challenge the assertion of the court's power over its client. CLS cannot vigorously challenge the authority of the Supreme Court when the Court helps pay its way. Even if CLS asks the Court to assert power over someone else, or asks for a benefit from the Court, which is the other half of the lawyer's function, the claim for relief will be affected by the possibility that the request will alienate the Court and cut off the funding.

In brief words, courts cannot pay lawyers. Lawyers cannot accept pay from courts. The conflict of interest described above extends beyond favoritism for particular groups. By legislating the taking of interest, the Court has biased itself should the Legislature attempt a similar taking. The Supreme Court couldn't rule on whether the Legislature can take interest on small accounts, or any similar taking, when the Court has not only already done so itself, but even supports litigation in federal court! This encourages the Legislature to act with impunity because there is now no neutral court where a person aggrieved by the taking may go. Everyone, not just people who don't have a conflict with the Court's positions, must have access to state courts, as implied by the republican form of government clause. There are federal courts, but this is awkward, and deprives the aggrieved party of feasible access to justice.

The issue considered in the *Bar News* article is the "taking" argument. Government cannot take property of private parties without just compensation, and this applies whether the property is real or personal. CLS and the Supreme Court argue that trust account interest is minimal and cannot be used by the client/owner, and therefore the Supreme Court can give the interest to CLS and other beneficiaries.

The simplest answer to this is that trust account money is private property, and the concept of private property means the right to determine who, if anyone, gets the ben-

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efit of it. Neither the government nor the Supreme Court has the right to say that since a person cannot use the product of his or her labor, then the government can take it. An analogy is illuminating. Assume that an apple farmer owns real estate and has a crop that cannot be harvested and will be lost to the farmer. Usufruct. The farmer has the right to say who if anyone will get the benefit of the property. The farmer may say that no one will get the property, and the farmer might say that it goes to the neighbors or to a church or charity. The gift is more likely if the government has not threatened the farmer with loss of license if the money is not turned over to CLS or other designees chosen by them.

The hypothetical above is the most favorable to CLS and IOLTA advocates. Trust interest is often recoverable, and becomes more so with faster computers. It is probably easy to maintain subaccounts and pay small amounts of interest to clients. The discipline rules, incidentally, do not require lawyers to maintain interest-bearing accounts for clients whenever possible. They say lawyers can figure their own legal fees and the amount of interest that would be earned in deciding whether to pay interest to the owners or to IOLTA. RPC 1.14(c)(3). The rule has no standards for making these determinations and is unfair to clients. It encourages the lawyer to give the money to IOLTA.

There is obvious direct economic impact. The bank has to write the check to IOLTA, and this cost is passed on to customers and stockholders of the bank. Large firms generate large amounts of interest, which banks undoubtedly pass the benefit of to the law firm. These benefits enable the law firm to control expenses and provide more and better access to justice to its clients.

The implications of the IOLTA argument are alarming. If the government may take trust interest, it may take the farmer's crop and anything else it says the owner cannot use. Any usufruct. Relief from court is not reassuring, as the Supreme Court already champions its program of taking interest. Beyond that is the tremendous burden on an individual or institution to conduct litigation challenging a taking.

The economic impact on the client is real. $10,000 held for a year even at three percent generates $300 in interest. Most clients would not forego even the $25 of interest on money held just for a month, especially if they knew about it.

The third issue is freedom of speech. The Supreme Court orders that the money of the trust account holder be used not for governmental purposes but to subsidize a private organization, Columbia Legal Services, whose goals the owner may oppose. The government takes money from one private party to enable another private party to disseminate ideas and conduct litigation opposed by the owner of the money. This may well violate the First Amendment.

Ms. Isaki complains that D.C. lawyers "descended" on Washington to file this litigation. In fact, an accountant from Federal Way filed the litigation. He provided accounting services for real estate transactions, and he earned his income, or some of it, from fees from the interest on the money in the escrow account, precisely the money taken by the Supreme Court. After the Supreme Court confiscated this money, he lost a sizable part of his business. How the Court can regulate real estate escrows in the first place is hard to understand. The ac-

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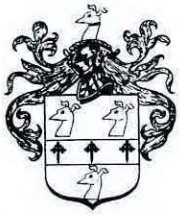

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countant hired a sole practitioner in Seattle to sue IOLTA, which he did. Later, a D.C. firm took over management of the litigation.

Roger B. Ley
Seattle

Free CLE Should Be Available to Attorneys

Editor:

I will, for the present purpose of offering some praise and some suggestions for more of a good thing, set aside certain convictions I hold that the marketplace, not the WSBA, should determine how much continuing legal education an attorney requires.

As a nonpracticing attorney who wishes to preserve my right to practice, I am pleased to see some heroic volunteer efforts and some rule modifications that mitigate the burden that acquiring CLE credits can place on practitioners and nonpracticing attorneys alike.

Live CLEs can be purposeful events. You may also get to see what other people are knitting, what magazines they are reading, breathe canned meeting-room air for several hours — all the venerable elements of putting in your time.

Some attorneys absorb a cost of $70 or more per CLE credit hour without flinching, while others are obliged to survey five-county landscapes for bargains. For some, $30 a credit is onerous, but it's the best deal out there. Bother that you'll never see a case in that area of practice; it's a bargain.

Welcome the new rule accepting 15 A/V CLE credits per triennium. Imagine selecting a topic based on interest rather than price. You can tune in and tune out according to time and motivation factors.

What a boon to those of us in the boondocks. Washington lawyers exist outside of Seattle! Check out Langley, Newport, Colbert, Ephrata and Juneau, Alaska — do Bar policymakers know where those places are? Even from Vashon Island, I spend four hours per round trip to Seattle Center by ferry and bus. A/V CLEs provide access to a basic Bar-mandated necessity.

But why impose a 15-credit limit for A/V CLEs? The Bar should permit attorneys to fulfill the entire requirement using A/V materials. This would provide an especially practical solution for rural, out-of-state, busy and low-budget attorneys.

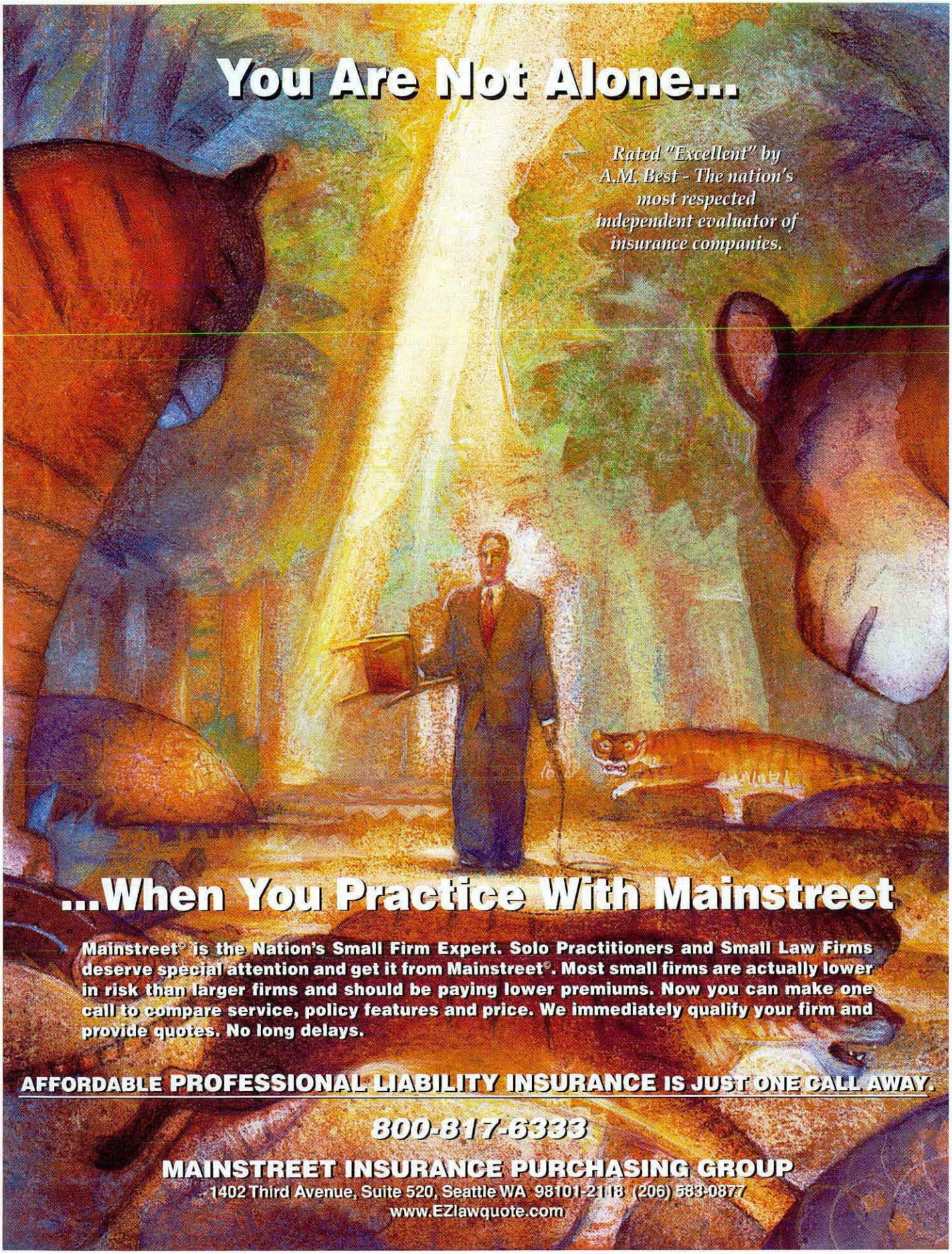
Then there is the issue of the Bar profiteering from A/V materials. Under current policy, each attorney must purchase separate A/V materials to report credit, i.e., two or more attorneys may not share the cost of a video CLE and each must report credit. Why must my husband and I, both members of the same firm, each pay the full price of a set of A/V materials we will share? The Bar should repeal this irrational policy of unnecessary duplication of costs and materials. A small fee that covers the cost of processing reported credits should be all that is charged to multiple users of A/V materials.

Ed Hiskes offers a rational solution to CLE cost and multiple-use issues. Through his Free CLE project, Mr. Hiskes has produced a CD containing approximately 16 hours of CLE materials. The Free CLE CD contains audio recordings of several diverse presentations, as well as written materials which the "attender" may read with the lecture, and print. Mr. Hiskes distributes the CD to anyone who requests it (http://www.freecle.com). Because Mr. Hiskes wishes not to complicate his tax life, he accepts no compensation even for the cost of production and distribution of his CD. (How nice it would be if the WSBA picked up the tab for Mr. Hiskes's postage, mailers and CD blanks.)

If you have not heard of Free CLE, don't feel out of the loop. The WSBA Web site contains no links to Mr. Hiskes's site, nor any references to the Free CLE CD on any of its own CLE links. Ahem. I learned of Free CLE quite providentially from Barrie Althoff at a CLE I attended, while railing to Barrie about all of the above. Thank you, Barrie, for disclosing the best-kept secret in the WSBA, and thank you, Ed, for your tireless volunteer efforts at bringing access to justice to your fellow attorneys.

Lauren Bottomly
Vashon Island

Readers are invited to submit letters of reasonable length to the editor via e-mail at comm @wsba.org, by fax (206-727-8319) or mail. Due date is the 10th of the month for the second issue following, e.g., May 10 for publication in the July issue. Letters to Bar News *will usually be published, unless the writer specifically asks us to withhold publication. The editor reserves the right to edit letters as deemed appropriate.*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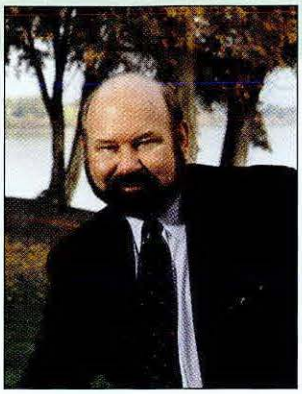

Why Not Say "I'm Sorry"

by Jan Eric Peterson
WSBA President

As most people involved in dispute resolution or litigation know, an apology can go a long way toward resolution. How often have you heard your client say about the opposing party, "She didn't even say she was sorry." Often, one of the things a victim wants most is an apology, and the defendant wants and needs to apologize. Somehow, we in the legal system stand in the way. This should change.

Saying "I'm sorry" can have at least a couple of meanings: (1) It can be an expression of sympathy, as in "I'm sorry this happened to you"; (2) It can also be an admission of fault, as in "I'm sorry I did this." It can be an expression of compassion or regret, and it's the fear of the latter costing somebody some money that makes the legal system an impediment to apology rather than a facilitator to the resolution of disputes and healing. That's where we've lost our way. We should allow for an apology without risk.

I propose an evidence rule that allows for an apology without it being evidence of an admission of culpability. Already, offers of compromise or settlement are inadmissible in a proceeding or trial to determine liability. ER 408. But admissions against interest or *res gestae* are admissible, and settlement agreements commonly include language that the compromising defendant admits no liability, even when liability and fault are perfectly clear. We should adopt an evidence rule that assures that apologies and benevolent gestures of sympathy are inadmissible in court as evidence of liability, while clear statements of fault are still fair game. I propose the following language as an addition or amendment to ER 408: *Evidence of an apology or benevolent gestures of sympathy are not admissible to prove liability or fault for, or invalidity of, a claim of civil wrong.*

... an apology is often overlooked as a means for helping to resolve disputes that are already at issue, for serving as a lubricant to advance settlement, and contributing to a solution that meets all the client's needs.

Some losses could be avoided with a simple message of regret. I don't know how many times we've heard clients say they would not have come to a lawyer if the doctor had apologized for his mistake in the first place. But many are trained by risk managers not to say "I'm sorry" because it might be construed as an admission of guilt. Further, an apology is often overlooked as a means for helping to resolve disputes that are already at issue, for serving as a lubricant to advance settlement, and contributing to a solution that meets all the client's needs.

One of those needs is to have someone validate the feeling of being wronged. Once that need is met, it takes the emotional symbolism out of the money and makes the negotiation of what is essentially a business deal for compensation much easier.

In my experience, if a defendant's insurance company had brought the defendant to the mediation and opened with an apology, a financial settlement could have been achieved more easily. Further, it's a healthy resolution for the defendant, who gets the cathartic benefit of a confession, making it a whole lot easier to put the entire thing behind him. Accepting responsibility and getting rid of the guilt is a healing process. The law should not only exact a judgment, assign responsibility and award compensation, but facilitate the healing process of dispute resolution. Even in war, a surrender can include an apology. It also avoids conquest and total annihilation. The law, in supplying a civil and bloodless system for dispute resolution, should also include the apology without necessarily meaning an admission against interest.

We should encourage, not discourage, the apology. Let's say "I'm sorry" when it's the right thing to do.

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Two Cents' Worth

by Mark A. Panitch
Bar News Editor

Have you heard about the new left-leaning lawyers' group? No, not the National Lawyers Guild. Not the ACLU. Not the Association of Trial Lawyers of America. Not even, God help us, the National Bar Association. It's the American Bar Association. Apparently while the national political center has been drifting to the right, this bastion of the legal establishment has been marching to the left.

It's hard to get it focused, but try this picture: ABA President Martha W. Barnett and Pete Seeger leading a group of dark-suited, well-groomed 50-somethings in rousing choruses of *This Land Is Your Land* while passing out leaflets from Jesse Jackson's Rainbow Coalition and soliciting subscriptions to *Mother Jones*. I admit that the picture is a little incongruous. But that seems to be the picture of the ABA that the Bush administration is carrying around in its collective psyche.

The ABA says the Standing Committee on Federal Judiciary does not share information with the ABA as a whole and uses only integrity, judicial temperament and professional competence as criteria for judging candidates who are proposed by the White House.

Now, let's focus on reality. Martha Barnett is a partner at Holland & Knight, a 900-lawyer Florida-based firm whose clients include banks, utilities, land developers, foreign governments and phosphate-mining companies. Her own practice includes both administrative law and lobbying. I don't know how Ms. Barnett voted in the recent election, but I'll bet that most of her partners voted for Bush. In fact, when the late Woody Guthrie wrote that some [people] "will rob you with a six-gun and some with a fountain pen," he could easily have had a law firm like Holland & Knight in mind.

The ABA says the Standing Committee on Federal Judiciary does not share information with the ABA as a whole and uses only integrity, judicial temperament and professional competence as criteria for judging candidates who are proposed by the White House. The review is done before the candidate is publicly announced so that "unsuitable" candidates can be dropped with a minimum of embarrassment for all.

Over the years the Standing Committee has conducted about 2,000 prenomination reviews to the federal bench and found 26 candidates to be "not qualified," which is remarkable on its face. Even more interesting is that 23 of those 26 were nominees of Democratic presidents.

A conspiracy theorist could argue that the Eisenhower administration actually brought the ABA into the process to provide political cover against Democrats who said its judicial nominees were too conservative. After all, once a nominee was vetted by the ABA and found to have integrity, judicial temperament and professional competence he or she was virtually inoculated against criticism — except on the basis of politics or ideology.

So it is quite amazing — but not surprising — that the Bush administration has chosen to end the half-century-long association between the sitting administration and the ABA. And judging from the way the decision was announced and carried out, it was in place long before the Bush administration actually entered the White House. First there were some anonymous leaks from the West Wing. When public reaction to this was tepid, White House Counsel Alberto Gonzales started taking public credit for the decision. When no one seemed to care, there was a meeting on March 19 between Barnett (accompanied by staff) and Attorney General John Ashcroft and Gonzales. According to press reports, this was little more than a courtesy to Barnett, allowing her to receive the formal decision before it was publicly announced on March 22.

It is not surprising for several reasons. This administration took office despite losing the popular vote, and perhaps winning the electoral vote, because the Supreme Court halted the counting of disputed ballots in Florida. You would think that an administration with such a narrow base of support would be courting potential allies. Instead, this administration is actually further reducing its base, metaphorically circling the wagons, making new enemies at every turn, and even offending people who want to be friends. Considering the ABA too liberal and somehow out of the mainstream when it comes to vetting judicial nominees is preposterous — and absolutely predictable.

In reality the ABA has provided political cover for both parties, turning the majority of federal judicial nominations into routine nonevents in the Senate. Like it or not, the ABA

is the most easily recognized organization of lawyers, and occupies a central place in the American legal community. By exiling the ABA to the outer ring of decision-making, the administration is asking that virtually every federal judicial nomination become a political dogfight — and inviting the ABA to take a public position. Rather than providing a confidential and narrowly drawn rating of "qualified" or "not qualified," the ABA will now be cut out of the process or drawn into a public debate of a nominee's overall merit. During the last 50 years or so, the opposition to a judicial nominee had to take on a nominee's politics or remain silent. Now the Bush Administration is changing the rules. Ironically it will be Bush's own judicial nominees who test the changes.

Opponents are now free to challenge a nominee's integrity, judicial temperament and professional competence. Nominees will have to defend every minor ethical lapse, injudicious outburst and possible professional error. An attorney who practiced criminal law will be challenged by lay witnesses to explain why she defended so many guilty clients. Sitting state judges will be sitting ducks for opponents who can offer endless "evidence" of their lack of judicial temperament, based on out-of-context quotes from trial records. An unsatisfied former client is free to challenge his one-time lawyer's professional competence on the basis that he lost the case. With the ABA filter removed, every person or group with an ax to grind and a few thousand dollars to spend can make an appealing and superficial case against a judicial nominee.

By exiling the ABA from the prenomination process, the Bush administration has fully politicized a process that was still fighting to remain based on merit rather than ideology. The president and his minions should not be surprised, and neither should the rest of us, when his own judicial nominees become the first victims. Unfortunately, the administration will likely play the victim while its own candidates are being savaged, trying to turn self-created political martyrdom into political capital.

In the meantime, the rest of us will suffer as the federal judiciary becomes populated with judges who pass the administration's political test and are brave enough to survive the new world of Senate confirmation. Another conspiracy theorist could imagine that the administration wants the ABA out of the way just to speed up the process — after all, 98-year old Senator Strom Thurmond can't last forever, and his successor could well be a Democrat.

God save the United States of America.

Visit http://www.abanet.org to see President Barnett's statement, news conference video clips, and information on how the ABA evaluates federal judicial candidates.

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What Members are Telling the Board

by Jan Michels
WSBA Executive Director

Listening Sessions

In 1999, as part of long-range planning information gathering, the Board of Governors conducted seven "listening lunches." Members talked to the board about what they liked and didn't like about the WSBA, what kept them up at night, and what the WSBA could do to help them. We incorporated this member feedback into the long-range plan which was adopted by the Board of Governors in September 1999.

We learned something else, too. Members have great ideas, they keep the board in touch with day-to-day and geographic issues, and are fun to get to know and be with. The board continues to schedule listening sessions with local members when meetings are held in their areas.

There is growing support for requiring new lawyer education, and we need to find an economically feasible way to educate new lawyers on law practice skills and professional development.

What We Heard

Member support: On the positive side, most participants feel that the WSBA is on the right track. They support efforts to improve the image of lawyers and the board's efforts to listen to members. They appreciate improved WSBA phone access and the plethora of information on the Web site (www.wsba.org).

Member suggestions: Members have made important suggestions, including putting more resource documents and materials on the Web; and increasing outreach to disenfranchised groups such as out-of-state members, government lawyers, and members in nonstandard forms of practice (teachers, law clerks and some in-house counsel). Members also want low-cost and readily available CLE.

We heard a lot about the impact of current market forces on the practice of law, and the unique pressure and burdens new lawyers face. There is growing support for requiring new lawyer education; we need to find an economically feasible way to educate new lawyers on law-practice skills and professional development.

Specific requests: We received a number of specific requests, too — more help with the business side of a law practice, free online legal research, a "form bank," and requests to investigate group insurance plans. We heard a growing frustration with judicial officers who tolerate uncivil conduct or who fail to enforce court rules. Members want the WSBA to relay this message to the courts.

Food for thought: This last category of input wasn't universal, but did offer food for thought. For example, is it time to add a lay member to the Board of Governors? Are we doing enough to support women and lawyers of color? With the exception of attorneys general, who enjoy Christine Gregoire's support for volunteering, many public lawyers are unable to participate in the WSBA and pro bono volunteerism. How can the WSBA help them? How can we expand the list of activities eligible for CLE credits?

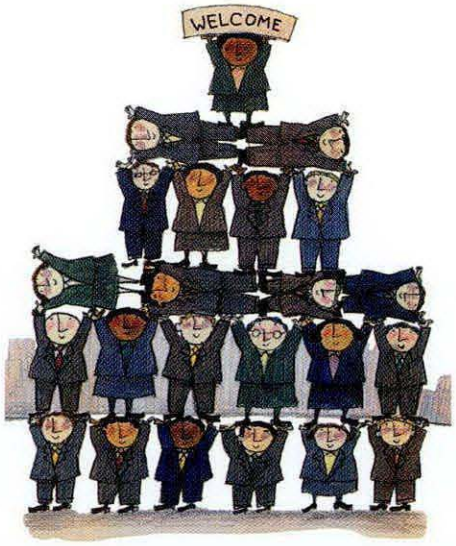
What Happens with this Feedback

Feedback from the listening sessions is recorded and summarized, reviewed in detail by the Long-Range Planning Committee, and routinely reported to the Board of Governors. As your executive director, part of my role is to watch and listen to constituencies, local bars, members and friends. I welcome calls, e-mail and notes about how you think the WSBA is doing. I routinely review member feedback as a whole, and whether changes the WSBA has been making have their intended effect. It really matters to me personally that you know we care and want to hear from you. I discuss this feedback regularly with officers, board members and staff. Many of the changes and improvements of the WSBA are in response to your requests and suggestions.

President-elect Dale Carlisle has committed to continued listening sessions in 2001-2002. We need additional discussion on "food for thought" ideas and "hot" items that surface each year.

Thanks for all your input to date! We really are listening.

WSBA President Sought. No Smoke-Filled Room Required.



by Lindsay Thompson

In America, anyone can grow up to be the president. It's one of the chances we take. — *Adlai Stevenson*

For those who puzzle, however fleetingly, over such things, one of Life's Imponderables is how the Washington State Bar Association gets its presidents. I'm not only going to tell you in the paragraphs to follow, I'm going to invite you to apply for the job.

Every October a new president shows up on the cover of *Bar News*, and in a year he — I say that because, with only two exceptions in the last 15 years, it is always he — is gone. The president writes 12 columns in the *Bar News*, and for most Bar members that's as much presidential contact as we get.

Which is not necessarily a bad thing. People are busy. They have law practices, civic commitments and families, and crave time off. I suspect most are quite content to let the Bar be run by people who feel a calling for that sort of thing.

If you go to local Bar Association meetings, or are involved in minority and specialty bars, committees or sections of the Association, you may have other WSBA presidential sightings to your credit. You can catch them in newspaper interviews and the occasional television or radio appearance.

Watching state Bar presidents has been one of the eccentric hobbies of my misspent youth and early middle age. I've worked with 13 or 14 in a row, and have met about 30 of the 68 presidents the WSBA has had since being formally organized in 1933.

What I've learned, hovering in the twilight penumbras of power, is that being Bar president is a bigger, more challenging job than most people suppose. And I have learned that more people need to consider standing for a turn at the helm.

First, the official facts: Applications for 2002-2003 president of the WSBA will be accepted through May 15, 2001, 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, 2001 will be considered by the Presidential Search Committee and the Board of Governors. Applications and endorsement letters should be sent to the WSBA, Office of the Executive Director, 2101 Fourth Avenue, Fourth Floor, Seattle, WA 98121-2330.

Confidential interviews with the Presidential Search Committee will be conducted between May 16 and 31 at the offices of the Washington State Bar Association. Direct contact with the governors is also encouraged. All candidates will have an interview with the full Board of Governors in open session at the June meeting. Selection of the president will be made by the board following the interviews.

Although prior experience on the WSBA's Board of Governors may be helpful, there is no requirement that one must have been a member of the Board of Governors or 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 2001 following selection. A one-year term as president-elect will begin at the WSBA annual business meeting in September 2001. The president-elect is expected to attend two-day board meetings held approximately every five to six weeks, as well as numerous subcommittee, section, regional, national and local meetings. In September 2002, at the annual business meeting, the president-elect will assume the position of president. During his or her service, the president-elect and president will also be required to meet with members of the Bar, courts, media and public and legal interest groups, as well as be involved in the Bar's legislative activities. Appropriate time will need to be devoted to communication by letter, electronic mail and telephone in connection with these responsibilities.

The duties and responsibilities of the president are set forth in the WSBA Bylaws.

So that's the job in a nutshell. Along with several colleagues on the Board of Governors, I'm on a committee to conduct the search for the next Bar president. Chosen by the Board of Governors, he or she will take office in 2002, after serving a year as president-elect.

One of the main things presidents do is run Board of Governors' meetings. This can be a challenge. Part of the lore of the board is that "the board will do what the board will do." One former president likened presiding over board meetings to herding cats. Another, coming to the presidency after a number of years away from the board, announced a long personal agenda for the year, each item of which the board promptly voted down. Still another left the table to talk with someone on the sidelines during a meeting. A member of the board took control of the meeting and cheerfully

began directing it to topics of more interest to him. "Come back, come back!" members began shouting to the president.

Other presidents have shown remarkable skill at getting the board to do things they really didn't want to do. Being a persuasive advocate helps. And having a good sense of humor is a plus.

In addition to the rough and tumble of board meetings, presidents meet with the Supreme Court and testify before the Legislature. They are, in many ways, the public face of our profession during their time in office. Dick Eymann, the last president, and Jan Eric Peterson, the incumbent, have estimated that being president takes about 60 to 65 percent of their work time for their year in office.

It's a big job — no two ways about it — and that's why more people should consider seeking it.

You see, most of the time the pool from which presidents get drawn is that of former members of the Board of Governors. The job rotates between Eastern Washington, Western Washington and King County in an age-old compromise to ensure some rough parity of geographic and population balance.

This year we're looking for someone in King County. All you have to do is send in a current résumé, a letter saying "I want to be president," and give us five to 10 references. People can write endorsement letters for you. Our committee will make recommendations to the Board of Governors, who will choose the president-elect. The exact process gets a little fuzzy at this point, since we never know how many candidates there will be, but we adapt to the circumstances. Last year there were three, and we invited them in for a pitch to the board. Then we voted and chose one, Dale Carlisle.

Into the late 1980s the election of the president was done in closed session. The board conducted a search, then either developed a consensus for someone or slugged it out between more than one, then came out and announced the choice. Later, in what was considered dramatic liberalization for the times, they came out of closed session and held their vote in public. I call this the board's "politburo period." The hands went up; the unanimous vote was recorded.

Now, nearly the whole process is done in public, complete with angst-ridden comments by board members about how hard it is, and insights from Bar organization liaisons. (The bit that gets discussed in closed session is anything potentially embarrassing in a candidate's record.)

But back to electing Dale Carlisle.

Dale's election was, and is, significant because it demonstrates an increasing willingness to look outside the "usual suspects": people who served their three years on the board and later returned to be president for a year. Dale served only a year on the Board of Governors before throwing his hand in the rain, as did another member of the board, Steve Henderson from Olympia. The 1999-2000 president, Dick Eymann, likewise spent only a year on the board before being chosen president-elect and president. His previous experience was in politics and with the Washington State Trial Lawyers Association.

Change is also hard. It requires us to look at things differently, and consider the views of people we don't know.

This recent experience suggests that getting up to speed on the job is easier than people used to think. One reason is that several years ago the board institutionalized the position of president-elect. The theory for this, advanced by a task force on governance in 1995, was that the board could reach further to candidates who had not served as governors if those candidates then got a year to sit in on all meetings and get up to speed on the operations of the board and the Bar. WSBA staff are much better organized to support the president now than used to be the case. That takes a lot of the logistical burdens away.

Some presidents think service on the board should be a prerequisite; others think not. As things stand, it's not a requirement, but tends to be the result.

It's important that we continue our progress and cast a wider net for the presidency than we have in the past. Some members, of course, scoff, and dismiss such ideas as the rhetorical flourishes of Seattle liberals who never saw a trendy idea they didn't like; others circle the wagons, cowering in fear that the endless and God-given priority of white males will be irreverently, irrevocably broken, with the Deluge to follow.

People can, of course, think what they like. But read the papers. The census figures now being released record dramatic ethnic changes in our population over the last 10 years. The *New York Times* reported in March that, nationwide, over half of all law students are women, up from 10 percent just 30 years ago.

Change is happening underneath us. The Young Lawyers Division, our most youthful membership cohort, is running circles around the rest of the Bar in opening its leadership to all of its members — women, minorities — and without stacking decks, or lots of promotional fuss. They just looked around and saw their membership changing. Rightly, they decided you can't run a whole organization by drawing from only part of its membership. Change will come upon us; we should welcome it rather than let it arrive amidst fracture, upheaval and contentiousness.

Change is also hard. It requires us to look at things differently, and consider the views of people we don't know. In addition to ethnic change in the general population, during the careers of many of our members the membership of the Bar Association has exploded in size. Old senses of connection have been lost.

But the thing about change is that it keeps coming. You can adapt to it; you can try to manage it to some extent; and you can bitch and moan about it. As your elected leadership, the Board of Governors is constantly trying to adapt the institution of the Bar Association to changing times. And one of the ways we are doing that is to encourage more people to run for president. We need leaders to look like all of us.

Yesterday's Young Lawyers Division is today's mainstream of the Bar Association membership, and tomorrow's Bar leadership. As slowly as the Bar seems to change, it *does* change. We are serious about diversifying your leadership. But you have to help us. Come forward; put your name in; take the chance; be a president.

Lindsay Thompson is a member of the Board of Governors for the 7th Congressional District. He practices law in Seattle.

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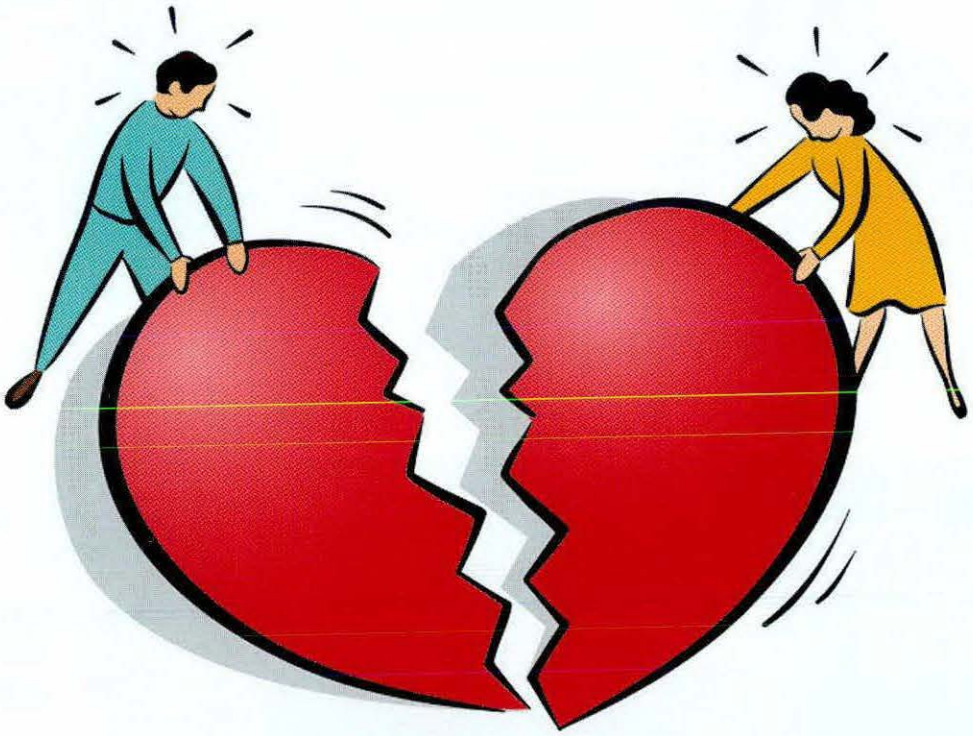

The Impact of Longevity on Divorce Settlements

by Camden M. Hall, Janice E. Reha and Lisa R. Peters

As a pioneering culture, Americans revere youth for its energy, vitality and willingness to challenge the norm. Aging was once viewed as a time to step aside, to contract and downshift. But one of the great benefits of entering the 21st century is that we are living longer. With the advance of technology in medicine and greater awareness of healthier living practices, we can expect an extra 20 to 30 years of healthy living. This is good news for those of us who embrace the idea of longer vitality, and plan for the long term.

Unfortunately, when it comes to divorce, our system is too focused on the past model of retirement at 65 and a shorter life span. As a result, many people (mainly women) are living at a much lower standard of living than necessary following a divorce. If attorneys, clients and courts will expand their mindset to accept the concept of longevity and lifelong employment, we might reverse the devastating trend of financial instability following divorce.

Longevity in the 21st Century

People born at the turn of the last century had a life expectancy of 47. They did not expect to live to retirement age. The concepts of Social Security and retirement at age 65 began during the 1930s when there were too many workers and not enough jobs. Work in the 1900s was agricultural and manufacturing based. Workers utilized physical, hands-on skills, and the body wore out after 50 years, making employment at older ages difficult, if not impossible.

A very different workplace exists in the 21st century. In today's information age our intellectual skills, on which we place high premium, only diminish when the brain is not utilized. We are currently experiencing a shortage of skilled workers, thanks in part to the baby bust in the 1960s and 1970s. People are much healthier in their 50s, 60s, and 70s than ever before, and

there are more nonstrenuous jobs from which to choose.

As a result, the way we view work and retirement is shifting to accommodate this new trend. In a survey conducted for the American Association of Retired Persons (AARP), 80 percent of the 2,000 respondents planned to remain employed in their traditional retirement years — one-third for financial need, the other two-thirds for the love of it. Only 16 percent of the respondents in baby-boomer age brackets said they would not work in their retirement years. Four percent said they were uncertain.

In her book *Don't Stop the Career Clock,* Helen Harkness suggests that longevity does not mean we will be "old" longer. Instead, Harkness has identified a second midlife, where people will find a second career, explore new hobbies and develop new skills, even into their 80s. Her contemporary model for aging breaks down as follows:

Young adulthood	20-40
First midlife	40-60
Second midlife	60-80
Young-old	80-90
Elderly	90 and above
Old-old	2-3 years to live

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The number of people who will achieve "second midlife" is unprecedented. More than 70 percent of the population now lives to the traditional retirement age of 65 — nearly three times as many as at the beginning of the 20th century.

Finally, the responsibility for financing our own retirement is increasing. For more than a quarter of a century, the private sector has been revamping retirement benefits, reducing or eliminating fully paid guaranteed income plans for more portable, cash balance-type investment accounts that are co-funded by the employee and employer. Much more responsibility is being shifted to the employee to properly gauge and fund his or her retirement plans with matching funds from employers.

As a result, fewer workers now earn a guaranteed pension income from the companies for which they work. Moreover, workers now switch employers more frequently than ever before. According to recruiters, in the high-tech industries employees change jobs every year to 18 months. Workplace benefits are now geared more for the flexible, adaptable employee. Relatively few will remain with one employer throughout their working careers.

Longevity and Divorce

Despite job opportunities and the apparent willingness of Americans to work longer in life, typical divorce settlements are contributing to the "retirement" mindset and the decline in the financial well-being of post-divorce women. According to research by Christopher L. Hayes, executive director of the National Center for Women and Retirement Research at Long Island University's Southampton College, 33 million divorced female baby boomers can look forward to a bleak financial future. Hayes's three-year Baby Boom Retirement Preparation Survey also found:

- 52 percent of American women are not covered by any pension plan;
- The average annual income of women is only $11,000 the year after divorce;
- Nearly 75 percent of all the elderly poor are women; and
- Only 27 percent of women have more than $100,000 in their 401(k) plans, compared with 43 percent of men.

Hayes's research also found that women are often in a position to see money as a

tool to help others rather than to help themselves. They often address their own unique financial issues last, and they are more likely to help put a child through college than invest in themselves.

Complicating the process is the fact that our state's divorce laws generally have not been updated since 1973. With men and women living longer than they did 28 years ago, the application of existing law has left an increasing gap between the divorce resolution of most marriages and the reality of the underemployed spouse's post-marriage needs.

A common divorce settlement consists of the courts awarding the wife 50-55 percent of the marital property, which includes the family home with a mortgage. In addition, she typically receives an average of 36 months of maintenance and three years of medical coverage under COBRA. This is often inadequate in meeting the wife's financial needs and her necessity to establish a career.

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Too little thought is given to what happens when the maintenance terminates and medical coverage ends, except that the wife is expected to have a job by then and pay her own bills. This is especially true in mediations when the amount and length of maintenance often becomes an easy target for a negotiated limitation. Some erroneously assume that the lower-earning spouse can afford to begin drawing from investments while the higher-earning spouse does not. In many cases, a premature withdrawal of investments results in a depletion of assets long before the end of life expectancy.

Our state law contemplates that property and liabilities be divided in a divorce after considering "relevant factors" such as the existing community and separate property, the length of the marriage, and the economic circumstances of the parties "at the time the division of the property is to become effective." Other relevant factors include the physical condition of the parties, the age of the parties, and future needs of the parties.

Maintenance may be required as part of the property division or to help one spouse, usually the wife, find gainful employment after a divorce. "Compensatory" maintenance factors in length of marriage and existing community property; "rehabilitative" maintenance refers to funds that will help the lesser-employed spouse fund his or her education and find gainful employment following a divorce. According to the courts, a purpose of maintenance is to support the wife until she is able to earn her own living or become self-supporting. It should also be used to equalize the post-dissolution economic conditions of the parties.

In the past, the courts limited the duration of maintenance so that it would not become a "perpetual lien" on the husband's future income. This narrow view of maintenance is changing. Increasingly it is viewed as important in the equitable division of marital property. Maintenance should be used as a "flexible tool" in equalizing the future post-divorce economic position of both spouses. It should no longer be acceptable for the courts to focus on money issues and the economic circumstances of each spouse "at the time the division of property is to become effective." This focus is too limited; it does not address the post-divorce economic position of both parties. As our population ages and works longer, emphasis on the post-divorce position is critical.

A long-term perspective may yield a more just and equitable property division. The wife and her counsel should focus on establishing a means of compensating the wife for her contribution to the husband's future earning capacity, while also evaluating her opportunities and career needs. This might mean providing the wife with a greater share of the liquid assets in the divorce property division, and a stream of income from the former husband by periodic payments under a promissory note or by maintenance (if tax considerations are relevant). Together with the wife's other sources of income, the objective should be to create equilibrium between both parties' incomes and their standards of living following a divorce.

The law of this state requires an "equitable" division of property. It also requires that the division be "just." In these circum-

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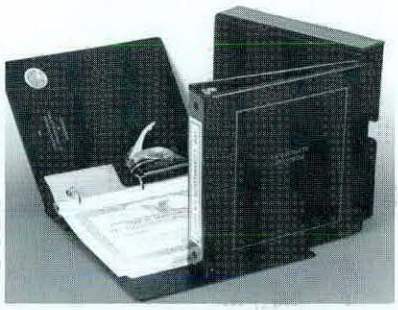

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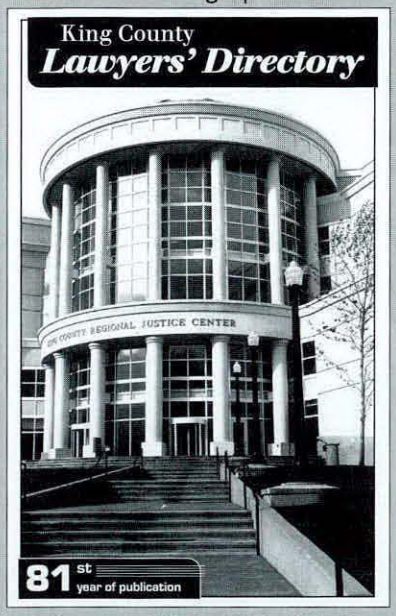

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stances, it is only "just" that the former spouses enjoy roughly equal future standards of living. Where necessary, the courts should use whatever "flexible tools" they have to protect the longer-term economic interests of both the husband and wife.

The following case study illustrates the impact of two possible property division and maintenance arrangements for a fictitious couple who have a typical divorce scenario. If we attempt to leave both spouses in "roughly equal" economic circumstances after a long marriage, what does it take?

Case Study

Sara and Jeffrey Bennett have been married for 25 years. Sara is 50 years old and Jeff is 52. Sara is self-employed as a horticulturist and grosses approximately $19,000 per year. Jeffrey is an engineer, works for a large aerospace company, and earns approximately $79,000 a year. He has a master's degree in engineering. Sara has a bachelor's degree in art and a certificate in horticulture.

They have two children, 21-year-old Gretchen, a senior in college, and 17-year-old Jason, a high-school senior. Jason will be attending a local community college for two years following high school. The Bennetts' home has a current market value of $300,000, with a mortgage balance of $115,000, and a principal and interest payment of $800 per month. They have stock and bond investments of $50,000, and Jeffrey's 401(k) account is worth $250,000. Jeffrey's employer also sponsors a defined benefit pension plan that has an accrued monthly benefit of $800 a month.

Jeffrey has medical insurance and a car allowance paid by his company. During Sara's career retooling, she will bear medical and transportation costs herself. In addition, Sara feels strongly about assisting Jason through college as the couple did for their daughter. In view of the divorce, Jeffrey prefers to see what the settlement means to his financial security before committing to funding college costs.

Sara must complete a two-year degree to achieve her goal of becoming a graphic artist. The first phase of meeting her goal includes two years of classes at a local community college (2001-2003). For the following three years, she will need time to develop her reputation and credibility in the graphic-arts field.

Sara's educational costs will include $3,600 for tuition and $4,000 for a computer, programs, books and supplies — a total cost of $7,600. In 2003, she may earn approximately $24,000; $26,400 in 2005; and $29,000 in 2006. After five years' experience she might earn $3,300 a month or $39,600 a year.

Scenario I: Traditional Settlement Including Property Division, Maintenance and College Costs

This settlement is a common but inadequate outcome. If the Bennetts' property is divided with 55 percent to Sara, and Jason resides at home through his years at community college, Sara will receive $185,000 in home equity, $82,000 in 401(k) funds, and $4,000 in a savings account. The couple initially assumes they will split the pension equally. Jeffrey will receive one-half of the accrued pension, $168,000 in the 401(k), the stock portfolio of $50,000, and a few thousand dollars in a checking account. Child support from Jeffrey is calculated to be $1,035 per month until Jason turns 18, at which time Jeffrey will continue to pay $500 per month for transportation expenses, insurance, and tuition assistance for Jason for four years. Maintenance of $1,900 per month before taxes will be awarded for four years.

In this information age, the courts and our clients need to acknowledge that continuous education and skill development together with a just divorce property settlement is the best avenue for long-term security.

Short-Term Impact of Maintenance

In the first year, Sara covers her and Jason's expenses under this arrangement. She is able to set aside $250 per month that will eventually cover about 40 percent of her tuition. However, when Sara begins her full-time education program, she will still have to work part-time in addition to receiving maintenance. Even with part-time work, her expenses exceed her income by $900 per month for the 18 months she is in school. We anticipate Sara will be employed by June 2003, at a starting level salary of

$24,000. Even when including additional income of $600 per month from renting a room in her home after Jason leaves for college, Sara will face monthly shortfalls of $300 to $700 per month until year nine. If a home-equity loan is used to meet these monthly shortfalls, her debt will increase to $27,000 over the course of nine years.

In this scenario, four years of maintenance is insufficient to meet Sara's needs. Even with a renter to supplement her income, Sara does not have the means to save additional funds for retirement within the 10 years following her divorce. Selling the house and occupying a condominium will not greatly reduce her expenses. Sara will see that her financial ability to assist Jason, beyond providing a room, is out of the question. She will be taking on her own debt as she completes her education and starts her career.

Jeffrey Bennett will have a financially restrictive situation for the first 12 months following the divorce ($2,300 per month in net income), paying $1,035 in child support and $1,900 in maintenance ($1,400 after the tax benefits). However, in year two his net income adjusts to $3,000, with child support/college assistance changing from $1,035 to $500 per month after Jason turns 18. By year three, assuming a 3.5 percent increase in earnings each year, Jeffrey Bennett could conceivably purchase a residence, placing him in a similar housing situation as Sara. By year five, with maintenance no longer being paid, his net income is high enough to meet expenses comfortably and resume saving for retirement. Contributing to his retirement plan will generate another $2,500 in matching contributions from Jeffrey's employer. Sara will likely have some matching feature with a future employer, but she does not have the discretionary income to defer until year 10.

Pension and Social Security

Pension incomes at age 65-66, excluding income from investments, are estimated to be as follows:

	Jeffrey	Sara
Pension*	$1,194	$439
Social Security	$1,400	$900
Total	$2,594	$1,339

(*50-percent of marital years awarded to Sara)

Using similar returns on assets and living standards for each spouse, with the pension income noted above, assets for each spouse grow or diminish over time. The spouse with higher compensation continues to accrue financial security at a much greater pace, due to higher pension and Social Security benefits, and an ability to save income for retirement. Jeffrey's assets will also last much longer (through age 95) than Sara's. In 1970, life expectancies were much lower and there was less risk of someone outliving their assets. Today, we expect half of the white female population to live beyond age 87. Sara faces financial risk of outliving her assets by age 86. After a 25-year marriage, this divorce settlement is not financially equitable.

Scenario II:

Alternatives to the original scenario create greater economic "balance" between the parties. Four years of additional maintenance of $1,600 per month, a 60 percent allocation of investment and real estate property, plus 55 percent of the currently accrued pension will provide greater equity to Sara, and leave Jeffrey with a much greater pension benefit, with an increasing portion coming from future service years.

While this revised settlement still does not quite create "economic parity," Sara and Jeffrey can reasonably expect their assets to meet their needs to ages 90 and 95. Sara's

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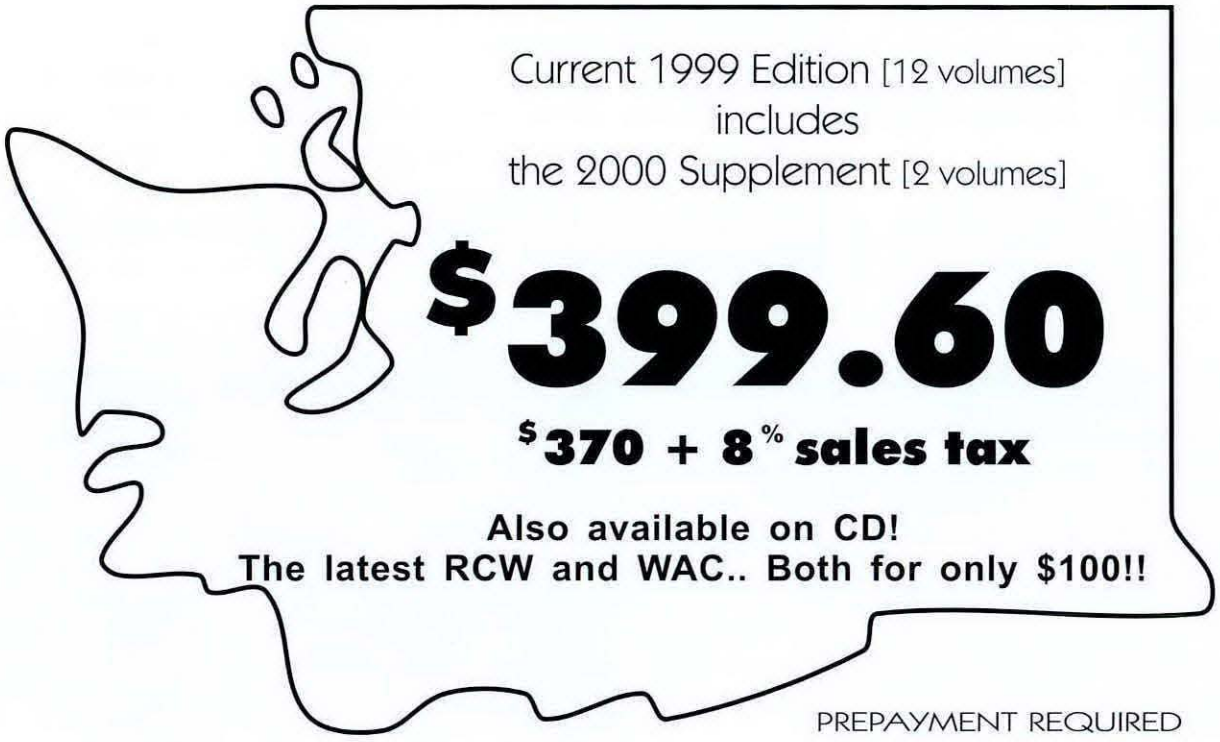

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financial situation still includes receiving rental income, while Jeffrey's does not.

As the case study illustrates, the financial alternatives and career decisions our clients make during their divorce will affect their lives well into their 70s and 80s. Long-term planning will help them embark on financial healing while they recover from the emotional injury of divorce. While we know that fear of the unknown paralyzes many financially uninformed spouses, the ancillary benefits of meaningful work may promote the mental engagement for a vibrant and vigorous old age.

Since we are living healthier and longer lives, we have to embrace the consequences of longevity — understanding that work does not necessarily end at age 65. Furthermore, we must break financial dependence on Social Security and company pensions.

This is particularly true for the spouse who is underemployed or who has to reenter the job market after a divorce. This person faces the reality that he or she may not only have to work longer, but must develop skills that provide greater earnings potential and support in the short and long term. In this information age, the courts and our clients need to acknowledge that continuous education and skill development together with a just divorce property settlement is the best avenue for long-term security.

To achieve more equitable results, we need to aid our clients (as well as opposing counsel and judges) in seeing the big picture, especially one that projects into the future, emphasizing career development as a personal and financial investment. And, we must counsel our clients about the benefits of longevity and the unique opportunities for work past the traditional retirement age.

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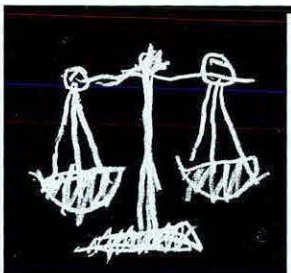

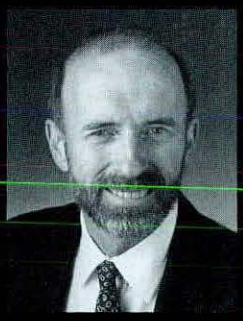

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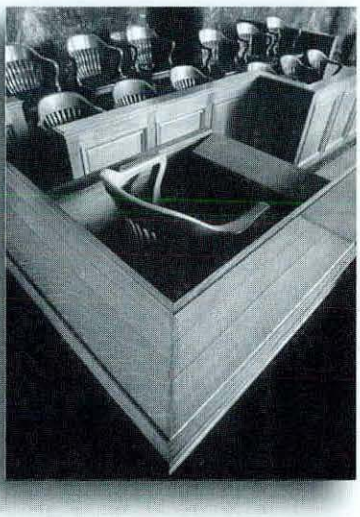

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by Mark A. Panitch
Bar News Editor

Crime Victims *and the Law*

In the April* Bar News *I described how my sister Robbyn was murdered, and the effect that crime had on me and my family as we waited for the killer to come to trial. The trial ended almost exactly two years after the murder. The judge — and most of our friends — seemed to think that sentencing the killer would provide "closure" for the family. This month, for Law Week: crime victims, our legal system and reinventing yourself.

First, a brief history lesson. Bear with me. There are two neighboring villages in northern New Mexico that were settled in the 1600s by former residents of two neighboring villages in Spain. There was a blood feud between the villagers in Spain, and they brought it with them to the New World. No one knew how it started or what it was originally about. All they knew was that someone had been killed and the death had to be avenged. Ancient Spain had reached out to a new land, and carved a foothold for itself that lasted 400 years into the future.

For most of history the concept of crime didn't exist, and the rhythm of these two villages represented life and death for most humans. Wrongs were avenged by the family, tribe or clan in neverending cycles of violence and retribution.

The idea of "crime" only developed with the centralized state. With feudal lords claiming a kind of ownership of all people, animals and land in their realm, a wrong against a person became a wrong against the lord. Even though the Sheriff of Nottingham was really after Robin Hood because he was a troublemaker, the warrant said he was poaching the *king's* deer. By extension, the intentional killing of one of the king's subjects also became a crime — murder or manslaughter. By definition, a crime was a wrong against the state.

Today, Anglo-American jurisprudence can be divided into crimes (wrongs against the state) and torts (wrongs against individuals). When my sister Robbyn was murdered, her death was prosecuted by the Los Angeles County District Attorney — acting for the People of the State of California — as first-degree murder.

Over the past 1,000 years, the victim and her family have been reduced from the central figures in the criminal justice process to figures with no role at all. In a throwback to earlier times, personal prosecution for felonies was still relatively common during the early days of the United States, especially in remote or frontier regions far from courts and prosecutors. A justice of the peace

or local magistrate could issue a warrant based on a victim's sworn statement, and deputize a posse to make the arrest. Often, the victim or a survivor, if the victim was dead, joined the posse and participated in the arrest. Many states, including Washington, still have provisions for citizens to institute a misdemeanor criminal prosecution by "swearing out" a criminal complaint in front of a judge (CRRLJ 2.1(c)). But even this remnant process is strongly discouraged by judges and professional prosecutors who are concerned that involvement of the victim may taint a conviction.

During the trial of Robbyn's killer, the defense team even sought to exclude family members from the courtroom by placing our various names on their witness list. Although the defense never intended to call us, exclusion of the victim's family from the jury's sight was an important goal — and the ultimate indignity. Eventually the prosecutor, at our urging, raised the issue with the court, and the defense witness list was amended.

Subsequently, we learned that the families of most murder victims are routinely treated even more callously. It was only because we were not intimidated by courts and lawyers that we were able to prevail on this vital issue. Even so, we were warned to remain impassive and unemotional as we heard the details of Robbyn's death, and watched the killer smiling and joking with his attorney. The only thing worse than the torture of being present would have been the torture of exclusion and never really knowing what happened.

The shift away from personal revenge to state prosecution is usually seen as an advance of civilization. There are established rules for managing the process, and clear categories of crimes and punishments. This is not a new idea — it's just taken a long time to put into effect. When the Hebrew Bible calls for "an eye for an eye, a tooth for a tooth," it is saying that punishment should be proportionate to the crime. The emperor of Japan humorously sings "let the punishment fit the crime" in the *Mikado*. The motto over the entrance to the Supreme Court is "Equal Justice Under Law." In American jurisprudence the path to that goal is called "due process." But in seeking to treat every person accused of a crime like every other person accused of the same crime, our criminal justice system becomes more about process and less about justice every day.

Then there is the question that we never really want to ask: justice for whom? Is the criminal justice system exclusively for the "benefit" of defendants? Is it for the benefit of a society at large? Is it for the benefit of the victims and survivors of victims?

Increasingly over the years, the courts, properly prodded by the criminal defense bar, have answered that the process is essentially for the benefit — or at least the protection — of the defendant. By requiring more, smaller, and increasingly precise steps in the criminal justice dance, the courts have clearly reduced the number of what can only be called official lynchings. Indigent defendants must be provided counsel. Prosecutors must be more careful as they present their evidence and argue their case. Defense attorneys have more opportunities to show juries that the state's case wasn't made "beyond a reasonable doubt." The one thing that hasn't changed in the last 200-plus years is control of the courtroom — and by extension, control of the criminal justice system itself — by the iron triangle of judge, prosecutor and defense attorney.

Research shows that crime victims and

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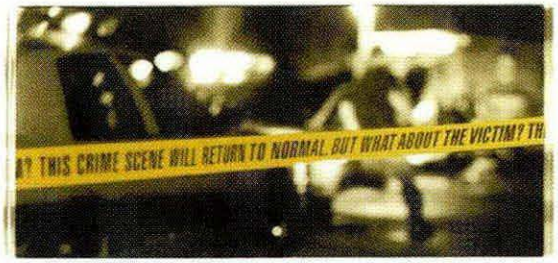
Ten years ago, little was known about the effect of a murder on surviving family members. Most psychologists subscribed to the theory that grief came in well-defined stages that could be predicted for everyone.



homicide survivors suffer terribly from a sense that they no longer control their own lives. Efforts by courts, police and prosecutors to "shield" victims from the horror are often counterproductive. To the surprise of most criminal justice professionals, people find some comfort in seeing their loved one's corpse and in hearing the details of the death. Acts that are meant to comfort or protect are seen by victims as further efforts to infantilize. Reality is rarely as vivid or terrifying as imagination.

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Two years after my sister was murdered the trial was over and I was forced to confront my own grief. Financially we were barely scraping along. I was doing assigned criminal appeals in Clark County, and my wife, Martha, was finishing her medical residency in Portland. The costs of traveling between Washington and Los Angeles had left us deeply in debt. We were both terribly depressed, and in professions that require at least some social grace, we were alienating friends, colleagues, associates, professors and potential employers right and left. Murder survivors, it seems, are routinely shunned by those around them. It's almost as though the horror of the event rubs off on the survivor and makes him contagious. All we wanted to talk about was the murder; all others wanted was for us to "get over it" and "get on with your lives."

To make matters worse, we knew nothing about how to be homicide survivors. The fact that we weren't alone didn't help much. Ten years ago, little was known about the effect of a murder on surviving family members. Most psychologists subscribed to the theory that grief came in well-defined stages that could be predicted for everyone. Most physicians knew little about the effects of grief on our immune systems, or that the intensity of grief for a murder victim can be 10 times greater than for an aged relative, an accident victim, or even a suicide. We knew none of that. What Martha and I did know was that we were isolating ourselves by our behavior, which was clearly so irrational that even we recognized the problem. But we didn't know what to do about it except claw at each other.

Fortunately, there were two signal events. Martha found an article in an emergency medicine journal about telling parents that a child had been murdered. The text mentioned Parents of Murdered Children and Other Homicide Survivors (POMC) as an organization that didn't get tired of hearing about the murder or the

victim. She called the POMC national headquarters in Cincinnati, got the number for the Greater Portland Chapter, found out when and where meetings were held, and insisted that we go to the next one.

At first the meetings were a little too "touchy-feely" for me. But I soon realized that my knowledge of the criminal justice system was an important resource for the chapter. Frankly, it was nice to be appreciated and given some recognition for what I knew. But equally important, there was a group of people who didn't get tired of hearing about Robbyn, the murder and our grief. Instead of walking away, they nodded knowingly when Martha or I described an unexpected wave of grief or some lapse of judgment or attention that left us suddenly helpless. We were discovering that grief is a complex emotion that colored every aspect of our lives. What was unique to each of us was equally a variation on a theme that was thousands of years old, but virtually unknown outside a small circle who were fortunate enough to find each other.

Now we know that without skilled social services and support most crime victims suffer continuing psychic trauma long after the wounds have healed or their loved one has been buried. Reduced academic and job performance, mental illness, alcohol and drug abuse are significantly higher among crime victims than among the public at large. With 30 million crime victims, the cost of providing needed services would be astronomical. The cost of not providing those services is already higher, but it is broken into millions of pieces and absorbed by families, neighborhoods and businesses all over the country.

The second event was catalyzed by a friend in the psychology community who sent me to see Andy Benjamin, then director of the WSBA Lawyers' Assistance Program. Like most psychologists, Andy knew virtually nothing about the impact of violent death on the survivors. But he did know how to ask hard questions over the years that stimulated introspection and insight and discouraged self-pity. Unlike most psychologists he had the confidence to admit his own ignorance on the subject of grief, and the imagination to find a LAP peer counselor who was knowledgeable from hard personal experience.

Bruce Myers, a retired marine colonel, has seen combat in three wars. One of the most difficult elements of a combat command is dealing with the grief of men who have lost friends who may be closer than brothers. Grief is a reality that has to be expressed and released, but it also has to be controlled and managed or — as I knew too well — it can swallow you.

Over a period of years there was nothing I could say that shocked Bruce or made him visibly uncomfortable. He was never judgmental. He gave me less time than I wanted, but as much as I needed. I was invited into his home and made to feel comfortable and welcome by Mrs. Jo Meyers. Conversation occasionally veered to remembering their friends who had been killed in war. Soon I realized that we shared dead friends. Writers and photographers I had known in Washington, D.C., who were killed in Viet Nam, also knew Bruce and Jo. They helped me understand that it was possible to grieve without letting the grief take over and overwhelm my life. And they gave me a dignified model to follow.

As I began to take control of my grief, Bruce helped me reinvent my legal career. I knew that I did not want to do criminal law. I wasn't sure what I did want to do.

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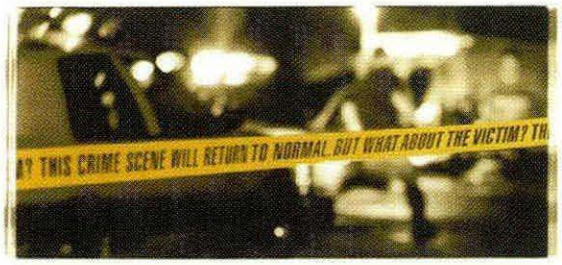
I was surprised to discover that Washington's Constitution actually contains a section on the rights of victims of crimes (Art. I, ß 35), endorsed by the voters in the November 1989 election.



He was a sounding board and a devil's advocate. When I made sense he encouraged me by introducing me to one of his vast store of friends who practiced in an area I wanted to know more about. When I made no sense, Bruce just listened quietly. It would not be an overstatement to call Bruce and Jo Meyers the godparents of my second life.

Doing what, unfortunately, I knew best, I slowly re-entered law practice by representing families whose applications for crime victims' assistance had been denied. I was surprised to discover that the state constitution actually contains a section on the rights of victims of crimes (Art. I, ß 35), endorsed by the voters in the November 1989 election. It seeks to provide crime victims with access to trials, and the opportunity to make a statement at sentencing or any other "proceeding where the defendant's release is considered." But what the section qualifies or does not provide is really more interesting than what it does. For example, crime victims' rights to attend a trial are "subject to the discretion of the individual presiding over the trial." A judge, on the defendant's motion, can exclude the victim or her family. The victim has no recourse.

The preamble to the section states that "Effective law enforcement depends on cooperation of victims of crime." The Legislature's priorities could not be more clear. The intent is not to provide crime victims with rights. It is to keep the victim on board until the trial is over.

RCW.94A.080 provides:

> In a case involving a crime against persons as defined in RCW 9.94A.440, the prosecutor shall make reasonable efforts to inform the victim of the violent offense of the nature of and reasons for the plea agreement, including all offenses the prosecutor has agreed not to file, and ascertain any objections or comments the victim has to the plea agreement.

RCW 7.69. 030 gives victims the right

> (2) to be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case.

Unfortunately, since there are no consequences for failing to contact a victim to "ascertain any objections or comments the victim has to the plea agreement," we really don't know how many prosecutors just don't bother.

I am ashamed to admit that when I was

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a deputy prosecutor in Pierce County I was encouraged by more experienced colleagues to think of most victims as little more than a necessary annoyance. The attitude wasn't universal, and now I realize that the toughest, most experienced prosecutors assigned to handle the most violent and difficult cases were frequently the most sensitive and compassionate to victims and survivors. I am glad that Carl Hultman is still a deputy prosecutor and Gerry Horne is now prosecuting attorney for Pierce County. I wish I had followed their example. I wish I had been able to recognize their example when I saw it.

Looking further, I discovered that many crime victims who were entitled to crime victim's compensation, RCW 7.68.015 *et seq*, were being denied benefits, and had no recourse. Because the benefits were the same as those authorized for workers' compensation, the Department of Labor and Industries was charged with administering the Crime Victims Compensation Program. But unlike workers' compensation, crime victims' compensation is a remedial program designed to resolve any question about the applicant's qualifications in favor of the applicant. Many L&I staffers didn't — and don't — see it that way.

In one case I litigated, a young woman was murdered along with three others in a house in Tukwila. The police determined that the murders involved a failed drug deal. They also determined that the young woman, who was watching a two-year-old child in a bedroom when she was shot, was not involved in the drug business. She was simply in the wrong place at the wrong time. Despite the clear language of the police report and the statute, L&I denied the family's claim, stating that the woman was not "an innocent victim." It probably didn't help that the victims were African-American.

The family appealed the denial to L&I and the claim was again denied. The family then appealed to the Board of Industrial Insurance Appeals. Then, through a referral from a local victims' rights group, the family found me. I was amazed at the denial. I was even more amazed that the assistant attorney general assigned to the case insisted on litigating every element. I was forced to conduct a full-scale discovery campaign including deposing several of the

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The Honorable JoAnne L. Tompkins
Former Washington State Court of Appeals Commissioner

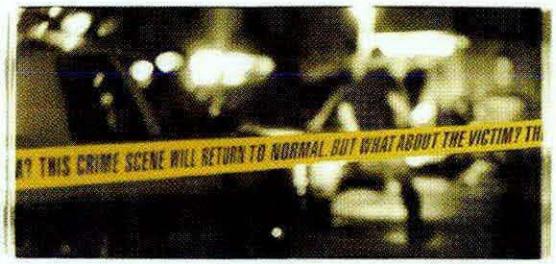
The Honorable Terrence A. Carroll
Former King County Superior Court Judge

Front left to right
The Honorable George Finkle
Former King County Superior Court Judge

The Honorable Rosselle Pekelis
Former Washington State Trial & Appellate Court Judge

Jack Rosenow
Formerly of Rosenow, Johnson & Graffe (not pictured)

As long as victims' rights groups support law enforcement goals such as tougher sentences and more prisons and money for personnel, training and equipment, law enforcement supports them.



investigating officers. Their story remained the same, but the AAG refused to budge.

After months of expensive discovery and several hearings, the industrial appeals judge finally ruled in favor of the family, but it was nearly a pyrhic victory. The family spent more to win the benefit than it was worth, but the effort helped educate both the L&I staff and other crime victims about their rights under the law.

Over the next several years I was invited to speak at national meetings of POMC, NOVA (National Organization for Victim Assistance) and other groups in the developing crime-victim movement. My message was always the same. Crime victims or their survivors should have a right to sit in the courtroom. Crime victims should be allowed their own counsel with the right to address the court out of the presence of the jury. Defendants should not be allowed to attack the victim without first making an offer of proof to the court that there is a factual basis for the attack.

My message was well-received by crime victims, but many of the police officers and prosecutors' groups that provide support and encouragement for the victims' rights movement were less enthusiastic. As long as victims' rights groups support law enforcement goals such as tougher sentences and more prisons and money for personnel, training and equipment, law enforcement supports them. But when the victims start asking for their own place in the system, that is different.

Nevertheless, the alliance is strong and will probably remain so. Like it or not, there is a symbiotic relationship between crime victims and law enforcement. But, in the final analysis, law enforcement needs crime victims more than victims need law enforcement. After all, no victim would be sorry if he could turn the clock back and avoid becoming a victim. But if crime were to drop dramatically, the need for police, prosecutors and prisons would drop as well. Every agency says it wants to be so successful it is no longer needed. It's unlikely that we'll be able to do away with our criminal justice system in the foreseeable future.

But the question remains, what about crime victims? First, a few statistics. In 1999, about 30 million Americans were victims of criminal violence or serious property crimes such as residential burglary. The victims of violent crime are disproportionately young, male and black. During any given hour in the United States there will be an average of 120 cars stolen, 240 bur-

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glaries committed, two people murdered and 78 women raped.

Over the past 25 years there has been a vast improvement in the way crime victims are treated by the criminal justice system. In 1976, there was one battered women's shelter in the United States. Now there are about 2,000. Many states, including Washington, have added victims' rights amendments to their constitutions and statutes that spell out those rights. Victims are being recognized by the criminal justice system.

But it is increasingly clear to me and to others concerned about crime victims that the criminal justice system is the wrong place to look for justice. After all, it is the *criminal* justice system, not the victims' justice system.

In a speech to the National Press Club, Susan Herman, executive director of the National Center for Victims of Crime, put it succinctly, "While victims appreciate that justice is served if the criminal justice system is fair and the outcomes are appropriate, surely justice for victims is more than the arrest and adjudication for offenders. Think of it this way — crimes are violations of communal norms. When offenders are brought to the bar of justice they are held accountable by the state for harms suffered by individuals. There is a societal response to the offender that says, 'You violated the law and we will hold you accountable, punish you if it is appropriate, isolate you if needed, and offer you services to help reintegrate you into the community.' The individuals who have been harmed — the victims of crime — have no comparable experience of a societal response to them. There is no statement that says, 'What happened to you was wrong' — no response that says, 'We will help you rebuild your life.' The same event produces both an offender and a victim. Yet so far we have created a path to justice for offenders. We must begin to pursue justice for both parties."

What do we have in mind? As a first principle, Herman suggests, "We marshal government resources to help victims feel safe and get back on track. [W]e need to reintegrate victims as well as offenders."

During 1999, the federal government spent $2.1 billion for halfway houses and other programs aimed at getting offenders' lives back on track. During the same period, $450 million was spent on victims' services.

This is not a call for mindless social engineering. It is a call for social protection. Recent research shows that the single greatest predictor among teenagers of who will become a criminal is not drug use, pregnancy or truancy. It is simply whether a teenager had, himself, been a victim of crime.

Large-scale aid for victims could well be one of the most effective ways to prevent crime and violence. As we all know, but rarely practice, prevention is more effective than punishment. So it is a mystery why we put so much emphasis on law enforcement and enormously expensive prisons while disdaining less costly social services that demonstrably reduce crime. You could almost believe that our lawmakers simply feel comfortable with the macho field of law enforcement and uncomfortable with the more "feminine" fields related to social services, regardless of cost or effect.

There are those who sincerely believe that punishment and retribution will provide "closure." More than 100 survivors of people killed in the Oklahoma City bombing have petitioned Attorney General John Ashcroft to be allowed to watch on closed-circuit television as Timothy McVeigh dies in the federal government's execution chamber. I wouldn't mind if the man who killed Robbyn were killed in prison. And I

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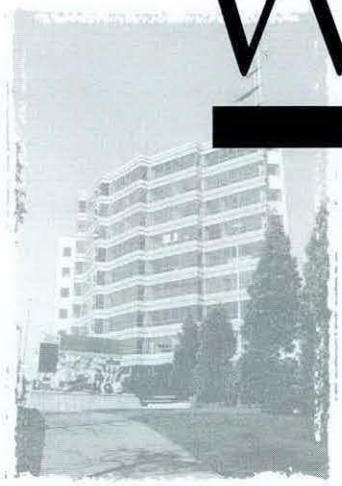

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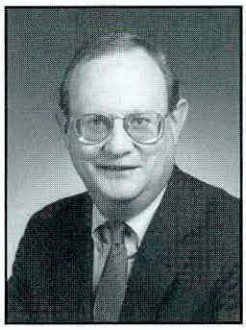

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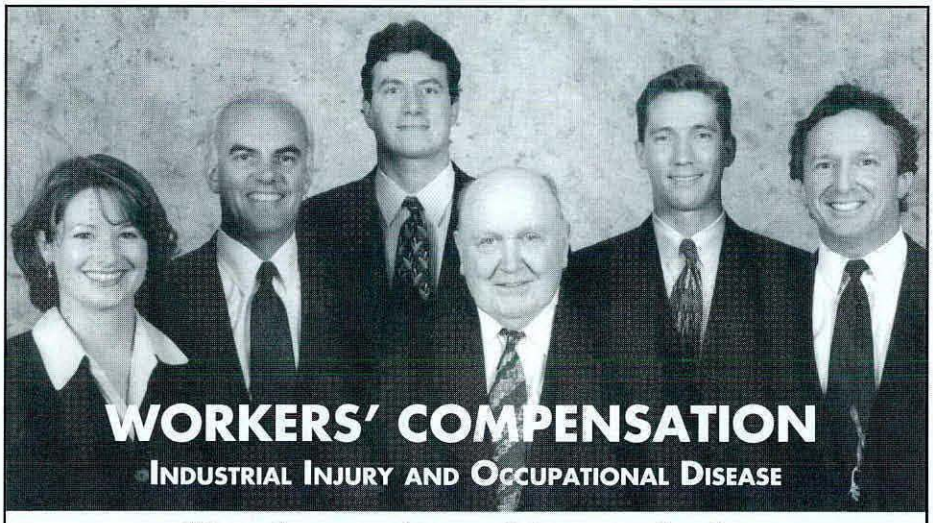

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certainly don't want him ever to be paroled, but I would take no pleasure in watching his execution. Nevertheless, I would never judge another victim's desire to be present for the killer's demise.

What is ultimately clear to me is that without the support Martha and I received through LAP, POMC and friends who stuck with us, our lives would be much different today. We will never get over a murder in our family, but we can learn to live and cope with the grief. With enough support the pain can lead to insight and compassion.

It is appalling to think of ourselves as fortunate, but among crime victims we are. We had the education to figure out what we needed to do, and we had the resources and the connections to make it happen. Most crime victims do not have a college education, much less graduate degrees. Many crime victims are so paralyzed by their trauma that they can't go to work. Many can't go outside their homes. Many aren't able to make rent payments, and become homeless. Even in our deepest depression and anger we were able to pay our mortgage.

Now, 12 years after Robbyn was murdered, we are finally recovering financially. We are almost back to the point we were at on February 21, 1989. My law practice and Martha's medical practice are in the black. We have learned to laugh again, though our humor tends toward the bleak and cynical. We are both less critical and judgmental, and we are more accepting of others' foibles. Our sense of what is important has certainly changed.

The horror of the murder and the grief at the loss never go away, but we are learning to make those emotions part of our lives and keep them under control — most of the time. I have learned not to make any important decisions on February 21 of each year. Our family remembers Robbyn on her birthday now. We continue to work for crime victims' rights. We give time to a variety of pro bono causes. And we try to build new lives.

For further information, contact Parents of Murdered Children (POMC) at 888-818-POMC or natlpomc@aol.com. In the Seattle area, the local chapter of Families & Friends of Missing Persons & Violent Crime Victims contact at 206-362-1081.

The Board's Work

by Mark A. Panitch
Bar News Editor

La Conner (April 6-7) — After months of difficult and often heated negotiations and debate over additional seats on the Board of Governors for underrepresented segments of the Bar, the BOG finally held what may be called a "routine" meeting.

As readers of this column will remember, the BOG created two "at-large" seats at the February meeting. BOG members continued debating how the seats would be filled at the last meeting. Creation of additional seats on the BOG requires amendment of the WSBA Bylaws. Those amendments were introduced and will be voted on at the next meeting, May 4-5 in Coeur d'Alene, Idaho. The proposed amendments can be read on the WSBA Web site at www.wsba.org/bylaws. Additional information on the "at-large" seats can be found in the FYI section (p. 54) of this issue. Details on applying for the new positions will be carried in the June issue of *Bar News*.

WSBA Disciplinary Counsel Barrie Althoff presented the new *Washington Lawyer Discipline Manual*, which includes the year 2000 Annual Discipline Report.

The three-part manual includes Washington Rules for Professional Conduct, lawyer discipline, and standards and policies from the ABA, the Board of Governors and the WSBA Disciplinary Board.

The manual also provides an organizational chart, a grievance flow chart, aspirational timelines, and the options available to review committees, hearing officers and the Disciplinary Board.

The last portion of the manual is the 2000 disciplinary report that includes several charts and graphs illustrating various aspects of the disciplinary process. Not surprisingly, family law — among all practice areas — produced the most complaints and grievances.

Althoff reported a 32 percent increase in the number of grievances filed, but stated that his office is staying current with investigations. As of January 1, 2001 there was no case pending uninvestigated prior to September 2000.

WSBA Legislative Liaison Gail Stone reported that the Legislature will soon pass a constitutional amendment allowing elected and retired judges from any court to be appointed as judges *pro tem* to hear cases in any other court in the state, subject only to defense counsel being allowed an extra judicial challenge.

In a nod to the lighter side, the BOG also heard that an act to allow trusts for nonhuman animals was near passage. Sponsors argued that many pet owners are deprived of the ability to provide for their animals after death. Common law does not recognize trusts for the benefit of nonhuman animals. The act carried only one significant amendment — that it only apply to vertebrates.

The board approved a resolution endorsing reduced sentences for nonviolent drug transactions. The legislation that the board supported would reduce the state sentencing guidelines by one level, with the assumption that any money saved on incarceration would be available for drug treatment. The real issue before the board, though, was whether changes in the drug laws were within the purview of the board. After consultation with counsel, the board determined that changing drug laws related to the board's concern for the administration of justice.

WSBA President Jan Eric Peterson reported on the Western States Bar Conference, noting that Washington seems to be "ahead of the curve" in looking at the "technology future" for the practice of law. He discussed such issues as cybersettlement, LMOs (Law Maintenance Organizations — like HMOs for legal services), desktop lawyering and laptop bar exams.

Other issues reported:

- The Idaho Bar has created a "Citizens' Academy" of law with students attending

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The Law Book also features an interview with Chief Justice Gerry Alexander, and "A Proud Tradition," by President Jan Eric Peterson.

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- Eugene M. Moen, JD
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- Patricia K. Greenstreet, RN, JD
- Paul S. Nelson, MD, JD

a 2-1/2 hour session for 12 weeks. Despite the heavy schedule there is "lots of enthusiasm."

- The Montana Bar is developing a "rookie camp" for new attorneys to provide some instruction in how to be a lawyer after three years of learning how to be a law student.
- Every bar is struggling with the issue of diversity. A survey presented at the Western States Bar Conference showed that:
  - 97 percent of lawyers are white;
  - 32 percent of the population are people of color;
  - Attorneys now have the highest suicide rates among professionals;
  - 72 percent of the population will use an attorney's services one to five times during their lives.

The board heard a report that Idaho and Oregon are moving forward on the issue of reciprocity among the three states. It was reported that the Idaho Supreme Court has informally agreed, and the official reciprocity rule is just waiting for the justices to sign the final rule. The Oregon Supreme Court is expected to enact that state's reciprocity rule before early summer as well.

Retired Judge Donald Horowitz, representing the Access to Justice Board, reported on a plan to create an Access to Justice Technology Bill of Rights, with the objective of providing increased opportunities and reducing barriers to access technology.

The basics of the report include a belief that developments in information technology and information systems "pose significant challenges to full and equal access to the justice system." To accomplish its goals, the ATJ board lays out a full program involving a designated justice of the Washington Supreme Court, all three law schools, Columbia Legal Services, the Northwest Justice Project, and the Berkman Center for Internet and Society at Harvard Law School.

Judge Horowitz also reported that he is working nearly full time on the project, and that a family foundation that he manages will contribute $25,000 to the project.

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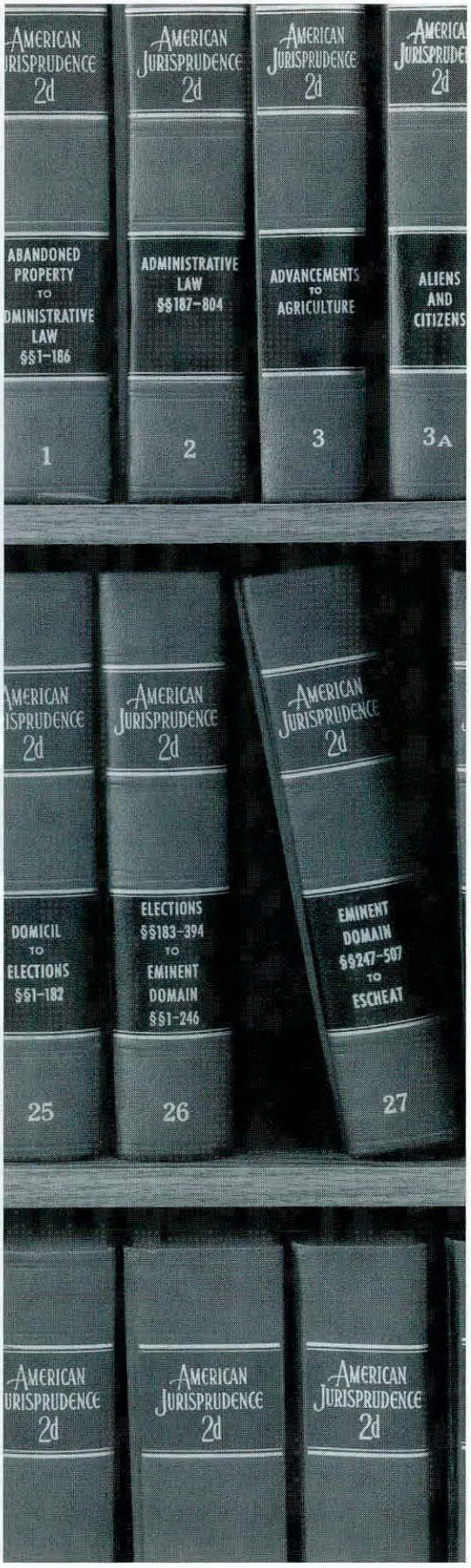

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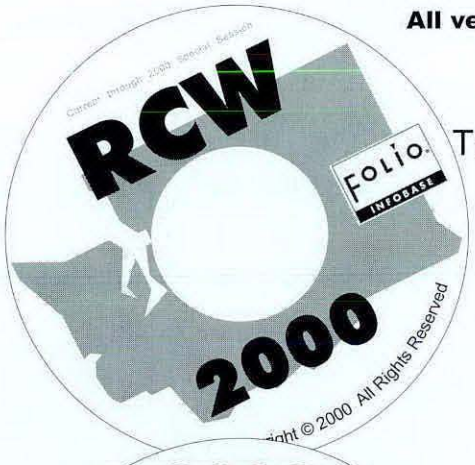

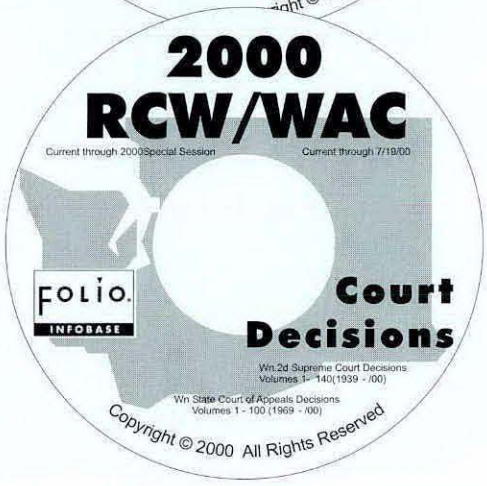

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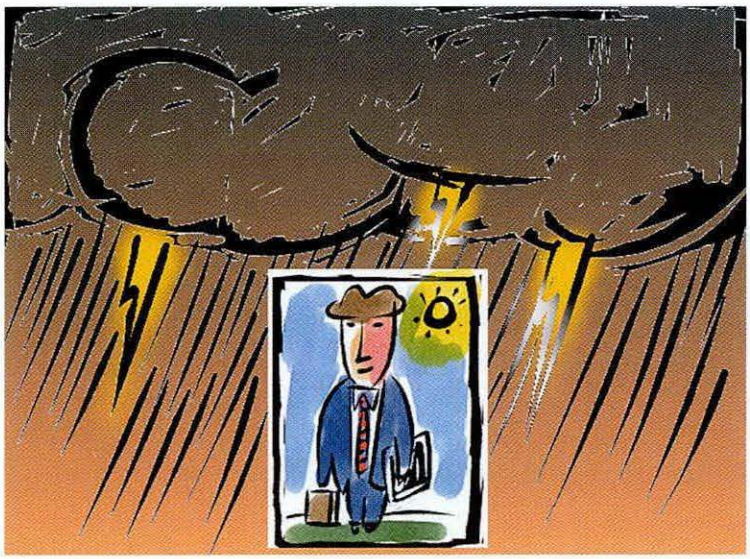
Wizards of Justice: The Power of Imagination

by Stella Rabaut



Wizardry is about magic, wisdom and imagination — a joint enterprise of head and heart.

I never imagined that while my friends were shopping for cranberries and pumpkin on the weekend before Thanksgiving, I would be boarding a plane bound for Kalamazoo, Michigan. My task was both compelling and pleasing. I had been invited to facilitate a gathering of outstanding lawyers from the bench and the bars (state bars, that is). This "summit" gathered under the rubric of "Healing and the Law." We were invited to envision and share innovative approaches to "healing" in the practice of law.

Looking back, nothing in my career has ever provided me more professional pleasure. For 20 years I have practiced law, counseled clients, and participated in courtroom dramas and traumas. In my heart, and occasionally in print, I questioned our way of doing business. But I hardly expected this conversation would become explicit. I did know that this meeting in Michigan would call for collective wizardry — which is to say, imagination.

I applaud the Fetzer Institute for providing the money and people to make this inquiry happen. I value those attending who, despite family and other life demands, chose to give personal time to this passionate conversation. I value the openness of heart and mind with which they gathered from different areas of the profession and the country. Although each one had expertise, all were present as learners. Ours is a profession wedded to precedent and logic, so I value the courage to reconsider things that have long been established norms in the profession, while exploring and imagining new possibilities.

The snow fell, sticking to the bare trees surrounding the Seasons Retreat Center, as the fireplace warmed the room. The bell chimed and conversation began with personal statements about why each participant had accepted the invitation to explore law as a healing profession.

All of us can look back with pleasure, disbelief, or even shock, and recall our historic roots as healers of conflict. Perhaps with this in mind, over 15 years ago, U.S. Supreme Court Chief Justice Warren Burger challenged members of the American Bar Association with the query: "Should lawyers not be healers? Healers, not warriors?" Paradoxically, we look back in order to move forward. "Chaos theory" has taught us that in any organization present order is always on its way to disorder and chaos so that a higher level of organization may arise. Our challenge is not one of simply re-engineering things of the past, but to imagine a creative new design for the future; to step outside of the known and see the connecting patterns emerging within and across all professions and cultures, even law. The group at Fetzer took such a step.

The conversation in other disciplines is fused with new systemic thinking and integral awareness of the interrelatedness and interdependency of all living systems, which (we hope) includes legal communities. In the larger conversation about the well-being and the future of the human community, the organizing priority of "knowing" is expanding to include an equal and interactive emphasis on "relating." Being a "wizard of the law" means developing the mind skills of rational analysis, but simultaneously attending to the heart and spirit of the attorney as well. This moves us toward a rebalancing and integration of the influences of the "thinking" (left) with the "feeling" (right) sides of the brain.

In the legal culture today, wizardry is expanding. (Harry Potter could become interested in law school.) In addition to the Healing and the Law project, there are imaginative "happenings" in other arenas of law practice. The restorative justice movement, the collaborative law movement, creative drug courts, and the interdisciplinary perspective of therapeutic jurisprudence are all gaining momentum.

These emerging developments have common themes that wizards grasp in an integral embrace. Foremost is sustained attention to the *emotional process*, both within and between the parties. Since human beings are fundamentally emotional beings, this awareness comes to us belatedly in a blinding flash of the obvious. Second is *congruence in personal and professional values*, emphasizing integrity on the part of the attorney whose behavior embodies his inner values. In time, the term "lawyering the truth" will be spoken not in a tone of contempt, but as a compliment to honesty. Third, *collaboration* is a mindset that seeks fairness in outcome rather than win-

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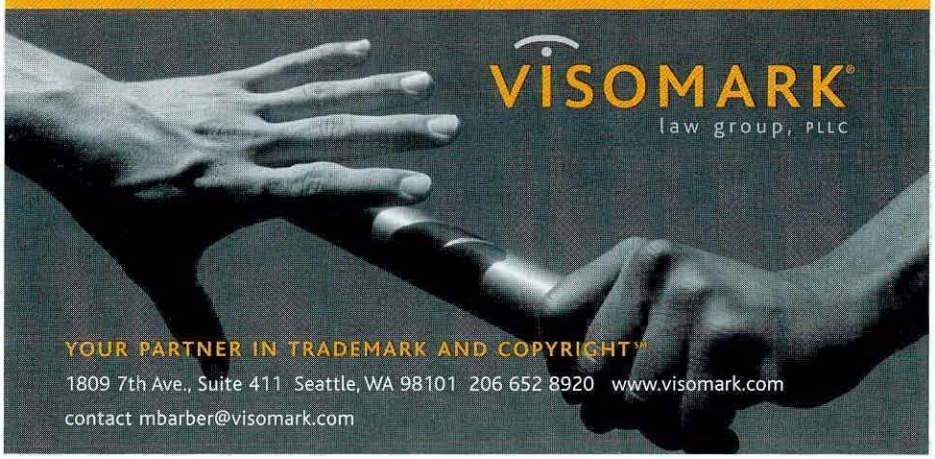

ning at any cost. In this sense, outcome takes precedent over income. Finally, the overall focus of these innovative approaches is on the lawyer's role as *healer and coach.* This organizing principle conclusively defines law as a helping profession.

Along with satisfaction, redress, reconciliation, learning and growth come desired outcomes. The attorney expects and suggests a good outcome, and provides strong encouragement for discernment and responsibility on the part of clients. This creates a rich understanding of justice as a step towards wholeness. So we give up the hierarchical "expert" stance because the "counselor at law" role is more holistic and life-giving, and is a better representation of the client's deeper interests than the zealous advocate. Healing and the law includes healing for the lawyer. These are "transforming practices."

It does, however, call for a different level of consciousness on the part of the attorney. This cannot be coerced, for each one of us is on his own internal timetable. So the watchword is patience, along with imagination. As the four elements of emotional sensitivity, congruency, collaboration and coaching are held together, we begin to create "integral law," keeping pace with the movement toward integrity in all the other large communities of influence within our nation.

Before the wizards left Kalamazoo, the next steps were outlined: for judges, a conference titled *Healing from the Bench*; for lawyers, gatherings to exchange "healing stories" reinforcing new values; for the public, a media plan portraying lawyers in this emerging role; and for law schools, a conference to consider how to create curriculum allowing for the formation of lawyers as counselors and healers. Students who now graduate with less of self than when they arrived can look forward to graduating as whole people.

When the bell chimed for the last time, I headed back to the softly persistent rain of the Northwest. Fetzer is now just a memory, but the dream is very much alive.

Stella Rabaut is adjunct faculty at the Leadership Institute of Seattle. Her particular interest is in safeguarding the human spirit in the context of the legal profession. She can be reached at stellamr@aol.com.

Changing Venues

Honors and Awards

U.S. District Court Judge **Robert S. Lasnik**, of the Western District of Washington, has been appointed to the newly established Public Information and Community Outreach Committee for the United States Courts for the 9th Circuit. The committee is exploring ways the federal courts in Western states can strengthen ties with local communities, and become more accessible to the public and the media.

Movers and Shakers

William L. Dixon, an associate in the Seattle firm Short Cressman & Burgess PLLC, has become a certified sports agent for the National Football League. As one of nine NFL agents in Washington, he offers athletes representation in contract negotiations, endorsements, public relations and marketing.

Warren Rheaume has joined the Seattle office of Heller Ehrman White & McAuliffe LLP as a lateral shareholder. He concentrates on commercial litigation emphasizing trademark, copyright and trade secret issues.

Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim PLCC has promoted four lawyers to member. **Timothy L. Ashcraft** joined the Tacoma office in 1996 and focuses on complex, insurance and commercial litigation. **Julie E. Dickens** concentrates on estates and trusts, real estate and general business in the firm's Seattle office. **Joan C. Foley** joined the Seattle office in 1995 and emphasizes environmental, complex and general litigation. **T. Lee Humphreys** has focused on international business transactions, federal taxation, executive compensation, and ERISA since joining the Tacoma office in 1999.

Christopher E. Roy has joined the Vancouver firm Duggan, Schlotfeldt & Welch PLLC. He focuses on commercial litigation, construction law, real estate litigation and transactions, and creditors' rights.

Barry J. Briggs has joined the commercial transactions department in the Seattle office of Perkins Coie LLP as of counsel. His practice emphasizes real estate finance, commercial finance, financial institutions, and bankruptcy and workouts. **Theodore J. Collins** has rejoined the firm after more than 15 years of service to the Boeing Company. Prior to leaving the firm in 1986, Mr. Collins was an administrative partner and head of the litigation department. He currently focuses on corporate governance and commercial litigation. **S.H. Gregory Overstreet** has joined the firm's Olympia office as of counsel. He assists industry trade associations and businesses with land use matters, and issues related to administrative and regulatory law.

Christopher E. Roy

Gregory J. Duff

Mischelle R. Fulgham has been promoted to principal in the Spokane firm Lukins & Annis PS. She is a litigation lawyer focusing on general and civil litigation, with an emphasis on land use issues, contract disputes, real estate litigation and employment law.

Michael Schrenk has been promoted from associate to member in the Seattle office of Cozen and O'Connor.

Soojin E. Kim, **Kelly M. Mann**, **Daren H. Nitz** and **Mark A. Reinhardt** have joined the Seattle office of Graham & Dunn PC. Ms. Kim and Ms. Mann (a member of the Oregon State Bar) are associates on the real estate team. Ms. Kim concentrates on condemnation law, while Ms. Mann focuses on environmental and land use issues. Mr. Nitz and Mr. Reinhardt are shareholders and members of the technology and e-commerce team. Mr. Nitz has over 11 years' experience representing companies in national and international business transactions. Mr. Reinhardt's experience is in advising public and private entities on venture capital financing, securities offerings, mergers and acquisitions, and general corporate representation.

John L. Groh has joined Preston Gates & Ellis LLP as of counsel in the Seattle design and construction practice group. He has more than 20 years' experience representing municipalities, school and transit districts, and park authorities in the design, construction, joint development, operation and privatization of capital improvement projects. **Carter R. Mackley** (member of the Idaho and Washington, D.C. bars) has joined the firm as an associate in the Seattle office. He concentrates on corporate finance, and mergers and acquisitions.

Gregory J. Duff has joined the technology transactions group at the Seattle firm Cairncross & Hempelmann PS. He concentrates on hospitality law. Mr. Duff previously worked for Webvan Group, and Starwood Hotels and Resorts Worldwide.

C. James Enriquez has been appointed managing attorney of the Law Offices of Paul D. Kirschner and Associates PS in Seattle. His practice emphasizes tax representation and bankruptcy.

IN MEMORIAM

Kristina K. Gibbs died February 17 at age 53. A 1973 graduate of Gonzaga University School of Law, Ms. Gibbs was a self-employed attorney and a longtime resident of Spokane.

Dan Fenno Henderson died March 14 at age 79. Mr. Henderson started the Asian law program at the University of Washington in 1962 and directed it for nearly 30 years. Fluent in Japanese, he traveled all over the world, and served as a visiting professor at universities in Australia, China, England, Japan, the Netherlands and the United States.

Spokane lawyer **Edward J. Parry** died February 6 at age 72. Before going into private practice, Mr. Parry served as deputy prosecutor and chief civil deputy for Spokane County, retiring in 1999. He was active in Rotary and Knights of Columbus, and served on the board of the Red Cross.

Lawyer Discipline: 2000 Summary Report

by Barrie Althoff • *WSBA Chief Disciplinary Counsel*

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

This article summarizes what happened during the year 2000 in Washington's lawyer disciplinary system.

Grievants file with the WSBA Office of Disciplinary Counsel (ODC) allegations of unethical conduct by Washington lawyers. The ODC investigates and either dismisses or prosecutes the grievances, as well as those which it may open in its own name. Prosecutions must first be authorized by order of a three-person Review Committee (two lawyers and one nonlawyer). Volunteer lawyers act as trial-court hearing officers. Collectively, all members of all four Review Committees sit as the WSBA Disciplinary Board, which serves as a disciplinary appellate court. The Washington Supreme Court, which has exclusive authority to suspend or disbar lawyers, serves as the disciplinary court of last resort.

Number of Lawyers Disciplined

In 2000, 79 formal disciplinary sanctions (permanent public records) were imposed on Washington lawyers, consisting of 18 disbarments, 26 disciplinary suspensions, 14 reprimands and 21 censures. In addition, 28 lawyers were formally admonished (generally a nonpermanent public record) for their misconduct. Another 12 lawyers were suspended from practice on an interim basis (not a disciplinary sanction) pending disciplinary proceedings. The 107 sanctions/actions were imposed on 102 different lawyers, with a number of lawyers receiving multiple sanctions. The total of 107 is more than twice as many sanctions/actions as the 49 that were imposed in 1999, the difference mostly due to older backlogged investigations being completed.

As of midyear 2000, Washington had about18,700 active in-state lawyers. In 2000, about one in every 237 was formally sanctioned (disbarred, suspended for discipline, reprimanded or censured), and one in every 668 was formally admonished. Or, collectively, one in every 183 Washington lawyers (about 6/10 of one percent) was either sanctioned or admonished. Alternatively, 182 of 183 Washington lawyers (about 99.4 percent) were *not* subject to any disciplinary sanction or action last year.

If each of Washington's more than 18,700 active in-state lawyers represented only 20 clients in 2000 (an unrealistically low assumption), less than one percent of those 374,000 lawyer-client representations resulted in a grievance, or, more than 99 percent did not result in a grievance.

Nature and Number of Grievances

During 2000, the ODC opened files on 3,427 new matters including 2,244 written grievances (allegations of unethical conduct), 536 lawyer-client file disputes, and 647 lawyer-client noncommunication matters. This 32 percent increase over the prior year is made up of both increased formal and informal grievances. While some lawyers were subject to multiple grievances (in one case, over 40 grievances), grievances averaged about one for every five lawyers. However, this statistic does not accurately reflect client satisfaction. If each of Washington's more than 18,700 active in-state lawyers represented only 20 clients in 2000 (an unrealistically low assumption), less than one percent of those 374,000 lawyer-client representations resulted in a grievance, or, more than 99 percent did *not* result in a grievance. This suggests that Washington lawyers continue to do a very good job in satisfying their clients.

Cases in Inventory

Although most grievances are closed shortly after being opened, to the grievant and respondent they nearly always seem to take too long to resolve. In the past, this was a serious problem. As of December 31, 2000, however, there were only two investigations still in inventory that had been filed with the office before September 1, 2000. This excludes about 111 files that, pursuant to Supreme Court and Board of Governors' policies, have been deferred pending resolution of criminal or civil litigation involving the same or similar issues. At the close of 2000, the ODC had in inventory about 475 investigations, consisting of 122 files in the intake team, 185 files in the investigation teams, 57 files pending Review Committee action, and the deferred files. In effect, the ODC no longer has a backlog of investigations, and is handling them all on a current basis in accordance with the Board of Governors' aspirational guidelines. In addition to open investigations, the ODC had pending 116 formal prosecutions at the end of the year, ranging from matters just ordered to hearing to cases awaiting Supreme Court decisions.

In addition to the ODC's handling of formal grievance investigations and prosecutions, in 2000 its consumer affairs team received more than 4,000 telephone calls from the public calling about lawyers' performance or disciplinary histories, mailed out 3,806 grievance brochures and forms and over 1,000 other law-related information brochures, handled over 5,400 additional calls from the public on pending matters, and took part in 134 in-person meetings with members of the public.

Nature of Grievants

About 55 percent of all grievances were filed by clients (24 percent) or ex-clients (31 percent), while 16 percent were filed by opposing clients (15 percent) or opposing counsel (one percent). The WSBA itself filed 11 percent of grievances, mostly for trust account problems. The rest of the grievances were filed by other lawyers (two percent), court reporters and expert witnesses (three percent), judges (less than one percent), and others (13 percent).

Practice Areas Involved in Grievances

As in prior years, most grievances were filed against lawyers practicing family law (25 percent), criminal law (21 percent), personal injury law (10 percent), real property law (six percent), and estates/probate law (five percent). Grievances were filed in lesser amounts against lawyers practicing in the areas of commercial law, labor/employment matters, bankruptcy, collections, immigration and corporate/business matters. The areas in which most grievances were filed are generally the most common areas of practice with the most clients, and thus are most likely to receive grievances. In addition, clients in these areas often have not previously dealt with lawyers, and often have unrealistic expectations of what their lawyer will or can do for them, or what the lawyer's services will cost.

Statistics are not available on the type of organization in which lawyers against whom grievances are filed practice. Sole practitioners or lawyers in small partnerships, however, appear more likely to receive grievances, reflecting that such practices often deal with more unsophisticated clients, handle more high-volume/low-profit cases, and may be struggling to implement the office-management and quality-control procedures more common in larger firms which might internally catch problems before they result in grievances.

Grievance Allegations

About 44 percent of formal grievances allege that the lawyer either did not perform promised legal services at all, unduly delayed performance beyond what the client expected, failed to adequately communicate with the client, or otherwise failed to perform required duties to the client. About 17 percent allege interference with justice by the lawyer, by, for example, communicating with represented adversaries, making misrepresentations to a court, disobeying court orders, or filing harassing lawsuits. Another 11 percent relate to the lawyer's personal conduct, including criminal convictions of the lawyer, misrepresentations by the lawyer to non-clients, failure to pay debts, practicing while suspended, use of offensive language, and so on. Another eight percent allege the lawyer charged excessive fees, failed to return unearned fees, or made unauthorized withdrawal of disputed fees. About 10 percent allege failure by the lawyer to satisfy duties to the client, including making misrepresentations to the client, disregarding conflicts of interest, improperly withdrawing from representation, failing to turn over files to the client, or settling cases without authority. Another 10 percent allege trust account violations.

Reasons for File Closures

The ODC examines each submission it receives to determine if it alleges an ethical violation. About 18 percent of 2000 sub-

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missions failed to do so and were dismissed. If a submission alleges an ethical violation, the ODC considers its materiality and investigates as appropriate. In 2000, the ODC dismissed 34 percent of submissions after either a formal (19 percent) or informal (15 percent) investigation showed that, although a violation was alleged, there was either no evidence or insufficient evidence to establish a violation had occurred. Another 11 percent were dismissed further into the disciplinary process by a Review Committee or the Disciplinary Board. File disputes (15 percent) and noncommunication matters (19 percent) were generally closed and resolved informally outside of the grievance-discipline process. About six percent of closures were viewed as essentially fee disputes not appropriate for lawyer discipline and were dismissed and referred to voluntary fee arbitration, while another two percent were referred to informal mediation. About three percent of grievances were deferred pending resolution of civil or criminal cases in which substantially similar issues were being raised. About three percent of closed files resulted in some form of discipline.

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Supreme Court Decisions & Rules

During 2000, the Supreme Court issued three published opinions in lawyer disciplinary cases relating to lawyers' misconduct. In the first, *In re Discipline of Halverson*, 140 Wn.2d 475 (2000), the Court suspended a lawyer from the practice of law for one year, holding that the lawyer's sexual relationship with his client constituted a conflict of interest under RPC 1.7(b), that he failed to communicate with the client under RPC 1.4(b), and that he failed to exercise independent judgment under RPC 1.2. Shortly after issuing this opinion the Court adopted new RPC 1.8(k), which generally prohibits lawyers from having sexual relationships with clients.

During 2000, the Supreme Court issued three published opinions in lawyer disciplinary cases relating to lawyers' misconduct.

In the second, *In re Discipline of Anschell*, 141 Wn.2d 593 (2000), the Court ordered a two-year suspension (followed by two years' supervised probation) and restitution for a lawyer for repeated misconduct in a high-volume, low-fee immigration practice. The Court found violations by the lawyer of RPC 1.3 (diligence), RPC 1.4 (communication with clients), RPC 1.5 (reasonable fees), RPC 1.15(d) (refunding unearned fees), and Rule 2.8 of the Rules for Lawyer Discipline (requiring a lawyer to cooperate in a bar disciplinary investigation).

In the third, *In re Discipline of Tasker*, 141 Wn.2d 557 (2000), the Court, in an opinion by Justice Sanders (Justices Ireland and Bridge dissenting), rejected the 9-1 recommendation of the Disciplinary Board that a lawyer be disbarred, and instead suspended a lawyer for two years. The lawyer's misconduct included repeated commingling of personal and client funds in client trust accounts so as to avoid paying court-ordered child support, paying personal expenses out of client trust accounts and violating trust account rules, and lying at a disciplinary hearing. The Court held that

delay in prosecution and the lawyer's "rehabilitation" during the delay mitigated the otherwise applicable presumptive sanction of disbarment. Although the opinion stated that the lawyer's testimony amply demonstrated he lied at his disciplinary hearing, and that the lying was undisputed, no weight was given to lying as a sanction aggravator.

Acceptance of "rehabilitation" as a mitigator in this case leads to some peculiar conclusions. Apparently if a lawyer is caught in misconduct, but thereafter behaves before being prosecuted and while under observation of a prosecutor (especially if the prosecution takes longer than the Court in hindsight thinks should be taken), the lawyer is deemed "rehabilitated" and entitled to a reduced sanction. This curious result, undoubtedly welcomed by the well-behaved incarcerated, proves the wisdom of the ancient maxim to "make virtue out of necessity."

An observer might query what it takes to get disbarred in Washington, since a lawyer who hid money in his client trust account to avoid paying court-ordered child support, used client funds to pay his own personal expenses, and lied to the Bar is, in effect, found still fit to serve as a fiduciary and "guardian of the law" (see the Preamble to the RPCs). The decision does little to lessen public skepticism about the honesty of lawyers or the efficacy of their self-regulation. The case should best be seen as a peculiar aberration not indicative of what is an acceptable minimal level of conduct for Washington lawyers.

During 2000 the Court also adopted two lawyer-conduct rule proposals which had been pending several years before the Court: (1) a new Rule 1.8(k) to the Rules of Professional Conduct that generally prohibits lawyer-client sexual relationships as conflicts of interest; and (2) a revision to RPC 8.4(g) and a new RPC 8.4(h) which, respectively, adopt a single statewide standard as to discriminatory lawyer conduct and which prohibit certain discriminatory conduct.

Late in 1999, the Supreme Court and the WSBA jointly appointed a Discipline 2000 Task Force to review the Rules for Lawyer Discipline and disciplinary procedures with a view to improving the workings of the discipline system. That task force met numerous times throughout 2000 and expects to complete its work by the end of the current year.

Formal Ethics Opinion

The WSBA Board of Governors adopted Formal Ethics Opinion 196, prohibiting a law firm from using the name of a suspended or disbarred lawyer as part of its name.

Ethics Presentations

Over the last several years, the ODC has sought to help Washington lawyers understand their ethical obligations by making ethics presentations and writings available to lawyers throughout the state. It continued that effort last year by making more than 70 ethics presentations and by writing numerous legal ethics articles.

Further Information

The ODC publishes the *Washington Lawyer Discipline Manual* annually. The most recent version reprints relevant disciplinary rules, guidelines and year 2000 discipline notices, and contains the 2000 annual discipline report. It is available for $15 from the ODC.

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Disciplinary Notices

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

For a complete copy of any disciplinary decision, call the Washington State Disciplinary Board at 206-733-5926, leaving the case name and your address.

Suspended

Mark D. Bantz (WSBA No. 7790, admitted 1977), of Spokane, was suspended for six months following a stipulation approved by order of the Supreme Court dated September 1, 2000. The discipline is based upon his failure to diligently represent and communicate with a client in an immigration matter.

In 1995, the client's previous lawyer was disbarred. A year later, the disbarred lawyer asked Mr. Bantz to represent the client. In August 1996, Mr. Bantz agreed to represent the client in an immigration matter. Mr. Bantz was not familiar with immigration law or procedures, but agreed to represent the client temporarily, until other counsel could be found. The disbarred lawyer wrote a memorandum to Mr. Bantz about what needed to be done on the client's case.

On August 21, 1996, Mr. Bantz filed a notice of appearance with the Immigration and Naturalization Service (INS) on his client's behalf. On September 25, 1996, during a master calendar hearing, the immigration judge instructed Mr. Bantz to file an asylum application to be considered on December 11, 1996. Mr. Bantz contacted the client the morning of the hearing to remind him to attend. The client arrived at Mr. Bantz's office 30 minutes prior to the hearing and found the doors locked. The client waited for two hours, then left a note for Mr. Bantz. Mr. Bantz did not contact the client.

Mr. Bantz did not appear at the hearing because he was scheduled to appear in a different court at the same time. He contacted the clerk, but she told him she had no authority to reschedule the hearing. Mr. Bantz did not file the asylum petition or attempt to reschedule the hearing. On February 26, 1997, the immigration judge denied the client's application for asylum based upon abandonment. Mr. Bantz received a copy of the order, but did not file an appeal during the 30-day statutory deadline.

On July 1, 1997, the client was ordered deported to Iran, from where he had fled after the 1979 Islamic Revolution. The client retained another lawyer to attempt to re-open his case based on incompetence and ineffective assistance of counsel concerning Mr. Bantz. Mr. Bantz did not respond to calls from the client's new counsel. The client is time barred from obtaining political asylum, but the INS agreed to withhold his deportation.

By failing to file the client's petition for asylum, attend the hearing or file the appeal, Mr. Bantz's conduct violated RPC 1.3, requiring lawyers to diligently represent their clients. By failing to contact his client, Mr. Bantz's conduct violated RPC 1.4, requiring lawyers to keep clients reasonably informed about the status of their matters. By failing to pursue the asylum petition, Mr. Bantz's conduct violated RPC 1.2(a), requiring lawyers to abide by their clients' decisions regarding the objectives of the representation.

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

CONSUMER ALERT

HIP REPLACEMENT PATIENTS

At the law firm of Williams Dailey O'Leary Craine & Love, our attorneys are respected nationally for their leadership and experience in fighting for clients who have been harmed by defective medical products.

We have successfully helped hundreds of seriously injured people and their families, and we welcome your referrals. Last year alone our firm paid over $3 million in referral fees to other attorneys.

Williams Dailey O'Leary Craine & Love is currently representing hip replacement patients in their claims against Sulzer Orthopedics, a Swiss corporation which manufactured defective implants from 1997 to December 2000.

Due to this defective manufacturing, Sulzer Orthopedics created implants that failed to bond with the hip joint. This causes severe pain and discomfort, and may require surgery to replace the joint.

Williams Dailey O'Leary Craine & Love is uniquely qualified and prepared to protect the interests of your clients. For additional information on Sulzer hip implants please call us.

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1001 SW Fifth Avenue, Suite 1900 Portland, Oregon 97204

Diana Craine - Attorney

Locally **(503) 295-2924** www.wdolaw.com email: info@wdolaw.com Toll-free **(800) 842-1595**

Suspended

Michael L. Jacob (WSBA No. 11622, admitted 1981), of Bainbridge Island, was suspended for 18 months following a stipulation approved by order of the Supreme Court dated September 1, 2000. The discipline is based upon his lack of diligence in several family law matters.

Matter 1: In April 1995, Mr. Jacob agreed to represent the father in a child-support modification. Mr. Jacob told the client that his $697 monthly payment was clearly excessive, and that the modification would be straightforward.

On July 27, 1995, Mr. Jacob filed the client's petition for support modification. Although Mr. Jacob and the client had discussed filing a motion for temporary orders, Mr. Jacob did not file those pleadings. The parties were unable to reach agreement, so Mr. Jacob obtained a June 21, 1996 trial date. Mr. Jacob failed to serve notice of this trial date on opposing counsel. When Mr. Jacob discovered that opposing counsel was unaware of the trial date, he agreed to strike that date. Opposing counsel wrote to Mr. Jacob several times between July 1996 and January 1997, however, Mr. Jacob did not respond. Consequently, opposing counsel notified Mr. Jacob that he would object to any reduced child-support amount becoming effective retroactively.

In August 1996, the client filed a grievance with the WSBA stating that his case was still active after 16 months, and that Mr. Jacob would not return his calls. Mr. Jacob twice told his client that the trial would occur within a few weeks, but this did not happen. Between April and November 1997, several trial dates were set and cancelled. In April and July 1997, opposing counsel filed motions to dismiss the petition. Mr. Jacob agreed to pay opposing counsel $600 as compensation for these motions. As of the date of the stipulation, Mr. Jacob had paid only $200 of this amount. On November 6, 1997, the client retained substituted counsel. On November 17, 1997, the court entered an agreed order of child support, reducing the client's payment to $550 per month effective December 1, 1997.

Matter 2: In September 1994, Mr. Jacob agreed to represent the husband in a marriage dissolution matter. Mr. Jacob filed the petition for dissolution on March 6, 1995. On March 28, 1995, opposing counsel wrote Mr. Jacob a letter about the division of the assets and liabilities in the case. On May 5, 1995, opposing counsel contacted Mr. Jacob by phone, asking why he had not received an answer to his letter. Mr. Jacob promised to respond to the letter, but did not do so.

On June 23, 1995, opposing counsel sent Mr. Jacob a letter requesting that his client vacate the condominium shared by the clients. Mr. Jacob's client did leave the condominium, but allegedly took various items of community and separate property. Opposing counsel wrote Mr. Jacob three letters requesting that his client return the property. Mr. Jacob did not respond to any of these letters. On June 27, 1995, opposing counsel served Mr. Jacob with interrogatories and requests for production. Mr. Jacob did not provide the answers or requested documents by the due date. Opposing counsel filed a motion to compel

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MEMBER: NATIONAL ASSOCIATION OF CERTIFIED VALUATION ANALYSTS

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Email whanlinjr@aol.com

answers to the interrogatories, award possession of the condo, require the return of the property, and for a restraining order and terms. Mr. Jacob did not inform his client of the motion, did not file a response to the motion, and did not appear at the hearing. The court ordered the client to return the property, and answer the interrogatories and requests for production by August 17; it awarded possession of the condo to the wife, awarded opposing counsel $750 in fees, and continued the hearing until August 18. Mr. Jacob did not submit answers to the interrogatories or requests for production by the court's deadline, and did not attend the hearing or tell his client about the hearing.

On August 18, the court found the client in contempt, provided that he could purge the contempt finding by providing answers to the interrogatories by August 24, 1995, continued the hearing to August 25, and assessed an additional $250 in terms. Mr. Jacob sent the client the interrogatories for the first time in mid-August. He did not tell the client about the court orders, but paid the $1,000 imposed by the court himself. Mr. Jacob did submit interrogatory answers to opposing counsel, but opposing counsel notified Mr. Jacob that he believed the answers were inadequate and filed a motion for an order to show cause regarding the contempt judgment.

Mr. Jacob and his client appeared in court for the hearing on November 17, 1995. The court ordered that the client provide additional information, continued the hearing, and awarded an additional $600 in attorney's fees. Mr. Jacob told his client that he would pay one-half of the awarded fees, but he has not done so. Following a conference, the parties reached agreement. The court entered the decree of dissolution on March 29, 1996. Mr. Jacob did not provide a copy of the decree to his client.

Matter 3: On February 28, 1995, Mr. Jacob agreed to represent the husband in a marriage dissolution matter. Although the client believed that Mr. Jacob would file the petition for dissolution immediately, he did not file it until October 29, 1996. The client also thought that Mr. Jacob would seek temporary orders, but he did not do so.

On December 4, 1996, opposing counsel sent requests for interrogatories and production to Mr. Jacob, but he did not respond. Mr. Jacob also failed to attend or file pleadings responding to opposing counsel's temporary orders hearing. At that hearing, the court required Mr. Jacob's client to pay $753 per month in child support, restricted his residential time with his children, and entered a $1,500 judgment against the client for the wife's attorney's fees. Mr. Jacob did not inform his client of this court order.

On April 10, 1997, opposing counsel filed a motion requesting that the court enter an order compelling answers to his discovery requests. In response, Mr. Jacob filed a notice of withdrawal. The court entered an order compelling discovery and requiring Mr. Jacob's client to pay an additional $350 in terms.

Matter 4: On May 6, 1996, Mr. Jacob agreed to represent the wife in a marriage dissolution action. Mr. Jacob prepared the

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Lane Powell Spears Lubersky LLP is pleased to announce that these attorneys have become partners in our Firm's Washington and Oregon offices.

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petition for dissolution and arranged for the husband to be served in California. On June 19, 1996, the client notified Mr. Jacob that she had retained other counsel. In October 1996, the client requested a refund of the $1,690 fee she had paid. On May 8, 1997, Mr. Jacob returned $500 to the client, stating that this was one-third of her refund. He promised to make two additional monthly payments, but had not done so by the date of the stipulation.

Matter 5: On November 7, 1996, Mr. Jacob agreed to represent the father in a hearing, scheduled for that same day, regarding $25,000 in back-due child support. The client paid Mr. Jacob $1,500. Mr. Jacob and opposing counsel agreed to continue the hearing in exchange for a $3,963 payment from Mr. Jacob's client. After reviewing information from opposing counsel, Mr. Jacob agreed that his client owed $10,975.19 in back child support. Based on this conclusion, Mr. Jacob decided not to file a response for the hearing. Mr. Jacob did not notify his client of his agreement regarding the amount or his decision not to respond. At the December 13, 1996 hearing, with Mr. Jacob's agreement, the court entered a $8,975.19 judgment against the client. Approximately 10 days later, the client retained new counsel.

Matter 6: On September 12, 1996, Mr. Jacob agreed to represent a husband and wife in two matters, a stepparent adoption and a residential placement modification. The clients paid Mr. Jacob a total of $2,350 for both matters. Initially, Mr. Jacob told the clients that both matters should be completed by the end of the 1996-1997 school year.

On May 27, 1997, the client called the court and discovered that Mr. Jacob had not yet filed the petitions with the court. Although Mr. Jacob promised to file both petitions right away, he did not. On July 14, 1997, the clients discharged Mr. Jacob and requested a refund. Mr. Jacob did not respond to this request. On February 6, 1998, the clients obtained a $2,300 small-claims judgment against Mr. Jacob. As of the date of the stipulation, Mr. Jacob had not paid the judgment.

Matter 7: On September 28, 1995, Mr. Jacob agreed to represent a husband in a child-support collection case. Although the client was subject to a child-support order, he believed he was not the child's father, and requested that Mr. Jacob stop the collection. The client paid Mr. Jacob $1,500.

In either October or November 1995, the Office of Support Enforcement notified the client that he was released from his child-support obligation. In May 1997, the client obtained a credit report verifying that he did not owe child support and that the past-due amounts had been removed. Mr. Jacob advised the client to take no further action. In August or September 1998, the client began receiving notices from the Hawaii OSE regarding back-due child support. In October 1998, after several attempts to speak with Mr. Jacob, the client requested his file and a refund of his fees. Mr. Jacob returned the client's file in January 1999, but as of the stipulation date, had not returned the fees.

Matter 8: On June 17, 1998, Mr. Jacob received the Supreme Court order suspending his license to practice law in Washington for failing to pay the required WSBA

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Lawyers' Fund for Client Protection

The Lawyers' Fund for Client Protection Committee meets quarterly to review applications for gifts from the fund. The committee is authorized to make gifts to qualified applicants of up to $3,000. On applications of more than $3,000, the committee makes recommendations to the Board of Governors, who are the fund's trustees. At its meeting on February 5, 2001, the committee took the following action:

Ronald O. Foster-Balloun aka Roland O. Foster Balloun (Bar No. 20884, Blaine; disbarred): The committee previously reviewed five claims involving Balloun and approved two. In this case, Balloun failed to account for estate funds he was holding in trust. The committee approved a gift of $16,435 to beneficiaries of the estate.

Mickie E. Jarvill (Bar No. 14049, Snohomish County; suspended pending discipline): The committee reviewed three claims regarding Jarvill and approved two. In the first, Jarvill became personal representative and lawyer for a relative's estate. In the disciplinary proceeding, the hearing officer found that Jarvill converted about $500,000 of estate funds to her own use. The committee recommended $30,000, the maximum amount payable from the fund. In the second matter, Jarvill converted client funds to her own use. The committee recommended payment of $30,000 to the client.

Hugh J. Kelly (Bar No. 14616, Spokane; suspended): The client paid Kelly $750 for representation in a child-support modification proceeding. Although Kelly filed a petition, he did nothing thereafter. In his disciplinary stipulation, he agreed to repay the client $750. The committee approved payment of that amount from the fund.

Jason James McCarty (Bar No. 15985, Olympia; suspended following criminal conviction): The applicant posted bail for McCarty's client. McCarty had an order entered exonerating bail and authorizing him to pay himself $2,500 without the knowledge or consent of the applicant. The committee approved payment of $2,500.

Daniel S. Wilner (Bar No. 21690, Kitsap County; disbarred): The committee reviewed 14 applications concerning Wilner and approved 11. One was deferred for further investigation. In all of these cases, Wilner accepted fees from clients and performed no services for them. In some cases, Wilner gave the client a refund check that was not honored because of insufficient funds. In one case, Wilner agreed to represent a client in a court proceeding in California even though he was not admitted to practice there. The committee approved payments in amounts ranging between $200 and $3,200.

Jonathan T. Zackey (Bar No. 21657, Bellevue; disbarred): The committee reviewed two applications, both of which involved conversion of client funds from personal-injury settlements. The committee recommended payments of $25,000 and $6,900.

The committee chair is Seattle attorney Thomas R. Dreiling. WSBA General Counsel Robert Welden is the staff liaison to the committee.

dues. On July 9, 1998, Mr. Jacob sent a bankruptcy questionnaire to a client and signed the attached letter as Michael Jacob, Attorney at Law. Mr. Jacob met with this client, executed a fee agreement, and accepted a $595 fee. Later, the client found that Mr. Jacob's telephone was disconnected and that the receptionist at the office did not know how to locate Mr. Jacob. The client went to the bankruptcy court and learned that Mr. Jacob had not filed his petition. As of the stipulation date, Mr. Jacob had not returned the client's money.

Mr. Jacob's conduct violated RPCs 1.3, requiring lawyers to diligently represent clients; 3.2, requiring lawyers to make reasonable efforts to expedite litigation; 1.4, requiring lawyers to keep clients reasonably informed about the status of their cases; 1.5, requiring lawyers to charge a reasonable fee for their services; 1.15, requiring lawyers to promptly deliver client funds to clients upon request; and 1.2, requiring lawyers to abide by a client's decisions regarding the scope of representation.

Marsha Matsumoto represented the Bar Association. Mr. Jacob represented himself.

Admonished

John D. Paul III (WSBA No. 12119, admitted 1981), of Spokane, has been admonished following an August 2000 order of a review committee of the Disciplinary Board. The disciplinary action is based upon his failing to abide by his client's decisions concerning the objectives of the representation.

Mr. Paul represented the husband in a marriage dissolution action. In July 1997, opposing counsel obtained an order of default without disclosing Mr. Paul's appearance to the court commissioner. The court vacated Mr. Paul's order at his request. In August 1997, opposing counsel again filed a motion for default. Mr. Paul did not attend the hearing, or file any pleadings on his client's behalf. He stated that he told opposing counsel that he could not attend the hearing due to another court hearing.

Mr. Paul did not tell his client that an order of default had been entered against him. He then filed an answer on his client's behalf admitting all of the allegations, agreeing to place the children with the wife, and accepting all of the community debt. Mr. Paul did not discuss this answer with his client, believing that the answer accurately reflected his client's position. In a later hearing, the court vacated the pleadings and found that Mr. Paul's affidavit contained false information about contact with his client. Mr. Paul later amended his affidavit, explaining that he had confused this case with a different case.

Mr. Paul's conduct violated RPCs 1.2, requiring him to abide by his client's decisions concerning the objectives of the representation; and 1.4, requiring lawyers to keep their clients reasonably informed about the status of their cases.

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

Opportunities for Service

WSBA Presidential Search

Application deadline: May 15, 2001

The Board of Governors of the WSBA is seeking applicants to serve as WSBA president for 2002-2003. Pursuant to Article IV(A)(2) of the WSBA Bylaws, the president's primary place of business must be in King County. The member selected to be president will have an opportunity to provide a significant contribution to the legal profession.

Applications will be accepted through May 15, 2001, 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, 2001 will be considered by the Presidential Search Committee and the Board of Governors. Applications and endorsement letters should be sent to the Office of the Executive Director, WSBA, 2101 Fourth Ave., Fourth Fl., Seattle, WA 98121-2330.

Confidential interviews with the Presidential Search Committee will be conducted May 16-31, 2001 at the WSBA office. Direct contact with the governors is encouraged. All candidates will have an interview with the full Board of Governors in open session at the June meeting. Selection of the president will be made by the board following the interviews.

Although prior experience on the Board of Governors may be helpful, there is no requirement that one must have been a member of the Board of Governors or 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 2001 following selection. A one-year term as president-elect will begin at the annual business meeting in September 2001. The president-elect is expected to attend two-day board meetings held every five to six weeks, as well as numerous subcommittee, section, regional, national and local meetings. At the annual business meeting in September 2002, the president-elect will assume the position as president. During his or her service, the president-elect and president will also be required to meet with members of the Bar, courts, media, public and legal interest groups, as well as be involved in the Bar's legislative activities. Appropriate time will need to be devoted to communication by letter, e-mail and telephone in connection with these responsibilities.

The duties and responsibilities of the president are set forth in the WSBA Bylaws at www.wsba.org/bylaws.

Presidential Search Committee: Victoria L. Vreeland, chair; Dale L. Carlisle; Daryl L. Graves; Lucy Isaki; Jan Eric Peterson; Lindsay T. Thompson.

Board of Governors Elections

Ballots will be mailed after May 15. The deadline for voting is 5:00 p.m., Friday, June 15, 2001. Ballots will be counted on Tuesday, June 19, 2001 at the WSBA office.

Governor Candidate Biographies

Note: Biographical statements have been provided by the candidates.

2nd Congressional District (uncontested)

Jon E. Ostlund

Graduated from the Gonzaga School of Law in 1974, and was in private practice in Bellingham from 1974 to 1982. From 1982 to the present has been the Whatcom County Public Defender. Presently on the Board of Directors of the Washington Defenders Association (WDA) and on the Board of Governors of the Washington Association of Criminal Defense Lawyers (WACDL). Served two terms on the Washington State Sentencing Guidelines Commission. Have been actively involved in legislative matters on behalf of the WDA and the WACDL. Have served on several state Bar committees including Project 2001, and several county committees and commissions as public defender.

4th Congressional District (uncontested)

Robert M. Boggs

I graduated from the University of Washington School of Law in 1978. I started practicing law in Ephrata, Washington, working as a deputy prosecutor until January 11, 1982, after which I moved to Yakima and started private practice at Lyon, Beaulaurier, Weigand, Suko and Gustafson. I am now a shareholder in the firm Lyon, Weigand and Gustafson, Inc. P.S. Over the past 22 years I have practiced exclusively within the 4th Congressional District. With the exception of Okanogan and Douglas counties, I have appeared before every superior court within the district and have worked with attorneys throughout the district. Therefore, I believe I have a good understanding of the interests of the attorneys not only within the Yakima area, but the entire district.

7th Congressional District (uncontested)

Carl J. Carlson

Personal: Raised in Seward, Alaska and Tacoma. Graduated Stanford (1972), Stanford Law School (1976). Married, five kids in merged family.

Employment: Commercial litigation. LeSourd & Patten (1977-91); Talmadge & Cutler (1991-95); Carlson & Fabish (1995-present); began as solo practice, now three attorneys.

Selected Activities:

Community: Cooperating attorney, Northwest Women's Law Center; Board of Directors and pro bono counsel; Resource Center for the Handicapped; NASD arbitrator; youth soccer referee, assistant baseball coach.

WSBA: President's Initiative Task Force (to improve image of lawyers); Rules of Professional Conduct Committee; Special Disciplinary Counsel; fee arbitrator.

KCBA: Board of Trustees (1997-2000); Neighborhood Legal Clinic volunteer.

Opportunities for Service

9th Congressional District: *Stephanie Delaney and Bryce H. Dille*

Stephanie Delaney

A Tacoma native, Stephanie Delaney is a graduate of the University of San Diego Law School, and also earned a master's in environmental law from Vermont Law School.

Her interest in volunteer activism is demonstrated by her involvement: WSBA Long-Range Strategic Planning Committee, Electronic Communications Committee, Legal Assistant Committee, Northwest Women's Law Center Self-Help Committee, and Noel House overflow shelter for homeless women.

Stephanie works at Highline Community College, teaching law in the paralegal program, and training faculty in technology. She also teaches Internet research in the CLE Computer Camp for Counselors. Stephanie will be an exciting new voice on the board, bringing her knowledge of technology, commitment to access to justice, and the optimism of youth. Learn more at www.DelaneyLegal.com/BOG.htm.

Bryce H. Dille

I am a partner with Campbell, Dille, Barnett, Smith and Wiley and have engaged in a general practice in Puyallup since 1968. I received my BA from the University of Washington and my JD from the Gonzaga School of Law.

In my 35 years of practice, I have been actively involved in Bar Association affairs: as secretary and a member of the Board of Directors of the Tacoma-Pierce County Bar Association; as a member of the WSBA-CLE Committee and Legislative Committee; as special district counsel; and most recently, I completed a three-year term as a member of the WSBA Disciplinary Board. I am also a member of the South King County Bar Association.

I have been actively involved in community affairs, having served as president of the Puyallup Valley Chamber of Commerce and Puyallup Valley Daffodil Festival, in addition to being chairman of the United Good-Neighbor Drive.

I would be honored to serve on the Board of Governors, because I have always practiced in a small firm in a suburban area, which reflects the type of practice of the attorneys in the 9th District. Thus, I know their needs and concerns and can represent them well. I will seek ways to ensure the Association meets the needs of all attorneys in the 9th District.

Board of Governors At-large Seats

The Board of Governors' adoption, at its February 2001 meeting, of a resolution creating two at-large seats on the Board of Governors requires amendments to the WSBA Bylaws. The board will vote on the adoption of these amendments at their May 4-5 meeting, to be held in Coeur d'Alene, Idaho. The proposed amendments can be viewed on the WSBA Web site at www.wsba.org/bylaws. Details, including the procedure for those interested in being elected to these seats, will be in the June issue of *Bar News*.

WYLD Trustee Elections

Young lawyers interested in serving on the WYLD Board of Trustees are invited to submit a statement of eligibility and qualifications for the following trustee district positions: King District (representing King County), Pierce District (representing Pierce County), and Southwest District (representing Clark, Cowlitz, Pacific, Skamania and Wahkiakum counties). To be eligible for one of these positions, a candidate must reside or have his or her principal place of business in the district he or she wishes to represent, and must be a member of the WYLD for the entire term of the position. Elected trustees will serve a three-year term commencing October 1, 2001. Any active member of the Washington State Bar Association is also a member of the Washington Young Lawyers Division until December 31 of the year in which he or she turns 36, or until December 31 of the fifth year in which he or she has been admitted to practice, whichever is later.

WYLD President-elect Nominations

Filing Deadline: July 13, 2001

Young lawyers interested in serving as president-elect of the WYLD are invited to submit a statement of eligibility and qualifications for this position. The president-elect automatically succeeds to the position of the president of the WYLD upon completion of a one-year term commencing October 1, 2001. To be eligible for the position of president-elect, candidates must have a principal place of business in Washington, and must be a member of the WYLD at the time of taking office for the president-elect position. Additionally, the Bylaws require that the president and president-elect have principal places of business in different counties. Therefore, this year's candidates may not have a principal place of business in King County.

Any active member of the Washington State Bar Association is also a member of the Washington Young Lawyers Division until December 31 of the year in which he or she turns 36, or until December 31 of the fifth year in which he or she has been admitted to practice, whichever is later.

Send statements of eligibility and qualifications to: Sherri L. Jefferson, WYLD President-elect, c/o Stoel Rives, 600 University St., Ste. 3600, Seattle, WA 98101; e-mail: sljefferson@stoel.com.

Board for Trial Court Education

Application deadline: May 25, 2001

The Board of Governors will be nominating one WSBA member who will be appointed by the Supreme Court to serve a three-year term on the Board for Trial Court Education. The three-year term will commence on July 1, 2001 and continue through June 30, 2004. The incumbent is eligible for reappointment and must also submit a letter of interest and résumé.

The Board for Trial Court Education was established by Supreme Court order, and is charged to identify the educational needs of trial-court judges and court personnel, to coordinate educational programs and services, and to recom-

mend programs and budget to meet the educational needs of the Washington judiciary. It is a 15-member board which meets four times a year. For additional information, please visit http://www.courts.wa.gov/board/bce.

Please submit a letter of interest and résumé to the WSBA, Office of the Executive Director, 2101 Fourth Ave., 4th Fl., Seattle, WA 98121-2330 or e-mail oed@wsba.org.

Washington Defender Association Board of Directors

The WSBA Board of Governors is accepting letters of interest from members interested in serving a three-year term on the Board of Directors of the Washington Defender Association. The three-year term, which is currently vacant, will commence on January 1, 2001. The incumbent is eligible for reappointment.

The board generally meets 10 or 11 times per year. In addition, individual members, particularly the president, assist in meetings with government officials and in advising management of the Washington Defender Association on a wide range of issues. The board has hiring and firing authority over the director, and approves annual budgets, contracts with King County, and bargaining agreements with the union. It also has a mediation and review role in disputes with union members.

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

Notice of Deadline for Filing WSBA Resolutions

Pursuant to WSBA Bylaw Article VII, Section F – Resolutions, any 10 active members of the Washington State Bar Association may present a written resolution to the Board of Governors for consideration at the WSBA's annual business meeting, which will be held this year on Thursday, September 13 at 6:00 p.m. at the W Seattle hotel, 1112 Fourth Avenue, Seattle.

Resolutions must be filed with the WSBA executive director at least 90 days before the annual meeting (by 5:00 p.m., Friday, June 15, 2001), 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. Send resolutions to the Office of the Executive Director, WSBA, 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 WSBA Resolutions Committee. Those purposes are set forth in Article I of the WSBA Bylaws and General Rule 12 of the Washington Court Rules.

Discipline 2000 Task Force to Meet

The Discipline 2000 Task Force will meet Wednesday, May 16 from 2:00 p.m. to 4:00 p.m. at the WSBA office. For more information, contact Randy Beitel at 206-727-8257 or randyb@wsba.org.

Proud to Be a Lawyer

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

Proposed resolutions will be published in the August 2001 issue of *Bar News*.

The Resolutions Committee will hold a public hearing to consider the views of the proponents and opponents of resolutions on Wednesday, September 5, 2001, beginning at 4:00 p.m. at the WSBA office, 2101 Fourth Ave., Fourth Fl., Seattle. 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.

WSBA Resolutions Committee: John M. Riley III, chair; William Fleck; Don Gulliford; Teresa Morris; Stephen Pfeifer; Edward Ratcliffe; John Schultz; Michael Zeno Jr. and Bob Welden, WSBA staff liaison.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in April 2001 is 3.945 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 www.wsba.org/barnews/usuryrate.html.

Volunteer Opportunities

CASA Volunteers Needed

King County Superior Court is seeking volunteers to serve as Court Appointed Special Advocates (CASA). Volunteers receive extensive training to represent children involved in custody and visitation disputes in family law cases. They conduct interviews, write reports, and testify in hearings or trials. For more information, contact Ed Greenleaf at 206-296-9320.

Calling Young Lawyers

The Washington Young Lawyers Division (WYLD) is dedicated to public service. Participation in the Equality in Practice, Legislative and Pro Bono committees introduces young lawyers to colleagues from around the state and expands programs that benefit lawyers, the public, and those who have traditionally been denied access to the justice system. The WYLD works hard to ensure that all Washington young lawyers have the opportunity to participate in these programs. For more information about WYLD activities, visit the Web site (www.wsba.org/wyld), or contact Lisa KauzLoric at 206-733-5944 or lisak@wsba.org.

Upcoming BOG Meetings

The Board of Governors meeting schedule is as follows:

May 4-5 — Coeur d'Alene Resort, Coeur d'Alene, ID
June 8 — WestCoast Wenatchee Center, Wenatchee
July 27-28 — Sun Mountain Lodge, Winthrop
September 13-14 — WSBA office, Seattle

With the exception of a one-hour executive session the morning of the first day, BOG meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Please contact Lori Lee at 206-727-8244 or oed@wsba.org.

WestCoast Hotels Contribute to LAW Fund

WestCoast Hotels, the WSBA and Legal Aid for Washington (LAW) Fund have created a partnership to raise funds for low-income legal services. Through the end of 2001, WestCoast Hotels will make donations to LAW Fund, based on the number of nights that anyone associated with the WSBA stays at any of the 47 Washington WestCoast Hotels. By simply asking for the WSBA rate, guests will receive a reduced room rate, and LAW Fund will receive $5 for each night's stay. Contact WestCoast Hotels at 800-325-4000.

Free Trust Account Information

The WSBA publication *Managing Client Trust Accounts: Rules, Regulations and Common Sense* is available to members free of charge. To order a copy, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA. Please note that this publication is also available on the WSBA Web site (www.wsba.org/publications/managing.htm), and is printed in the 2000-2001 *Resources* (p. 478). The WSBA audit department is available to answer your questions about trust accounts. Call Julie Mass at 206-727-8242.

ABA Offers Hotel Discount Service for Members

The American Bar Association and Starwood Hotels and Resorts Worldwide have joined forces to offer hotel discounts to ABA members. Through the ABA Member Advantage Program, members will receive a 13 percent discount off corporate rates for business hotel stays, and a 15 percent discount on vacation packages at participating Starwood properties. Starwood has more than 725 properties including Westin, Sheraton, Four Points by Sheraton, St. Regis, The Luxury Collection and W hotels in over 80 countries. For more information, contact the ABA Service Center at 800-285-2221 or http://www.abanet.org/advantage.

Fulbright Scholar Program Accepting Applications

The Fulbright Scholar Program is offering 155 lecturing/research awards in law for the 2002-2003 academic year. Awards for both faculty and professionals range from two months to a full academic year. A new short-term grants program (the Fulbright Senior Specialists Program) offers two- to six-week grants. While foreign language skills are needed in some countries, most Fulbright lecturing assignments are in English. Application deadlines are as follows:

- May 1, 2001 for Fulbright Distinguished Chair awards in Europe, Canada and Russia
- August 1, 2001 for Fulbright traditional lecturing and research grants worldwide
- Rolling deadline for Fulbright Senior Specialists Program

For more information, visit http://www.cies.org, or contact the Council for International Exchange of Scholars at 202-686-7877.

Bar Leaders Conference to Be Held June 8-10 in Wenatchee

The 2001 WSBA Bar Leaders Conference will be held at the WestCoast Wenatchee Hotel, June 8-10. The conference is an annual event designed to help the leadership of specialty and local bars manage their volunteer time effectively to achieve maximum results. The program will include presentations by ABA and WSBA staff, and a golf tournament. The conference will be held in conjunction with the annual Access to Justice Conference, and participants are encouraged to attend both conferences. There is no registration fee for the Bar Leaders Conference. For more information, contact Robert Miera at 206-727-8293 or robertm@wsba.org.

World Peace Through Law Section Awards Ceremony

The WSBA World Peace Through Law Section will sponsor an awards luncheon to honor an individual who has made significant contributions toward the goal of achieving international peace. The Ralph J. Bunche Award, named for the winner of the 1950 Nobel Peace Prize, will be presented. The award ceremony will be held in mid-June from noon to 2:00 p.m. at Plymouth Congregational Church in Seattle. The cost is $15. For information or to reserve space, contact Paul Schlossman at 253-473-0537 or Leo Garvey at 206-322-3086.

Mark your Calendars: WSBA Annual Awards Dinner and Business Meeting

The WSBA annual awards dinner and business meeting will be held Thursday, September 13, 2001 from 6:00 p.m. to 9:00 p.m. at W Seattle hotel, 1112 Fourth Avenue, Seattle. Future issues of *Bar News* will contain more information about the event.

City Profiles Available Online

The Municipal Research and Services Center of Washington has posted city and town profiles on their Web site. The profiles include the address, phone number, business hours, council meeting times, population, and form of government for every city and town in Washington. There are also links to city Web sites, municipal codes, budgets, staff directories and other city information. Access this information at http://www.mrsc.org/cityprofiles/profilesmenu.htm.

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Mr. Bharti, an experienced trial lawyer and a teacher at Gerry Spence's Trial Lawyers' College, is available for pro bono service.

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Telephone: 206-282-5630
Fax: 206-281-9032

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Effective May 21, 2001

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Fax: 206-521-4940

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wants to share the news of its good fortune that

Benjamin Schwartzman

has joined our firm

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MONTGOMERY PURDUE BLANKINSHIP & AUSTIN PLLC

Attorneys / Seattle

takes pleasure in announcing that
Kelly O'Connell Shewey
and
Andrew R. Chisholm
have become associates of the firm.

Ms. Shewey is a recent graduate of the University of Washington School of Law. Her practice will encompass many of the firm's practice areas, including business, litigation and municipal.

Mr. Chisholm is a recent graduate of the Gonzaga University School of Law. His practice will encompass many of the firm's practice areas, including business and litigation.

OCTOBER 2000

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WIGGINS LAW OFFICES, PLLC

is pleased to announce that

Marilyn L. Taylor

has joined the firm as an associate,
emphasizing civil appeals.

Before joining the firm,
Ms. Taylor served as a judicial clerk
to the Honorable H. Joseph Coleman and
the Honorable Anne L. Ellington, and as a
staff attorney at Division I of the
Washington State Court of Appeals.

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TOOZE DUDEN CREAMER FRANK & HUTCHISON

is pleased to announce that

Tod A. Northman
George S. Pitcher
and
David J. Ryan

have become partners of the firm
effective January 1, 2001.

Mr. Northman's practice will continue
to emphasize corporate law, business and real
property transactions, and entity formation.

Mr. Pitcher will continue to focus
on civil litigation, emphasizing issues of
professional and product liability.

Mr. Ryan will continue to concentrate
on environmental law and civil litigation,
emphasizing product liability, personal injury
defense, employment law and
insurance litigation.

The firm's litigation practice
emphasizes the defense of professional,
employment, product, medical, drug and
medical device cases. Its business practice
involves corporate, cooperative,
real property, environmental, tax and
estate planning work.

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Fax: 503-223-5550
www.tooze.com

Calendar

This information is submitted by providers. Please check with providers to verify approved CLE credits. To announce a seminar, please send information to:

WSBA *Bar News* Calendar
2101 Fourth Avenue, Fourth Floor
Seattle, WA 98121-2330
fax: 206-727-8319
e-mail: comm@wsba.org

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

ALTERNATE DISPBOLUTION

Applied Dispute Resolution *(morning/afternoon)*
June 13 – Bellingham; June 14 – Seattle. 3 CLE credits per session. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

BUSINESS

Business Law Section Midyear
May 18-20 – Kennewick. 11 CLE credits, including 1.5 ethics. By WSBA-CLE and Business Law Section; 800-945-WSBA or 206-443-WSBA.

The Lawyer's Toolbox: Nuts & Bolts of Business Law
June 27 – Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

E-commerce Primer *(afternoon)*
June 21 – Seattle. 2 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

E-commerce: Legal and Business Issues
June 22 – Seattle. 7 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

UCC Article 9 – Moderated Video Replay
June 29 – Seattle. 7 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

COMPUTER SKILLS

Internet Tool Kit: Tools, Tips and Technology to Leverage Your Practice
May 30 – Olympia; May 31 – Seattle. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Computer Camp for Counselors™ – Basic & Intermediate
June 13 – Seattle. 4 CLE credits per session. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Computer Camp for Counselors™ – Basic & Intermediate
June 14 – Seattle. 4 CLE credits per session. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

CREDITOR/DEBTOR

The Lawyer's Toolbox: Nuts & Bolts of Consumer Bankruptcy
June 13 – Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

New Bankruptcy Act
May 24 – Seattle. 7 CLE credits. By WSBA-CLE and Creditor/Debtor Section; 800-945-WSBA or 206-443-WSBA.

CRIMINAL LAW

The Lawyer's Toolbox: Nuts & Bolts of Criminal Law
June 6 – Seattle. 3 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

EMPLOYMENT LAW

15th Annual Workers' Comp: Back to the Basics
May 30 – Seattle. 6.5 CLE credits, including .5 ethics. By WSTLA; 800-732-9251 or 206-464-1011.

21st Annual Employment Litigation Program
June 7-8 – San Francisco; June 14-15 – Washington, D.C. 13 CLE credits pending, including 1 ethics. By National Employment Law Institute; 303-861-5600.

ENVIRONMENTAL LAW

Environmental & Land Use Law Section Midyear
May 31-June 2 – Skamania. 13 CLE credits, including 1 ethics. By WSBA-CLE and Environmental & Land Use Law Section; 800-945-WSBA or 206-443-WSBA.

ESTATE PLANNING

The Lawyer's Toolbox: Nuts & Bolts of Estate Planning and Probate
June 20 – Seattle. 2 CLE credits, including .25 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Estate Planning for Life Insurance
June 21 – Portland. 6.25 CLE credits pending. By Oregon State Bar; 503-684-7413.

ETHICS

A Judicial Theater Ethics CLE
May 10 – Spokane. 2 CLE ethics credits pending. By Spokane County Young Lawyers; 509-477-2665.

FAMILY LAW

Child Development: Theory and Case Application
May 3, 17 – Seattle; June 14, 28 – Kent. 1.25 CLE credits pending. By UFC; 206-205-2674.

Family Law Potpourri
June 6 – Spokane. CLE credits TBD. By Spokane County Bar Association; 509-477-2665.

The Lawyer's Toolbox: Nuts & Bolts of Family Law
June 13 – Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Family Law Midyear
June 29-July 1 – Ocean Shores. 14 CLE credits, including 1.25 ethics. By WSBA-CLE and Family Law Section; 800-945-WSBA or 206-443-WSBA.

Grandparents and Other Relatives Raising Children
June 7 – Seattle. 7 CLE credits pending. By UW-CLE; 800-CLE-UNIV or 206-543-0059.

GENERAL PRACTICE

Perfecting Social Security Disability Claims
May 4 – Portland. 5.5 CLE credits, including 1 ethics pending. By Oregon State Bar; 503-684-7413.

UCC Update: What's New in Articles 2, 3, 4 and 9
May 10 – Portland. 5.25 CLE credits, including 1 ethics pending. By Oregon State Bar; 503-684-7413.

Traumatic Brain Injuries: Understanding, Settling or Litigating the Mild to Severe Brain Injury Case
May 11 – Seattle. 7.5 CLE credits, including .75 ethics. By WSTLA; 800-732-9251 or 206-464-1011.

HIV and AIDS
May 15 – Kent. 1.25 CLE credits pending. By UFC; 206-205-2674.

Immigrants in the Legal System
May 16 – Seattle; May 23 – Yakima. 6.75 CLE credits, including 2.25 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Fundamentals of Medicaid Planning: What Every Lawyer Should Know
May 24 – 3.5 CLE credits pending. By UW-CLE; 800-CLE-UNIV or 206-543-0059.

How to Raise Private Equity Capital and Survive in a Slowing Economy
June 1 – Seattle. 7 CLE credits pending. By UW-CLE; 800-CLE-UNIV or 206-543-0059.

18th Annual Pacific Rim Computer & Internet Law Institute
June 1 – Portland. 7.25 CLE credits pending. By Oregon State Bar; 503-684-7413.

INDIAN LAW

Indian Law
May 11 – Seattle. 7 CLE credits. By WSBA-CLE and Indian Law Section; 800-945-WSBA or 206-443-WSBA.

Professionals

LAW OFFICE MANAGEMENT

Starting Your Law Practice
May 12 – Seattle. 7 CLE credits pending. By UW-CLE; 800-CLE-UNIV or 206-543-0059.

LITIGATION

Ultimate Cross Examination – Moderated Video Replay
May 10 – Hoquiam; May 18 – Seattle. 6.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

The Jury: Latest Techniques for Selecting and Persuading Juries
May 16 – Seattle. 8.5 CLE credits. By WSTLA; 800-732-9251 or 206-464-1011.

The Lawyer's Toolbox: Nuts & Bolts of Civil Litigation
June 6 – Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Litigation Section Midyear
June 22-23 – Chelan. 8 CLE credits. By WSBA-CLE and Litigation Section; 800-945-WSBA or 206-443-WSBA.

PUBLIC PROCUREMENT & PRIVATE CONSTRUCTION

Public Procurement & Private Construction Section Midyear
June 15 – Seattle. CLE credits TBD. By WSBA-CLE and PP&PC Section; 800-945-WSBA or 206-443-WSBA.

REAL PROPERTY, PROBATE & TRUST

Real Property, Probate & Trust Annual Meeting and Seminar
June 8-9 – Seattle. 11.5 CLE credits, including 2 ethics. By WSBA-CLE and RPPT Section; 800-945-WSBA or 206-443-WSBA.

REAL ESTATE

The Lawyer's Toolbox: Residential Real Estate
June 27 – Seattle. 3 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

TAX LAW

2nd Annual Oregon Tax Institute
June 8-9 – Stevenson. 10 CLE credits, including .5 ethics pending. By Oregon State Bar; 503-684-7413.

Tax Institute
June 14 – Seattle. 6.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

For information about advertising in the Professionals section of *Bar News*, please call Amy O'Donnell at 206-727-8213 or e-mail amyo@wsba.org.

MEDIATION

Thomas R. Bjorgen,
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WSBA# 27404

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APPEALS

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

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Classifieds

Reply to WSBA *Bar News* Box Numbers at:

WSBA *Bar News* Box ____
***Bar News* Classifieds**
2101 Fourth Avenue, Fourth Floor
Seattle, WA 98121-2330

Positions available are also posted by telephone at:
206-727-8261
and online at www.wsba.org

FOR SALE

$69.95: 2001 Washington state child support worksheets and financial-declaration computer program. Program calculates wages, FICA, taxes (schedule A, head of household, daycare, earned-income credit, etc.), imputes income, residential-care credit, and Arvey (split custody) allocation. 2001 update, $26.95. Call Law Office of Frederick L. Hetter, 253-759-6853, or e-mail lhetter@aol.com.

Washington law practices for sale. General/ Redmond: probate, etc.; West Seattle: estate planning. For information: Louis M. Millman, Coldwell Banker Commercial, Bain Associates, 425-519-8003; fax 425-519-8048.

SPACE AVAILABLE

New downtown office space for lease. Three outside offices and three internal offices. Three secretarial stations. Two conference rooms. Includes kitchen, reception and janitorial. Telephone and DSL ready. Copying and fax available. Call Gaye Walsh, 206-682-6000.

Downtown Seattle office sharing: $175 per month. Also, full-time offices available on 32nd floor, 1001 Fourth Avenue Plaza. Close to courts. Furnished/unfurnished suites, short-term/long-term lease. Receptionist, legal word processing, telephone answering, fax, law library, legal messenger and other services. 206-624-9188.

Storage space available downtown at 4th and Pine. 600 approx. sq. ft. Call Gaye Walsh, 206-682-6000.

Virtual downtown law office: Use of conference room, telephone service, deliveries, faxing, mail, copying. Put up a sign on the door if desired. Exquisite space, two blocks from courthouse. Large deck available for summer occasions. Call Marison, 206-621-6440, ext. 0.

Renton downtown office and secretarial space in building with two attorneys. Everything included. Some referrals possible. 425-228-8899.

Beautiful three-year-old building just west of old downtown Bothell has three offices available in law-office suite. One office has a fireplace and clerical/paralegal space; second office has clerical/paralegal space; and the third is a single office. Copier, library and conference room negotiable. Call 425-482-0700 and ask for Alane.

Sweeping, unobstructed view of Olympics and Elliott Bay (Wells Fargo Building, 41st floor): Elegant law office near courthouse. Reasonable rates include receptionist, basic messenger service, mail delivery, fax, two conference rooms, law library, fully equipped kitchen. For more information, please call Barbara at 206-624-9400.

Downtown Seattle office available: Broadacres Building, 10th floor (near Pike Place Market). Newly built suite includes conference rooms, secretarial space and DSL lines. For more information, call 206-770-7606.

Share reception/secretarial with two other attorneys in Shoreline, near City Hall. Friendly environment. Call Paul at 206-542-1840.

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University (Laurelhurst): Large office, plus clerical space available. Share amenities including receptionist, library and conference rooms with attorneys, CPA and consultants. Great location. Possible joint marketing and referrals. For information, call 206-523-6470.

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For sublease: Partner-sized office, reception services provided; class-A building, downtown Seattle; high floor; stunning western views. Some internal space available for support staff. Available immediately. Contact Al Bentley or Emily Coward at 206-343-9391; emilycoward @hotmail.com.

Downtown Seattle: View office in small suite, 520 Pike St., 15th floor. Includes DSL, conference room, copier, fax, telephone, voice-mail, receptionist, kitchenette. David Vogel, 206-622-2573.

POSITION WANTED

WSBA attorney with CPA license, Series 7 license, and substantial trial experience seeks position with Seattle area firm. Send inquiries to jfmovy@yahoo.com.

POSITIONS AVAILABLE

Litigation associate: Bennett Bigelow & Leedom PS seeks an associate with at least three years' experience to join its litigation practice group. BB&L's growing litigation practice includes representation of health care providers in regulatory, medical malpractice, employment and commercial matters; defense of schools and universities in employment, liability and civil rights matters; as well as a variety of other complex litigation. Interested applicants are asked to submit a résumé to: Associate Hiring Coordinator, BB&L, 999 3rd Ave., Ste. 2150, Seattle, WA 98104.

Byrnes & Keller LLP, an AV-rated firm, seeks a litigation associate with at least three years' experience. Strong desire to succeed in a trial practice essential. Send résumé and cover letter to: Kimberly A. Boyce, 1000 2nd Ave., 38th Fl., Seattle, WA 98104.

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

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

Questions? Please contact Amy O'Donnell at 206-727-8213 or amyo@wsba.org.

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Staff attorney, tribal legal office: Seeking attorney to provide civil legal services for low-income members of the Colville Confederated Tribes. Qualifications: WSBA member or ability to become member reciprocally. Attorney salary scale DOE. Indian preference will be applied. Obtain application from Personnel, Colville Confederated Tribes, PO Box 150, Nespelem, WA 99155. For further information, call 509-634-2842.

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Digeo, Inc., a Wired World company, is turning the dream of iTV into reality with our TV portal. We have an immediate opening for a patent attorney who will be responsible for managing a subset of our large and growing patent portfolio. Specifically, you will drive generation of inventions, prioritize inventions for our patent review committee, oversee the preparation and prosecution of patent applications by outside counsel, and advise and educate business and engineering colleagues regarding IP matters. You will structure, draft and negotiate licensing transactions with Digeo's technology and content partners, and provide general legal advice in relation to business matters to assist the company in meeting its ambitious business objectives. Requires at least two years' patent experience, admission to practice before the PTO, Washington State Bar admission, superior business judgment, and ability to work closely with senior management. Experience in interactive TV, broadband services, and Internet portals would be a plus. Please send résumé to careers@digeo.com and visit us on the Web at http://www.digeo.com.

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Attorney/litigator wanted in Hood River, OR. Two years' experience. Must produce minimum 1,200 billable hours each year. Salary negotiable. Bonuses and benefits. Call 541-386-7700 or mail résumé to: The Results Group, Ltd., Attn: Attorney Search, PO Box 1209, Hood River, OR, 97031. Apply before May 15th.

Associate: Small Seattle insurance defense firm with broad-ranging caseload, including personal injury, product liability and construction defect, seeks an associate. Send résumé in confidence to: Hiring Coordinator, Fallon & McKinley, 1111 3rd Ave., Ste. 2100, Seattle, WA 98101 or fallonz@law.com.

Corporate litigation counsel: Large financial institution located in Seattle seeks an experienced commercial litigation attorney for its corporate legal department. This position requires excellent written and oral communication skills, references, and at least six years' civil trial experience. Experience in handling retail banking, lending, securities and real estate litigation a plus. Washington Mutual offers competitive salaries, excellent benefits, professional growth and a team-oriented environment. Please submit résumé and salary requirements to: Washington Mutual, Attn: HR Dept., Position #160837, 1191 2nd Ave., SAS0108, Seattle, WA 98111, or you may e-mail your résumé to john.soth@wamu.net. If you have any ques-

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Senior commercial litigation attorney needed: Short Cressman & Burgess PLLC is seeking a qualified attorney for its litigation practice. Candidates should be energetic, highly motivated team players ready to assume responsibility for excellent service to clients in a well-respected, friendly firm of 55 lawyers. Candidates should have at least five years' experience handling commercial litigation. Excellent writing and verbal skills and a demonstrated desire to succeed are essential. Send résumé to Lateral Hiring Committee, 999 3rd Ave., Ste. 3000, Seattle, WA 98104, or e-mail cosborn@scblaw.com. All inquiries will be kept confidential. We offer competitive salaries and benefits, and the opportunity to join a creative legal team. EOE.

Litigation attorney for personal-injury law firm: Candidate should have at least two years' civil litigation experience, including jury trial experience; strong research, writing and communication skills; and the ability to work independently. Must be current member of the WSBA. Send cover letter, résumé and writing sample to: Arthur D. Miller, 1220 Main St., Ste. 355, Vancouver, WA 98660.

Associate attorney for established growing South Sound law firm. At least two years' experience in litigation, personal injury experience a plus. Firm located in Tacoma. Work with great people. Send resume via mail to: ATT: DAD/GLP, 500 John St., Seattle, WA 98109, or fax to ATTN: DAD/GLP at 206-448-4640; e-mail ddaniel@glpattorneys.com.

WILL SEARCH

Will sought for Janiss Lyle Furry of Seattle, King County, WA. Please contact William L. Fleming at 206-624-4755. Passed away March 21, 2001.

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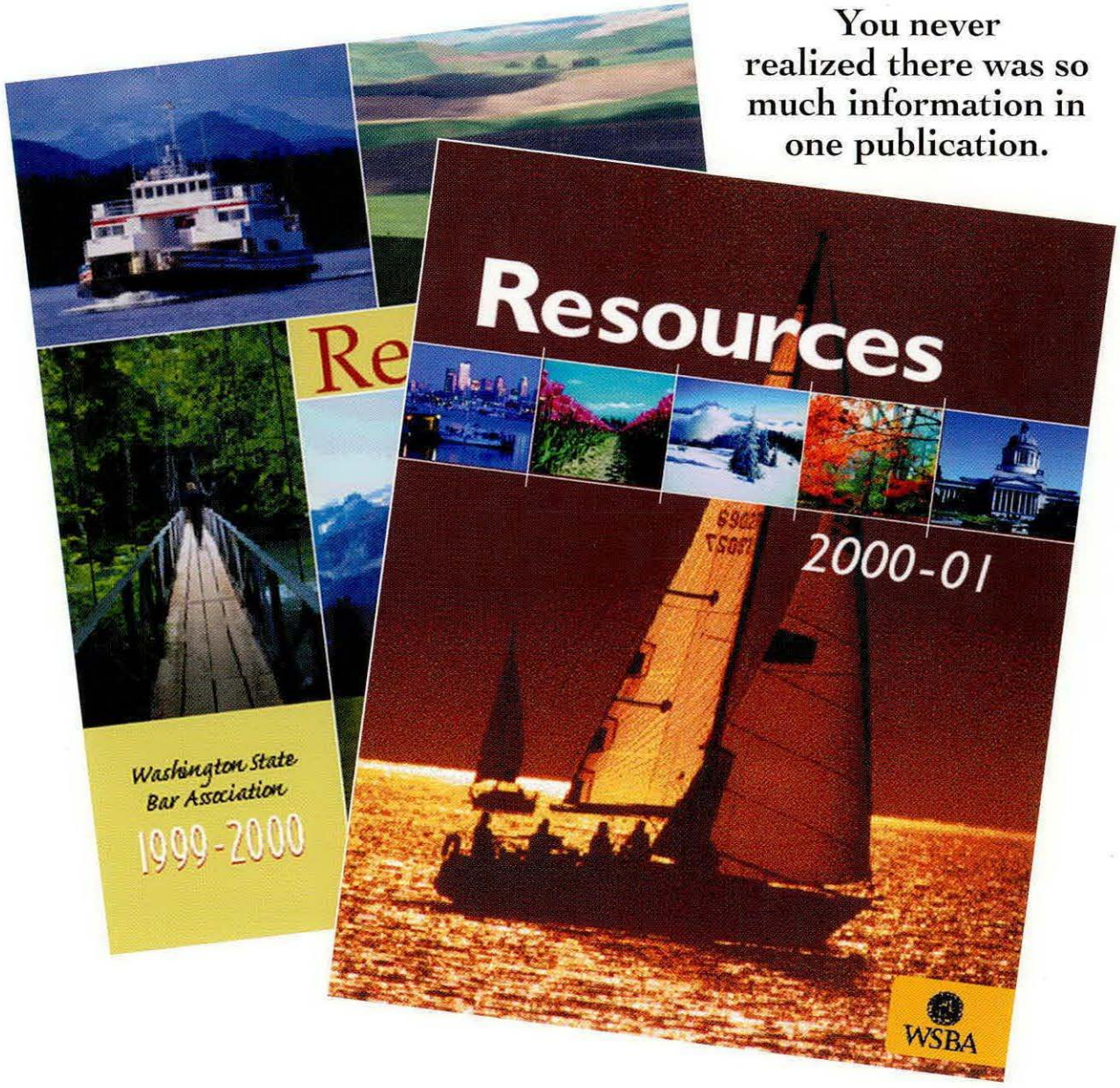

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