Washington State
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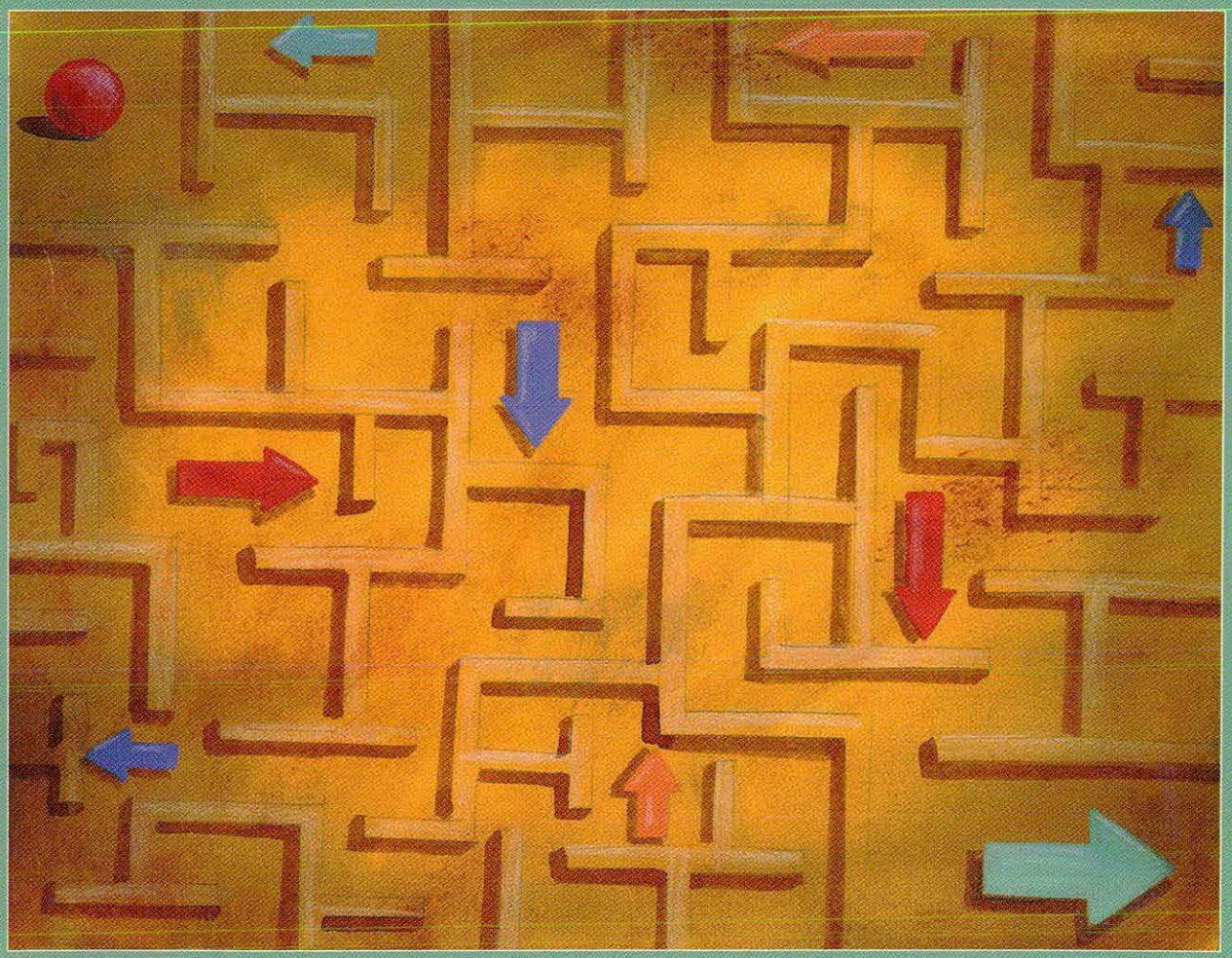

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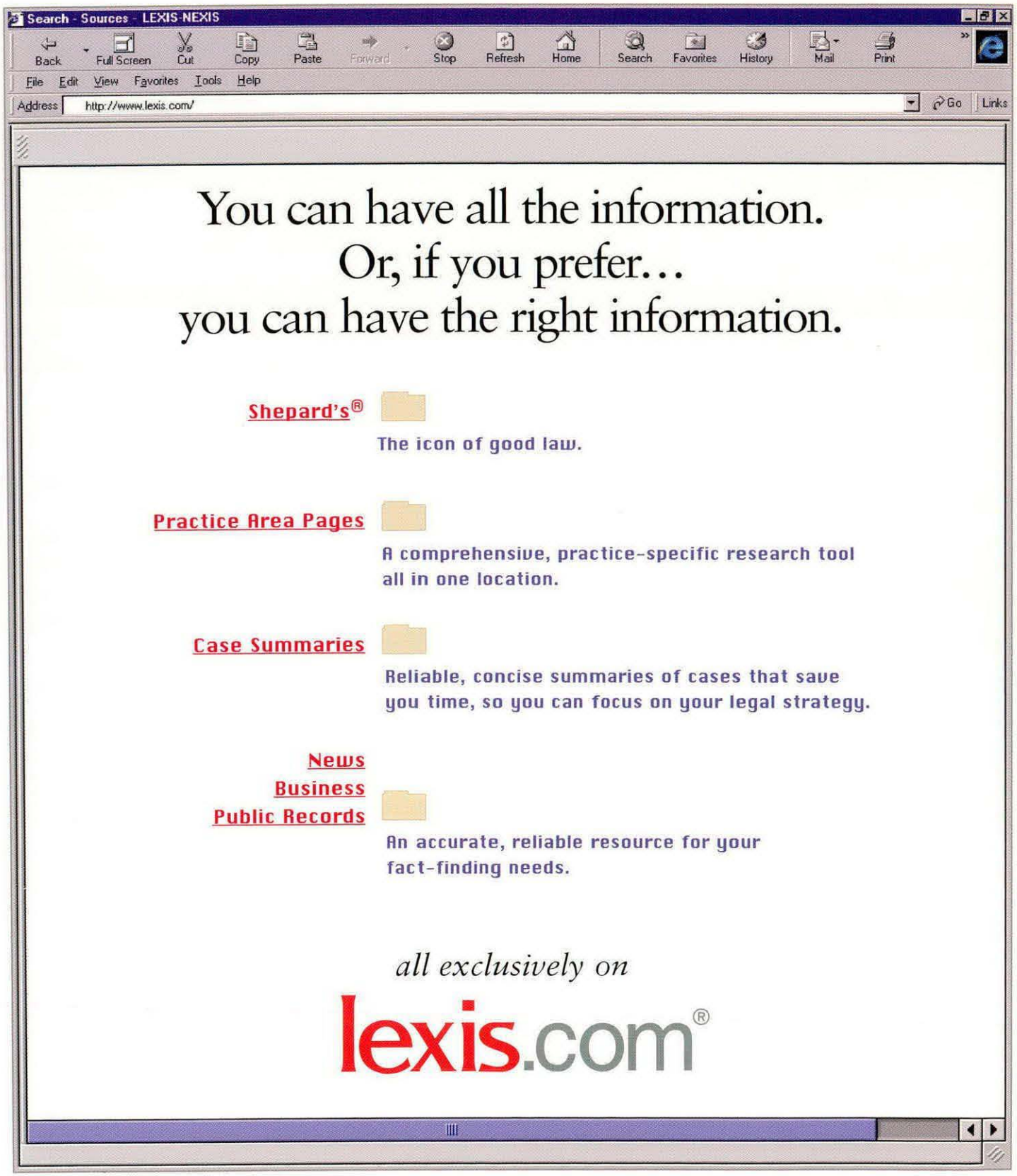

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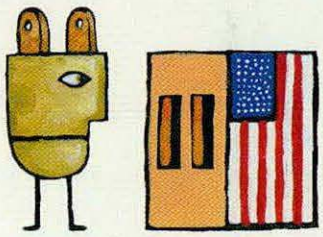

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Working together to champion justice

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

BarNews

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Letters

Praise for Article on Victims' Rights

Editor:

Thank you so much for your article in this month's *Bar News* ("Crime Victims and the Law," May, p. 28). You led strengthening new insight to many areas of victim rights and needs.

I am the victim assistance director for Lewis County, and often struggle with the reality of the victim's world. Thank you for helping me focus more clearly. Your article will go into my file marked "read once a month" and I'm sure I will quote you quite often. God grant strength and direction to you.

Ann Basey
Chehalis

Support for Amendment to ER 408

Editor:

It has been a long time since I have read an article in *Bar News* that is so "right on" on so many different levels ("Why Not Say 'I'm Sorry,'" May, p. 13). Jan's suggestion with regard to amending ER 408 and adding: "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" is really a great idea. I hope it takes root.

Robert B. Gould
Seattle

Affirmative-Action Debate Continues

Editor:

I fully support Mr. Thompson's resolution regarding underrepresented attorneys, and creating additional seats on the BOG. It seems that Mr. Liebler's characterization of any underrepresented group as "arbitrary and capricious" (April *Bar News*, Letters, p. 7) fails to recognize the benefits of a broad and diverse leadership.

As one of Washington's newest lawyers, and someone who cares deeply about service to community, I strongly believe that the BOG and the general membership would benefit from the perspectives provided by attorneys from underrepresented groups. For example, young lawyers bring a spark of idealism and passion for justice and the legal profession that seems to dull a little with time (and, I suppose, the realities of practice). Yet, our excitement and expectations about the practice of law and lawyers in general may very well provide the BOG with fresh ideas that could be of substantial benefit.

Similarly, other less frequently represented groups will provide different perspectives on issues which will necessarily enhance the BOG as a whole. I applaud the efforts at creating a broader and more diverse BOG, and look forward to the future effect of this resolution.

Eron Berg
Mount Vernon

Editor:

Does our Board of Governors (BOG) need affirmative action? The BOG resolved to amend WSBA Bylaws to permit the BOG to select two additional BOG voting members from eight special groups of lawyers: women, young, government, criminal defense, prosecution, from outlying areas, ethnic minority and sexual minority. The top 10 reasons this is a bad idea are:

10. Two additional seats cannot satisfy all eight special groups (unless they find a young female public defender and a cross-dressing Albanian deputy prosecutor from Tonasket).

9. To suggest that lawyers from these spe-

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We are pleased to announce the addition of attorneys who have joined the firm.

Patricia Anderson, Robert Gellatly, Deborah Martin, and Andrew Hoyal
(left to right)

The firm will continue to limit its law practice to representing major damage claims exclusively on behalf of plaintiff clients. These experienced trial lawyers will enhance the firm's ability to represent our clients in a wide diversity of damage cases, including: brain injury, paralysis, medical malpractice, highway design torts, railroad crossing cases, auto, product liability, business torts, maritime, aviation, commercial litigation, civil rights and discrimination. The firm primarily practices in Washington, Oregon, Idaho, Montana and Alaska.

Illustrative of our practice are the following recoveries made by this firm for its clients:

- Our firm represented Washington in Tobacco Litigation, which resulted in the largest global settlement in the nation's history.
- $45 million - largest single cash death settlement in Washington against refinery
- $29 million - largest verdict in Idaho history for malpractice case
- $67 million - 5th largest verdict in the United States in 1994 - product liability case involving a brain injury in the State of Oregon ($44 Million plus $23 Million for reputation damage)
- $17.7 million - verdict for malpractice in the State of Oregon
- $12 million - food contamination (E. coli)
- $2.8 million - railroad injury
- $948,000 - verdict for wrongful firing of an employee
- $1.3 million - aviation injury
- $2.5 million - maritime injury case
- $2.4 million - verdict for improper highway design auto injury
- $6.3 million - verdict for brain injury in auto pedestrian case
- $3.5 million - verdict in commercial litigation for trust mismanagement
- $7.4 million - tort claim against pharmaceutical company

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cial groups are incapable of being elected to the BOG is an insult.
8. It has not been shown that lawyers from special groups are unfairly prohibited from winning election to existing BOG seats.
7. Adding *chosen* BOG members dilutes the vote of our *elected* BOG representatives.
6. Allowing the BOG to choose BOG members smells like cronyism.
5. It has not been explained why existing BOG members are unable to empathize with and strongly represent lawyers from special groups.
4. Hundreds of diverse voices can be heard by the BOG without making all voices voting members of the BOG.
3. Tokenism by any other name is still tokenism.
2. Only those worthy to win election are worthy to cast votes for the electorate.
1. BOG candidates should be judged by the content of their character and not by other factors.

If BOG members want more diverse membership, let them identify such persons and campaign for their election to existing BOG seats. Privately selecting BOG members through affirmative-action appointment rather than vote of the membership is wrong.

John Panesko
Chehalis

On Communicating with Represented Parties

Editor:

I am a municipal lawyer. In Barrie Althoff's "Ethics and the Real Estate Lawyer" column (March *Bar News*, p. 40), there is a call-out on page 45: "Similarly, a municipal lawyer knowing a landowner is represented by counsel must communicate only with the counsel and may not communicate directly with the landowner." The call-out evidently correctly states the rule of RPC 4.2. We all understand its application in the traditional circumstances.

The rule applies, of course, not only to municipal lawyers but also to lawyers dealing with the municipality. Mr. Althoff could as well have said: "Similarly, a lawyer knowing that all municipal elected and appointed officials and staff represented by the city attorney must communicate only with the city attorney and may not communicate directly with such officials." Such, however, is not the common understanding among either land use lawyers representing applicants or municipal lawyers in the absence of a disputed case.

Land use lawyers have always felt free to speak directly to elected and appointed officials and staff in my city, although they know I represent these officials and staff in all city matters. On the other hand, I routinely am involved in review of land use applications. I may, for example, attend mandatory pre-application review meetings with a developer I know to be represented, whether or not the developer chooses to bring his or her lawyer, because I am part of the city staff reviewing the application. Nobody has raised either circumstance as a violation of RPC 4.2. I suspect we have each other's consent, although it is implied and not expressed.

Incidentally, Althoff also refers readers to the disciplinary notice in the Nelson case (December 2000) regarding RPC 4.2. This matter does not seem to depend on Nelson's being a municipal lawyer. The notice does not really state enough facts to tell, but if Nelson did no more than respond to the court clerk's direction for the parties to meet

with the clerk to inform the court of the status of the case, and that was the "communication" with a represented party, then something is wrong with that decision.

Pat Anderson
Snoqualmie

Better Record Keeping to Come?

Editor:

I am writing on a matter of interest to members who are required to attend and report continuing legal education activities.

The December 2000 issue of *Bar News* (p. 50) contained a brief discussion of the recent changes in APR 11 regarding mandatory legal education. The article discussed certain changes and implied that "...effective January 1, 2001..." we would, among other things, "... be able to view your CLE attendance record online. "

As of the date of this letter (April 9, 2001), more than three months after January 1, 2001, the WSBA Web site advises that such records will be online "soon."

Moreover, my purpose in writing is to warn members subject to reporting requirements not to rely on WSBA record keeping, but to retain their own records. My own experience with WSBA record keeping has not been comforting.

On November 23, 1999, I sent a registration form and check for attendance at a WSBA seminar on January 13, 2000. These items were received in the WSBA office November 29, 1999, and the check was deposited December 1, 1999. I note that had I registered by credit card, or had I not retained copies of all documents, I would not have had that much information.

When I appeared for the seminar, January 13, 2000, the clerk had no record of my registration or payment. She was kind enough to allow me to attend. The next day I wrote to the WSBA regarding the matter, and sent a copy of my canceled check. I sent the letter by fax and mail, heard nothing for two weeks, so I called the CLE department on January 29. They had neither record of my registration, payment and attendance, nor my letter of January 14, so I sent copies of the documents by fax, mail and messenger to the WSBA on January 31, 2000. I have had no response. I am taking the silence for assent.

Someday it is possible that we will actually have a functioning Web site and I will be able to see what record may exist.

Charles L. Smith
Seattle

Correction to April *Bar News* Letter

Editor:

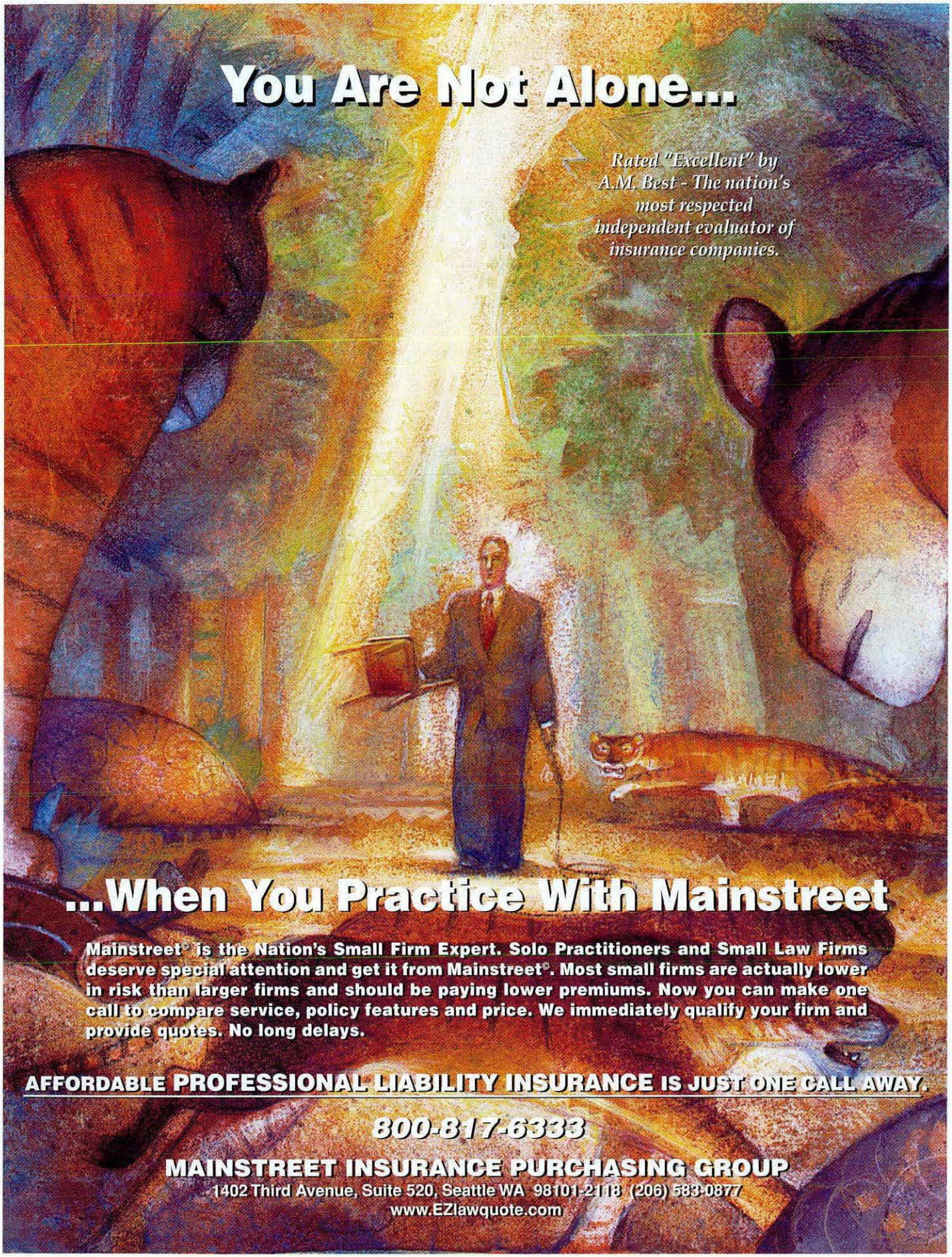
My reference to the referendum process for the members to petition for a review of board action should have been to Bylaw Article VII, Section I, and not to Article III. Since it takes five percent of the active members to petition within 90 days of board action, will the Board of Governors accept faxed individual petitions?

I am sorry for the error.

Craig M. Liebler
Seattle

The WSBA general counsel informs us that faxed petitions cannot be accepted. — *Ed.*

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., June 10 for publication in the August issue. Letters to Bar News *will usually be published, unless the writer specifically asks us to withhold publication.*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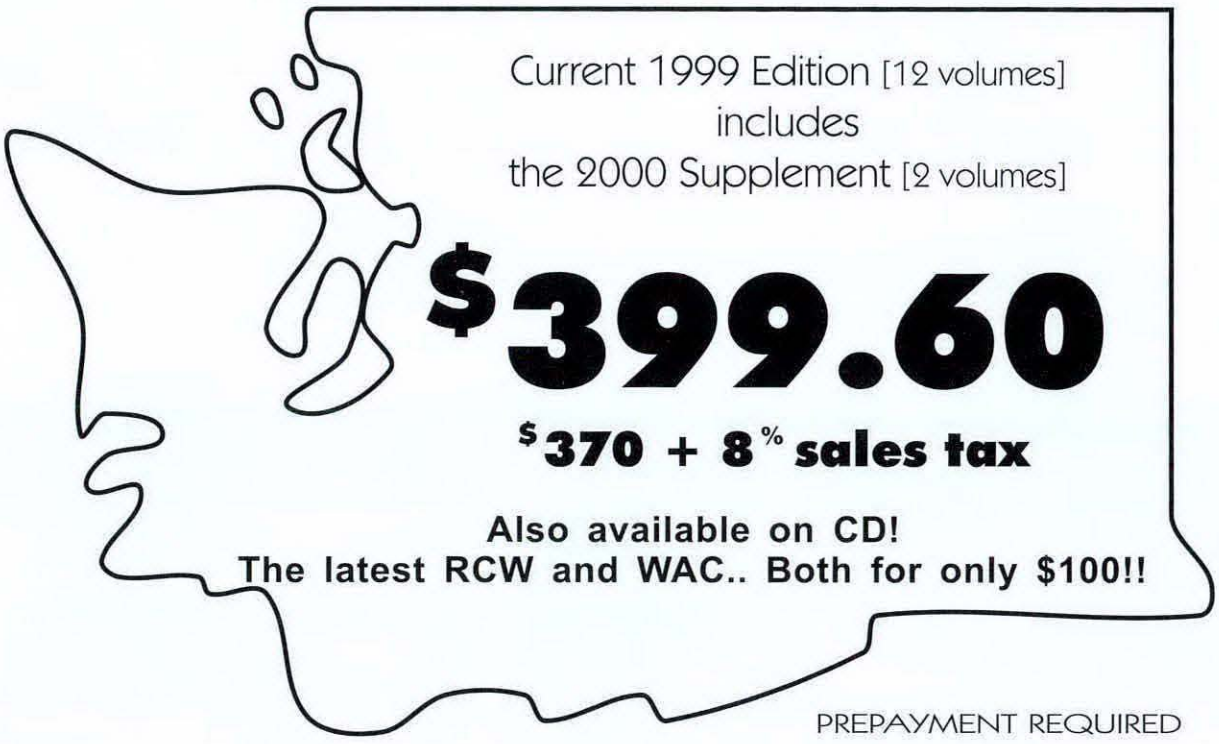

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The Truth, the Whole Truth, and Nothing but the Truth

by Jan Eric Peterson
WSBA President

I know I'm going to get a lot of grief for writing this article, but I'm going to do it anyway. As U.S. Supreme Court Chief Justice Earl Warren once said: "Everything I did in my life that was worthwhile, I caught hell for."

At the core of the public's distrust and criticism of lawyers is the perception that we do not tell the truth, and everyone but us realizes it! Public faith in the legal profession is not merely at an all-time low, but according to recent polling, has been declining at a disturbing rate. During the past decade, the percentage of people willing to rate lawyers' honesty and ethical standards as "high" or "very high" has dropped from 22 to 13 percent, an average decline of nearly one percent per year. According to pollsters, lawyers are ranked among the five occupations considered least honest by the American public, and the legal profession is among three that have lost the most in ratings over the last 10 years. From Watergate to Bill Clinton, it has been a disgrace. The movie *Liar Liar* was based on the premise that a lawyer could not speak in court because of a spell cast over him to tell only the truth. The public loved it. Lawyers are offended by this premise, and honestly believe themselves to be truthful. However, we all have stories about other counsel who weren't honest, shaded the truth, or engaged in deception or sharp practice. I don't think that "other counsel" is the same person for all of us.

It is peticularly essential to the long-term stability of our American form of government that the public be able to trust the lawyers who steward its laws and its justice.

Are we earning this disparaging reputation? Have our system, our billing methods, our zealous advocacy, our commitment to put our clients' interests above all others', our professional courtesies allowed daily misrepresentation to be accepted, to be commonplace, to be overlooked? Why has the confirming letter become an essential safeguard? Why have negotiation posturing and outright misrepresentation of authority become accepted parts of the settlement dance? Have the public and our clients seen it and heard it on such a regular basis that their view that our words are not trustworthy is an accurate one?

I have read the excellent article by Jaclyn Sinclair in the February *King County Bar Bulletin*. I have heard the speech of the Honorable Chief Justice Thomas Zlaket of the Arizona Supreme Court, and I have read the report of John Humbach to the American Bar Association Center for Professional Responsibility and Standing Committee on Professionalism. Test yourself with their questions:

- Have you ever stretched, added or created time in your billing practice?
- In mediation and settlement conferences, do you and your client honestly answer questions about bottom dollar and settlement authority?
- In answering discovery, have you ever "forgotten" to list an adverse witness or to disclose adverse documents? Do you narrowly parse definitions of the questions and expansively assert privileges and work-product protections to hide damaging facts for as long as possible?
- Have you ever embellished an excuse for a continuance? Do you think your client does not know the truth?
- Have you let your clients know that you do not trust the other lawyer and have to use "confirming letters"? And do you find these letters sometimes inconsistent with the facts of the discussions they are confirming? If lawyers can't trust lawyers, why should the public?
- Have you seen flat-out misstatements of the facts, of the record, of the evidence in briefs and arguments to the court or jury? Were they often accepted as "zealous advocacy"? Are lawyers ever called to task for it by the court?
- Are you scrupulously honest in the deductions on your tax return?

Little white lies are not acceptable. It's not an excuse that everyone in society does it. We are not everyone — we are supposed to set the example. Honesty and truthfulness should be *the* core value of our profession. We took an oath and it's for a reason. It is particularly essential to the long-term stability of our American form of government that the public be able to trust the lawyers who steward its laws and its justice. If people do not trust the integrity of the lawyers who administer the legal system, they will never find it easy to trust the system as a whole. Thus, the documented public cynicism

about lawyer ethics and trustworthiness is no mere trifling concern.

Yet the Rules of Professional Conduct aren't exactly expansive about it. RPC 3.3, for example, prohibits lawyers from lying to a tribunal, but the prohibition extends only to false statements knowingly made about *material* facts or the law. RPC 3.4, regulating conduct between opposing parties and counsel, doesn't even use the word truth, but prohibits falsifying evidence. Although the RPCs are mandatory, Ms. Sinclair points out in her article that they are also aspirational:

> Each lawyer must find within his or her conscience the touchstone against which to test the extent to which his or her actions should rise above minimum standards. But in the last analysis, it is the desire for the respect and confidence of the members of the legal profession and the society which the lawyer serves that should provide to a lawyer the incentive for the highest possible degree of ethical conduct. The possible loss of that respect and confidence is the ultimate sanction.

Well, we are suffering that sanction. And I know you're tired of it, so let's do something about it. First, we start with ourselves by looking in the mirror. Today is the first day of the rest of your professional life. Help regain respect and confidence by rising above minimum standards, demanding scrupulous honesty, and giving the same. We should be the maximum example, not the minimum. The model Rules of Professional Conduct are being rewritten, as is our oath of admission to the Bar. They should both contain two simple statements: "A lawyer must always tell the truth. A lawyer must never intentionally mislead by act or omission." Then judges and bar associations should enforce them.

There are those who are skeptical of this view, arguing that it merely reinforces the negative perception that people have of lawyers, and that it's unfairly critical. Lastly, and perhaps most tellingly, some believe that I simply don't trust the advocacy system. Isn't it, after all, the point of the advocacy system that the truth will emerge from the sparks of conflict, stewarded by skilled advocates adhering to the rules of procedure and evidence? In fact, there is no truth until the system declares it.

It's like the three umpires discussing their work. The first umpire says: "I just call 'em as I see 'em." The older, more experienced umpire shakes his head and says: "That's not good enough. I call 'em the way they are." But the chief umpire looks down sagely and wisely and says: "They ain't nothing till I call 'em." Perhaps this is a valid point in our system, where the truth is what the trier of fact says it is. We, the lawyers, are not the declarants of the truth, but only the facilitators.

Consult your conscience and don't accept rationalizations. If we are not honest, the system itself becomes skewed. If we expect the public's trust and confidence, we must live by the oath to tell the truth, the whole truth, and nothing but the truth. Then we can be really proud to be the profession that sets the example — honest lawyers.

The Judicial Recommendation Committee Process

by Fred Meyers and Everett Billingslea
Guest Columnists

Governor Locke recently reiterated his commitment to appoint the most qualified persons available to fill judicial vacancies at all levels of our court system. This commitment is consistent with the interest of all members of the Bar and citizens of our state. However, there is some concern that not all candidates for appointment to the appellate bench have sought an evaluation from the Washington State Bar Association (WSBA). The WSBA has a mechanism in place that can help identify candidates with high qualifications who seek appointment to the Court of Appeals or the Supreme Court: the Judicial Recommendation Committee (JRC). The JRC can be extremely helpful to the governor in making his appointments.

If the board finds compelling reasons not to approve the rating, they shall provide the JRC their concerns in writing, and remand to the JRC for further investigation and reconsideration of the ruling.

The JRC exists and functions under the bylaws of the WSBA. It consists of 28 members of the Bar who are appointed by the Board of Governors. Committee membership is geographically and ethnically diverse, consisting of attorneys from Chelan, Franklin, King, Lewis, Mason, Pierce, Snohomish, Spokane and Thurston counties who represent a wide range of experience. Each member is appointed for a three-year term. The appointments are staggered, resulting in the rotation of one-third of the members each year. It is the duty of the JRC to prepare a recommended list of well-qualified applicants for vacancies on the Court of Appeals and the Supreme Court. All actions are confidential.

Interviews of prospective appointees are conducted at least twice a year. Notice of interview dates is published in *Bar News*. Each candidate is required to complete an extensive judicial evaluation questionnaire containing questions about the nature of the applicant's practice, and experience in state and federal courts, on administrative boards, and on other tribunals. Applicants are asked to include the names of attorneys and judges with and before whom they have practiced. A detailed and comprehensive background investigation is conducted by members of the JRC, who inquire into the applicant's competence, integrity, judicial temperament, and contribution to the profession and community. Each candidate is then interviewed by the JRC for a determination on whether the candidate is "well-qualified" for appointment to the Court of Appeals or Supreme Court; no other rating is given. The name of each person determined to be well-qualified is given to the WSBA Board of Governors.

To be rated "well-qualified," an applicant must be a member in good standing of the WSBA and of every other bar in which the person is a member. Only well-qualified applicants shall be recommended by the committee for appointment to the Supreme Court and the Court of Appeals. The candidates must answer the following questions:

A. Is the applicant a member of the Washington State Bar Association and in good standing in every bar in which that person is a member, where applicable?

B. Does the applicant have integrity, courage, good character, common sense, and respect for the judicial process and the dignity of the court?

C. Is the applicant fair, open-minded, and committed to equal justice under the law?

D. Has the applicant exhibited biases against any group or class of citizens?

E. Is the applicant willing to and physically, mentally, and emotionally capable of sustained work on difficult intellectual problems for the purpose of rendering diligent and energetic advice?

F. Has the applicant demonstrated excellent legal ability and competence? Relevant criteria shall include:
- an analytical ability to deal with a variety of legal problems;
- an interest in and aptitude for legal scholarship and writing;
- sufficient legal experience;
- qualities of wisdom, intellect, insight, impartiality and spirit; and
- judicial temperament.

G. Has the applicant demonstrated an ability to work with others?

H. Has the committee taken prior action with respect to this candidate?

Unless the Board of Governors finds compelling reasons not to approve a rating, they shall approve the JRC's rating of an applicant and forward it to the governor. If the board finds compelling reasons not to approve the rating, they shall provide the JRC their concerns in writing, and remand to the JRC for further investigation and reconsideration of the ruling.

When asked about the process, Supreme Court Chief Justice Gerry L. Alexander indicated that he views the JRC's role as valuable, and operating under guidelines that are well thought out and comprehensive. He encouraged the JRC to be aware of the need for diversity on the Supreme Court, stating: "While I concede that where a person resides has little to do with his or her qualifications to serve on the Court, it might be an issue your committee would wish to consider."

Supreme Court Justice Bobbe Bridge was rated "well-qualified" by the JRC. She found the process to be "thorough, fair and objective." She stated: "Every opportunity is provided to the 'candidate' to demonstrate their competencies and explain any perceived inadequacies. The committee recognizes strengths in various areas of practice and life, and is appreciative of the ways in which different life experiences can enhance a person's ability to be a good decision-maker and problem-solver. The committee's membership is diverse, and reflects to the extent possible the various constituencies of the court process."

Supreme Court Justice Tom Chambers, who was interviewed and rated by the JRC as "well-qualified" for appointment to the Supreme Court, thinks the system is objective, and feels there is good geographic and ethnic representation on the JRC. He stated that he was particularly impressed with the questionnaire and the fact that applicants are required to list lawsuits they have handled, thereby becoming known to lawyers who have opposed them and judges before whom they have practiced who may or may not be a favorable reference. "You know, it is not a perfect system, but it is a damn good system," he said. He encourages anyone who wants to be elected or appointed to fill a judicial vacancy on the Court of Appeals or the Supreme Court to participate in the interview process.

The list of well-qualified candidates is not binding on the governor; however, Governor Locke encourages any applicant interested in appointment to the Court of Appeals or Supreme Court to seek a rating before the JRC and other bar association rating committees. Governor Locke is committed to give strong consideration to candidates who have achieved a well-qualified rating through the Washington State Bar Association's Judicial Recommendation Committee evaluation process.

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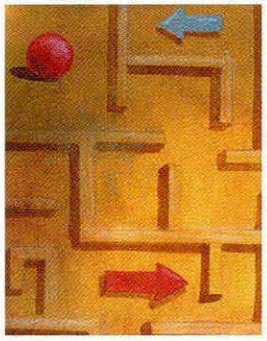
4/01

Navigating Washington's Rules of Appellate Procedure:

Eight Hidden Dangers and Costly Mistakes

by David B. Koch

The law seems like a sort of maze through which a client must be led to safety, a collection of reefs, rocks, and underwater hazards through which he or she must be piloted. — *John Mortimer*[1]



Although Mortimer was speaking of "the law" in the abstract, with unintended prescience he also described certain aspects of Washington's Rules of Appellate Procedure. When the Washington Supreme Court adopted those rules in January 1976,[2] it sought to consolidate the various procedural provisions into a single framework, eliminate procedural traps for the unwary, and design a system under which cases were decided on the merits rather than procedural requirements.[3] Through the initial adoption of the rules and subsequent amendments, those efforts have been largely successful. And yet, in many respects, appellate practice is still the maze Mortimer describes.

The continuing problems stem, in part, from the false sense of security the rules convey. An attorney reviewing them might reasonably conclude that they are a complete statement of the rules governing cases in the Supreme Court and Court of Appeals — they appear comprehensive, proclaim to govern proceedings in those courts,[4] and supercede all statutes and other procedural rules.[5] A reasonable attorney might also conclude that the appellate courts are likely to forgive a procedural violation. The rules themselves promise that "[c]ases and issues will not be determined on the basis of compliance or noncompliance ... except in compelling circumstances where justice demands,"[6] and "[t]he appellate court may waive or alter the provisions of any of these rules in order to serve the ends of justice."[7]

The continuing problems stem, in part, from the false sense of security the rules convey.

The purpose of this article is to dispel any such notions — notions that lead to costly mistakes. The rules are not a complete statement of procedure. Rather, as will be discussed, there are a number of subjects they do not address, and others for which their requirements are not entirely clear. Moreover, notwithstanding the rules' promise to dispense with strict compliance, the following examples demonstrate that issues frequently are determined based on violations. There is simply no reason to expect the appellate courts will forgive a transgression.

A few caveats before we embark. This article is hardly a comprehensive treatment of every problem area within the rules. It simply covers some of the areas that frequently cause prob-

lems for attorneys in the courts of appeal. Second, this article focuses on the procedural rules pertaining to practice in the Washington Court of Appeals and Supreme Court. It does not cover other rules or statutes applicable to review proceedings, for example, the rules pertaining to superior court review of decisions from courts of limited jurisdiction[8] or appeals under the Administrative Procedures Act.[9] Those provisions present unique difficulties beyond the scope of the discussion here. With those limitations in mind, following are eight problem areas.

ONE: Beware Invited Error — Supplement Jury Instructions Only as Necessary

The invited error doctrine has been a part of Washington jurisprudence for more than 100 years.[10] Simply stated, the doctrine prohibits a party from causing a trial error and then complaining about that error on appeal.[11] Quite often it arises in the context of jury instructions, where a party seeking to challenge an instruction or special verdict form on appeal is confronted by the fact that the same party requested a duplicative — and equally erroneous — instruction in the trial court. Inviting an error even waives review of constitutional claims.[12]

The appellate rules do not mention invited error, much less warn of its consequences. Published decisions serve as the only harbinger of the doctrine. So perhaps not surprisingly, many a civil[13] and criminal[14] client has suffered the consequences of trial counsel urging a faulty instruction. Fortunately, the risk of inviting an instructional error can be greatly diminished by exercising restraint when requesting instructions.

Although both the civil and criminal rules afford each party the opportunity to propose jury instructions,[15] there is no requirement that those instructions cover every legal matter for the jury's consideration. Many judges have a standard packet of instructions counsel can review before submitting their own. And often opposing counsel will provide its instructions before the deadline for submission. There is no need to request instructions that mirror those already under consideration. By supplementing instead of duplicating, you significantly reduce the chance of inviting instructional error.

TWO: Failure to Cross-Appeal — A Missed Opportunity

A second frequent misstep is the failure to seek cross review when an opposing party files a notice of appeal or notice of discretionary review. A party seeking cross review must file the appropriate notice within the later of 14 days following the appellant's notice, or within the time allowed for filing a notice of appeal or notice of discretionary review, which is typically 30 days after the decision from which review is sought.[16] Two circumstances dictate that when contemplating cross review, it is undoubtedly better to err on the side of caution and seek review. First, failure to do so will preclude some challenges you may ultimately wish to raise. And second, it is difficult to discern from the cases which issues require cross review.

The standard used to determine whether an argument may be raised in the absence of cross review sounds simple enough: cross review is essential if the respondent "seeks affirmative relief as distinguished from the urging of additional grounds for affirmance."[17] But the standard falters in its application. The distinction between "affirmative relief" and "urging of additional grounds" is not always readily apparent. For

example, asking the appellate court to affirm based on a statute of limitations violation is affirmative relief and requires cross review.[18] But a respondent's challenge to the appellant's standing in the trial court is simply an additional ground for affirmance.[19] Moreover, while some cases hold that a respondent may not challenge a trial court's factual findings absent cross review,[20] others hold or suggest precisely the opposite.[21]

Further complicating the matter is RAP 2.4(a), which permits "review [of] those acts in the proceeding below which if repeated on remand would constitute error prejudicial to respondent." The rule also permits the court to grant a respondent affirmative relief, even in the absence of cross review, "if demanded by the necessities of the case." Unfortunately, there are no firm guidelines indicating under what circumstances the appellate courts will exercise this discretion in the absence of cross review.[22]

To avoid the uncertainties that accompany a failure to seek cross review, at least one county prosecutor's office files a notice of cross review in every case in which the defendant appeals. If the office ultimately determines there are no issues on which it seeks affirmative relief, it withdraws its request for cross review by notifying the appellate court that its brief does not contain any counter-assignments of error and it does not intend to file anything further in support of its cross appeal. Whatever method you choose in deciding whether to seek cross review, evaluate with care and err on the side of caution by seeking review.

THREE: Be Precise When Challenging Factual Findings and Conclusions of Law

The requirement that a party assign error to each factual finding challenged on appeal is clearly spelled out in the appellate rules. Generally, the rules require "[a] separate concise statement of each error a party contends was made by the trial court, together with the issues pertaining to the assignments of error."[23] And specifically, the rules require "[a] separate assignment of error for each finding of fact a party contends was improperly made ... with reference to the finding by number."[24] A party must also include the text of a challenged finding within the brief or in an appendix to the brief.[25]

The courts frown on attempts to raise new issues or arguments where opposing counsel has not had a fair opportunity to respond.

The rules make clear the consequence for noncompliance: "The appellate court will only review a claimed error which is included in an assignment of error or clearly disclosed in the associated issue pertaining thereto."[26] Unchallenged factual findings are considered verities on appeal — they are treated as the established facts of the case.[27] And despite the clarity of the rules on this subject, the reporters are littered with cases where a failure to abide by these mandates waived challenges on appeal.[28] There are cases in which the appellate court has overlooked noncompliance under RAP 1.2(a) "where justice demands,"[29] but there is simply no guarantee the court will choose to do so.

The appellate rules offer diminished guidance, however, on the necessity of assigning error to conclusions of law. While RAP 10.3(a)(3) requires a "concise statement of each error," unlike the rule specifically requiring an assignment for each challenged factual finding, there is no similar rule for conclusions of law. One case suggests there is no requirement that a party specifically assign error to conclusions.[30] That appears to have been true under a former version of the rules.[31] In a number of other cases, however, the courts have treated unchallenged conclusions as the law of the case.[32] Thus, the better practice is to assign error to erroneous conclusions.

This is a particularly wise practice in light of another rule: a finding of fact erroneously identified in the trial court as a conclusion of law is reviewed as a finding of fact on appeal.[33] Therefore, even assuming a party is not required to assign error to specific conclusions of law, if a conclusion is actually a finding, it will be treated as such by the appellate court. And a failure to assign error to what is now a finding of fact could preclude any challenge on appeal; it would be a verity. Bottom line: assign error to every finding and conclusion you seek to challenge on appeal.

FOUR: Do Not Raise New Issues in a Reply Brief or at Oral Argument

The appellate courts are no place for argument by ambush. The courts frown on attempts to raise new issues or arguments where opposing counsel has not had a fair opportunity to respond. For that reason, a party may not raise new issues in a reply brief. Reply briefs are "limited to a response to the issues in the brief to which the reply brief is directed."[34] Nor may a party raise an issue for the first time at oral argument. Absent the appellate court's permission, the court "will decide a case only on the basis of issues set forth by the parties in their briefs."[35] The courts routinely refuse to consider issues and arguments in violation of these rules.[36]

The lessons here are twofold. The first is obvious: carefully consider all issues you wish to raise on appeal prior to filing your brief. Indeed, this process should begin before filing the notice of appeal or notice of discretionary review. Do not assume you can raise new issues later in the process. Second, if you discover an issue that should have been raised but was not, ask permission to file a supplemental brief containing a supplemental assignment of error and argument. The rules allow for such a brief.[37]

And if experience is a guide, the motion will likely be granted — particularly if made relatively early in the process.

FIVE: Beware the Footnote

There is nothing inherently bad about a footnote. It is simply "a note of reference, explanation, or comment placed below the text on a printed page."[38] But in an appellate brief, there is a danger associated with using footnotes for anything beyond citations to authority. The appellate courts have indicated their displeasure with argument in footnotes, finding that "[such argument] is, at best, ambiguous or equivocal as to whether the issue is truly intended to be part of the appeal."[39] In light of that ambiguity, the court may refuse to consider the argument altogether.[40] The rules of appellate procedure do not discuss this subject. Ironically, appellate practitioners may not be aware of the potential problem because the courts have always dealt with the issue in...footnotes.[41] But the danger is real. Footnotes should be used sparingly and with care.

I was reminded of this lesson — and the adage "do as I say, not as I do" — in a recent appeal. My client challenged the trial court's admission of certain evidence based on its prejudicial effect. In a footnote, I pointed out that rather than admit the evidence wholesale, the trial court could have admitted only a portion of the testimony, allowing the jury's consideration of its relevant aspects while shielding the jury from its improper prejudice. The Court of Appeals noted that raising this point in a footnote was ambiguous. And, rather than simply treat the footnote as an additional consideration related to the issue properly raised on appeal, the court treated it as an attempt to raise a new issue and declined to consider my point. The lesson is that even a footnote intended to simply expand on an issue may be perceived as an attempt to raise a new issue, in which case it will be ignored. Confine your argument to the text of the brief.

SIX: Documents and Exhibits Are Not Part of the Record on Appeal Simply Because They Were Considered Below

In addition to the verbatim report of the proceedings, the record on review also consists of trial exhibits and clerk's papers (pleadings, orders and other papers) that were filed with the clerk of the trial court

and designated for transmission to the appellate court.[42] Quite often, however, through oversight or ignorance, a party will fail to file a document or exhibit with the trial court. The party assumes the document or exhibit is part of the record on review since counsel and the court considered it below. This mistaken assumption leads to problems in the appellate courts. It may invite a motion to strike consideration of the item, which is likely to be granted.[43]

Fortunately, a failure to file a document or exhibit in the trial court is easily rectified if caught early in the process. The rules permit supplementation of the record on appeal with the appellate court's permission.[44] The document or exhibit should be filed with the trial court clerk, followed by a motion in the appellate court to supplement the record on appeal and, once the motion is granted, a supplemental designation of clerk's papers and exhibits.[45]

SEVEN: Once Review Has Been Accepted, the Trial Court Has Limited Authority

Once an appellate court accepts review, the trial court has only limited authority to act in the case. This includes the authority to enforce a judgment, to award attorney fees and litigation expenses, and to decide certain post-judgment motions.[46] But a sometimes overlooked provision, RAP 7.2(e), contains a further restriction on that authority. For postjudgment motions and other actions to modify a trial court decision, the rule provides: "If the trial court determination will change a decision then being reviewed by the appellate court, the permission of the appellate court must be obtained prior to the formal entry of the trial court decision." The key inquiry, of course, is whether the trial court action "will change a decision" under review.[47] As with other topics discussed in this article, caution is the best policy. If there is any doubt, obtain permission. Failure to do so when required may result in vacation of the trial court order.[48]

EIGHT: If You Want Attorney Fees and Costs, You Must Ask

This last problem area differs from those previously discussed. The rules applicable to costs and fees are quite clear. Yet, for whatever reason, practitioners frequently fail to comply — hence the rules discussion here.

Under RAP 18.1, "[i]f applicable law grants to a party the right to recover reasonable attorney fees or expenses on review,"[49] that party "must devote a section of the brief to the request for the fees or expenses."[50] The party must also supplement that request with timely affidavits.[51] RAP 18.1 is designed to provide counsel and the court with reasonable notice of the request, and afford opposing counsel an opportunity to contest the requested amounts.[52]

In an effort to emphasize the rule's requirements, the word "should" was replaced with "must" in 1990.[53] Although under the rules both "should" and "must" refer to acts a party is obligated to perform, "must" indicates noncompliance will result in a more severe sanction.[54] Generally speaking, the appellate courts have required strict compliance with RAP 18.1.[55] The courts are willing to deny fees and costs in the face of a violation.[56] In many cases, even if the court is willing to overlook minor noncompliance, appellate counsel may be sanctioned if the court or opposing counsel has been inconvenienced.[57]

One additional point on this subject. The request for attorney fees and expenses under RAP 18.1 should not be confused

with submission of a "cost bill" under RAP 14.4. A cost bill, which must be filed within 10 days following an appellate court's decision terminating review, covers specified categories of costs and fees, including a statutory attorney fee (currently $125) under RCW 4.84.080.[58] RAP 18.1(b) specifically provides that the request for reasonable attorney fees and expenses should not be made in a cost bill. Do not falsely assume that in light of the cost-bill provisions under RAP 14.4 you have 10 days following a decision terminating review in which to seek all attorney fees and expenses. Otherwise, you may have to explain to your client why he, and not the opposing party, is paying your fee.

Conclusion

Mortimer described the law as a maze through which counsel must lead his or her client around innumerable hidden hazards. Some aspects of appellate practice in Washington fail to prove him wrong. And although the appellate rules permit the courts to forgive transgressions, your mantra as a practitioner should be "don't count on it." There is no adequate substitute for careful study of the rules and review of interpretive case law. Only then will you navigate the maze unscathed. Bon voyage.

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NOTES

1. English novelist, barrister and dramatist; *Clinging to the Wreckage: A Part of Life*, ch. 7 at 53 (1982).
2. 86 Wn.2d 1133 (1976).
3. *See Washington Appellate Practice Deskbook*, Vol. 1 § 5.5, at 5-4 (2nd ed. 1993); Comments to RAP 1.1-1.2, 86 Wn.2d 1133, 1139-1141 (1976).
4. RAP 1.1(a).
5. RAP 1.1(g).
6. RAP 1.2(a).
7. RAP 1.2(c).
8. *See generally* Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ).
9. *See generally* RCW 34.05.510-.598.
10. *See* Gilmore v. The H.W. Baker Co., 12 Wash. 468, 473, 41 P. 124 (1895).
11. *See* Davis v. Globe Machine Mfg. Co., 102 Wn.2d 68, 77, 684 P.2d 692 (1984); State v. Pam, 101 Wn.2d 507, 511, 680 P.2d 762 (1984), *overruled on other grounds*, State v. Olson, 126 Wn.2d 315, 893 P.2d 629 (1995).
12. State v. Aho, 137 Wn.2d 736, 744-45, 975 P.2d 512 (1999); State v. Doogan, 82 Wn. App. 185, 188, 917 P.2d 155 (1996).
13. *See* Richmond v. Thompson, 79 Wn. App. 327, 338, 901 P.2d 371 (1995) (court questions whether it should decide challenge to defamation instruction where appellant proposed language), *aff'd*, 130 Wn.2d 368, 922 P.2d 1343 (1996); Goodman v. Boeing Co., 75 Wn. App. 60, 73-74, 877 P.2d 703 (1994) (handicap discrimination claim; appellant could not challenge court's instruction, which substantially mirrored one of its own proposed instructions), *aff'd*, 127 Wn.2d 401, 899 P.2d 1265 (1995); Nania v. Pacific Northwest Bell, 60 Wn. App. 706, 709, 806 P.2d 787 (1991) (where party insisted on modification to special verdict form, it could not complain on appeal regarding an inconsistency in instructions resulting from that modification).
14. *See* State v. Henderson, 114 Wn.2d 867, 868-870, 792 P.2d 514 (1990) (defendant proposed instructions challenged on appeal; issue waived); State v. Boyer, 91 Wn.2d 342, 345, 588 P.2d 1151 (1979) (same).
15. CR 51; CrR 6.15.
16. RAP 5.1(d); RAP 5.2(f).
17. Robinson v. Khan, 89 Wn. App. 418, 420, 948 P.2d 1347 (1998) (quoting Phillips Building Co. v. An, 81 Wn. App. 696, 700 n.3, 915 P.2d 1146 (1996)).
18. Robinson, 89 Wn. App. at 420.
19. Wolstein v. Yorkshire Ins. Co., 97 Wn. App. 201, 206-07, 985 P.2d 400 (1999).
20. *See* State v. Vanderpool, 99 Wn. App. 709, 714, 995 P.2d 104, *review denied*, 141 Wn.2d 1017 (2000); Miller v. Anderson, 91 Wn. App. 822, 825 n.1, 964 P.2d 365 (1998), *review denied*, 137 Wn.2d 1028 (1999).
21. *See* Strother v. Capital Bankers Life, 68 Wn. App. 224, 240 n.37, 842 P.2d 504 (1992), *rev'd on other grounds sub nom.* Ellis v. William Penn Life Assur.

Co., 124 Wn.2d 1, 873 P.2d 1185 (1994); Fraser v. Monroe, 1 Wn. App. 14, 15, 459 P.2d 64 (1969) (citing Burt v. Heikkala, 44 Wn.2d 52, 265 P.2d 280 (1954)); Trudeau v. Pacific States Box & Basket Co., 20 Wn.2d 561, 569, 148 P.2d 453 (1944).

22. *Compare* Caritas Servs. v. DSHS, 123 Wn.2d 391, 415-17, 869 P.2d 28 (1994) and Seattle v. Marshall, 54 Wn. App. 829, 831, 776 P.2d 174 (1989), *review denied*, 115 Wn.2d 1008 (1990) (exercising discretion) *with* Jacques v. Sharp, 83 Wn. App. 532, 545, 922 P.2d 145 (1996) and Manson Constr. & Eng'r. v. State, 24 Wn. App. 185, 192, 600 P.2d 643 (1979), *review denied*, 93 Wn.2d 1004 (1980) (refusing to exercise discretion).

23. RAP 10.3(a)(3).

24. RAP 10.3(g).

25. RAP 10.4(c).

26. RAP 10.3(g).

27. *See, e.g.*, In re Estate of Lint, 135 Wn.2d 518, 532-33, 957 P.2d 755 (1998); State v. Hill, 123 Wn.2d 641, 644, 870 P.2d 313 (1994); Washington State Bar Ass'n v. Great Western Federal, 91 Wn.2d 48, 53, 586 P.2d 870 (1978); State v. Hunnel, 52 Wn. App. 380, 382-83, 760 P.2d 947 (1988).

28. *See, e.g.*, Harrington v. Pailthorp, 67 Wn. App. 901, 911, 841 P.2d 1258 (1992), *review denied*, 121 Wn.2d 1018 (1993); State v. Slanaker, 58 Wn. App. 161, 165-66, 791 P.2d 575, *review denied*, 115 Wn.2d 1031 (1990); Fuller v. Employment Security, 52 Wn. App. 603, 605-06, 762 P.2d 367 (1988), *review denied*, 113 Wn.2d 1005 (1989); *see also* In re J.K., 49 Wn. App. 670, 676, 745 P.2d 1304 (1987) (failure to set forth text of findings precludes review), *review denied*, 110 Wn.2d 1009 (1988).

29. *See* Nat'l Federation of Retired Persons v. Insurance Comm'r, 120 Wn.2d 101, 116-17, 838 P.2d 680 (1992) (court considers challenge where nature of argument is clear and text of finding is set forth in the appellate brief); In re Marriage of Stern, 57 Wn. App. 707, 710, 789 P.2d 807 (declining to impose sanctions for noncompliance), *review denied*, 115 Wn.2d 1013 (1990).

30. *See* State v. Alvarez, 74 Wn. App. 250, 255, 872 P.2d 1123 (1994), *aff'd*, 128 Wn.2d 1, 904 P.2d 754 (1995).

31. *See* McClendon v. Callahan, 46 Wn.2d 733, 740-41, 284 P.2d 323 (1955) (addressing challenge to conclusion despite failure to assign error).

32. *See* State v. Moore, 73 Wn. App. 805, 811, 871 P.2d 1086 (1994); King Aircraft Sales, Inc. v. Lane, 68 Wn. App. 706, 716-17, 846 P.2d 550 (1993); State v. Slanaker, 58 Wn. App. 161, 165, 791 P.2d 575, *review denied*, 115 Wn.2d 1031 (1990). *But see* Johnson v. County of Kittitas, 2000 Wn. App. Lexis 2786 (Wash. Ct. App. Nov. 2, 2000) (excusing failure to assign error to specific conclusions of law where party assigned error to ultimate conclusion and thrust of challenge was clear).

33. Willener v. Sweeting, 107 Wn.2d 388, 394, 730 P.2d 45 (1986); Miller, 91 Wn. App. at 825 n.1.

34. RAP 10.3(c).

35. RAP 12.1(a).

36. *See, e.g.*, Yakima County Fire Protection Dist. No. 12 v. Yakima, 122 Wn.2d 371, 397, 858 P.2d 245 (1993); State v. Johnson, 119 Wn.2d 167, 170-71, 829 P.2d 1082 (1992); Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992); In re Personal Restraint of Peterson, 99 Wn. App. 673, 681, 995 P.2d 83 (2000); State v. McAllaster, 31 Wn. App. 554, 558, 644 P.2d 677 (1981).

37. *See* RAP 1.2(a) (rules liberally interpreted to facilitate decisions on the merits); RAP 10.1(h) (court may authorize additional briefs); RAP 12.1(b) (court may allow written argument on issues not addressed in briefs already filed).

38. Webster's Third New Int'l Dictionary 885 (1993).

39. State v. Johnson, 69 Wn. App. 189, 194 n.4, 847 P.2d 960 (1993).

40. State v. N.E., 70 Wn. App. 602, 606 n.3, 854 P.2d 672 (1993); Johnson, 69 Wn. App. at 194 n.4; *see also* State v. Trepanier, 71 Wn. App. 372, 379 n.2, 858 P.2d 511 (1993) (criticizing counsel for placing argument in a footnote).

41. *See* Trepanier, 71 Wn. App. at 379 n.2; *N.E.*, 70 Wn. App. at 606 n.3; Johnson, 69 Wn. App. at 194 n.4.

42. RAP 9.1(a)-(c); RAP 9.6.

43. *See* State v. Krall, 125 Wn.2d 146, 149, 881 P.2d 1040 (1994) (striking appendices to brief where documents not part of record on appeal); Nolte v. City of Olympia, 96 Wn. App. 944, 950 n.17, 982 P.2d 659 (1999) (granting motion to strike document not part of record on appeal); State v. Skiggn, 58 Wn. App. 831, 839, 795 P.2d 169 (1990) (striking portions of brief referring to matters outside the record).

44. RAP 9.10 ("the appellate court may, on its own initiative or on the motion of a party . . . direct the transmittal of additional clerk's papers and exhibits . . . .").

45. RAP 9.6(a), RAP 9.10.

46. RAP 7.2(a)-(l).

47. *See, e.g.*, State v. J-R Distributors, Inc., 111 Wn.2d 764, 768-771, 765 P.2d 281 (1988); Metropolitan Park Dist. v. Griffith, 106 Wn.2d 425, 439, 723 P.2d 1093 (1986); Leen v. Demopolis, 62 Wn. App. 473, 484-85, 815 P.2d 269 (1991), *review denied*, 118 Wn.2d 1022 (1992); Olsen Media v. Energy Sciences, 32 Wn. App. 579, 587-88, 648 P.2d 493, *review denied*, 98 Wn.2d 1004 (1982).

48. *See* State ex rel. Shafer v. Bloomer, 94 Wn. App. 246, 250, 973 P.2d 1062 (1999) (vacating trial court's order of dismissal in matter already on review).

49. RAP 18.1(a).

50. RAP 18.1(b).

51. RAP 18.1(c)-(d).

52. Simonson v. Fendell, 34 Wn. App. 324, 329-30, 662 P.2d 54 (1983), *rev'd on other grounds*, 101 Wn.2d 88, 675 P.2d 1218 (1984).

53. 115 Wn.2d 1101, 1139 (1990).

54. RAP 1.2(b).

55. Scott Fetzer Co. v. Weeks, 122 Wn.2d 141, 154-55, 859 P.2d 1210 (1993); Donovick v. Seattle-First Nat'l Bank, 111 Wn.2d 413, 418, 757 P.2d 1378 (1988).

56. *See, e.g.*, Fetzer, 122 Wn.2d at 154-55 (listing cases); In re Marriage of C.M.C., 87 Wn. App. 84, 89, 940 P.2d 669 (1997), *aff'd sub nom.* In re Marriage of Caven, 136 Wn.2d 800, 966 P.2d 1247 (1998).

57. *See* Carrigan v. California Horse Racing Bd., 60 Wn. App. 79, 85-86, 802 P.2d 813 (1990) (in light of word "should" under former version of rule, court awards fees but sanctions appellate counsel), *review denied*, 117 Wn.2d 1002 (1991); *see also* Glesener v. Balholm, 50 Wn. App. 1, 9, 747 P.2d 475 (1987); Simonson, 34 Wn. App. at 332 (awarding fees but imposing sanction under former version of rule).

58. *See* RAP 14.3 - 14.4; Comment to RAP 18.1, 86 Wn.2d 1133, 1266 (1976).

The Story Behind the Unique Look of Japanese Agreements

by David Monroe

"I didn't know what to think of the first one I saw. It had a stamp on the front page, a red seal on the back page, and was bound like a book. I couldn't figure out whether I was supposed to sign it, mail it, or put it on my book shelf," a Western businessperson might quip when recalling the first time presented with a Japanese agreement.

Japanese agreements look different from their Western counterparts, as even a surface review by one who reads no Japanese will reveal. The stamp on the front page, binding tape running the length of one side, and the red chop seals that appear on the signature page and inside spines all combine to give Japanese agreements a unique look. Few foreigners — in fact, few Japanese — truly understand the significance of these distinguishing features.

What Is the Significance of the Revenue Stamp and When Is One Necessary?

A revenue stamp appears on most Japanese agreements, usually in the upper left or right corner of the front page, though the location is a matter of custom rather than law. Much like a cancellation mark put on a postage stamp, the revenue stamp should have a chop seal placed half over it and half over the agreement to protect against re-use. The seal should be the same one used by one of the parties — either one will do — to "sign" the agreement on the signature page.

The stamp on the front page, binding tape running the length of one side, and the red chop seals that appear on the signature page and inside spines all combine to give Japanese agreements a unique look.

Many who have worked in the law department of a Japanese or foreign company with business interests in Japan have shared the experience of being asked at least a dozen times, "Does this agreement require a revenue stamp?" The general answer is that a revenue stamp is required for those categories of agreements listed in the "required" section of Attachment 1 to the Revenue Stamp Law, while it is not required for those that either appear in the "exempt" section or do not appear on Attachment 1 at all. So, distribution agreements require a revenue stamp; building lease agreements do not. An intellectual property transfer agreement requires a revenue stamp, but an intellectual property license agreement does not. If you are leasing land — put a stamp on the agreement, but if you are leasing a building — leave it off. If there's any rhyme or reason to determining which types of agreements require a revenue stamp and which do not, it's not readily apparent. Even so, the determination usually can be made relatively easily by reference to Attachment 1, which also stipulates the fixed amount or method for calculating the tax, which can range from 200 to 600,000 yen (roughly US $1.80 to $5,450).

So, what happens if you forget to put a revenue stamp on an agreement that requires one? The good news is that this infirmity will not affect the enforceability or validity of the agreement. The bad news is that you may be subject to a tax penalty of three times the delinquent amount and, in very rare and extreme cases, jail time.

As one might expect, the tax applies only to agreements executed in Japan, which is why a Japanese company entering into an agreement with a foreign counter-party will often sign (or, more accurately, chop-seal) first so that the final signature, and arguably the execution, will occur outside Japan.

What Is the Purpose of the Binding Tape and Is It Necessary?

Many Japanese agreements are "bound" with binding tape. The more important the agreement, the more likely it is to be bound. Most stationery stores in Japan sell the type of tape ordinarily used, which is a dull black fabric type, though virtually any tape will do. Typically an agreement is bound by first stapling one side of the agreement, usually the left side, and then placing a strip of tape down the spine, from top to bottom, so that the staples are covered.

There is no legal requirement for this type of binding; however, it does serve an important purpose. Each party to a bound agreement is expected to place its seal over the inner spine, with half the seal extending over the backside of one page and the front side of the other. This helps protect against the replacement of inner pages of the agreement, which would otherwise be fairly easy to do. For this reason, some Japanese companies, banks among them, are particularly reluctant to sign unbound agreements.

Typically an agreement is bound by first stapling one side of the agreement, usually the left side, and then placing a strip of tape down the spine, from top to bottom, so that the staples are covered.

What Is the Significance of the Chop Seals?

Most Japanese agreements provide space for each party, whether an individual or business, to "chop" the agreement — that is, apply its chop seal on the "signature" line that generally follows the body of an agreement. Chop seals on Japanese agreements serve the same purpose as signatures on their Western counterparts: providing proof of an intent to contract and by whom. Additionally, since seals generally appear in red ink, they can aid in distinguishing between an original and a duplicate, though less so now that color copiers are common.

All seals are not created equal, though. They come in two varieties, registered and unregistered. A registered seal is one that has been registered at the appropriate government office, which is the local Legal Affairs Bureau in the case of a corporation, and the local city or ward office in the case of an individual. A company does not actually register its own seal, i.e., a seal with the company's name on it; rather, it registers the seals of its representative directors, who are the only persons Japan's Commercial Code empowers to bind the company. Since the government office at which the seal is registered will issue a certificate of registration, a party to an agreement can compare the seal that appears on the agreement to that on the certificate in order to verify the seal's authenticity — much as one might compare fingerprints.

Individuals and companies often have unregistered seals also, which, as the name suggests, are seals that have not been registered. An individual, at least one with a common last name, will often use a mass-produced seal purchased at a shop that specializes in seals, or at a stationery store. Hand-made seals are also common. A company seal will naturally be made to order. And since the company must register its representative directors' seals and not its own seal with the Legal Affairs Bureau, a seal with the company's name is always unregistered.

An agreement need not be chop-sealed to be binding, just as it need not be in writing. However, a seal is evidence that the person or company whose seal appears on the agreement intended to be bound by it, and a registered seal is more persuasive than an unregistered one. So, the more important the agreement, the more likely it is to have a registered chop seal.

Instead of being "signed, sealed and delivered" as its Western counterpart used to be, a Japanese agreement is more likely to be stamped, bound and chopped — and now you know why.

David Monroe works in Tokyo at Sumitomo Life Investment Co., Ltd. He is believed to be the first Westerner in history to serve as the top legal officer for a major, domestically owned Japanese asset management company.

Proud to Be a Lawyer

If there is a universal longing inherent to all peoples and nations, it is for the rule of law that will protect human rights and make justice available in a legal system that is open and available for everyone.

The Rule of Law and the Magnificence of the Human Spirit

Excerpted from Justice Robert F. Utter's address at the Goldmark Luncheon, February 23, 2001

Justice Utter with Ukranian judges, in Prague.

Judge Dwyer has spelled out in glowing terms the dedication of Charles Goldmark to his profession, family, and the rule of law. In particular, he has described the devotion that was required in the beginning to establish strong roots for the Legal Foundation of Washington. The foundation has existed since 1984 with the inspired leadership and services of many in this room today.

Jan Peterson noted in his recent column in *Bar News* (January 2001, p. 15) that in 1980 there was a ratio of one legal services attorney to every 4,129 eligible poor people. In 2000, the ratio was one to every 12,389 poor persons — a 200 percent growth in those to be served without additional staff. An additional $4 million over and above state support is needed just to maintain existing levels of operation and to begin the process of restoring services to at least the 1980 level. It is truly a crisis that requires new opportunities that are not available today.

While the list of accomplishments of the Legal Foundation of Washington grantees is great, their ability to continue to serve effectively is seriously threatened unless new and better opportunities are created for them.

The actions of Charles Goldmark and others to make justice available to all are mirrored in the dedication of people throughout the world toward these same goals for their countries. If there is a universal longing inherent to all peoples and nations, it is for the rule of law that will protect human rights and make justice available in a legal system that is open and available for everyone. I have been fortunate over the years to be involved with many others, to observe lawyers and judges throughout the world acting in the finest traditions of our profession in their attempts to assure ways in which justice can be made available for all. They are heroic figures striving against almost insurmountable odds. In doing so, they offer inspiration and encouragement to us in our own struggles.

Recently, a poll was taken in Haiti to find what people most desired in that nation. In a country with massive unemployment, brutality, corruption, poverty, and a pervading sense of hopelessness, the primary wish was for the availability of justice for all, and for a noncorrupt court system. A new program revealed that in spite of an infusion of millions of dollars of aid, there had been no impact on the problem of availability of justice in the courts of Haiti. What was needed, the program concluded, was a core group of judges and lawyers with courage and integrity, and a system that would encourage their aims.

The fulfillment of this universal longing for justice and access to a fair judicial system does not occur without an investment of time, energy, commitment and courage. More than 400 judges and lawyers in nearly 50 countries suffered reprisals last year. These included death, kidnappings and arrests, according to the Center for the Independence of Judges and Lawyers, a human-rights monitoring group. Colombia topped the list of dangerous places for legal practitioners, accounting for eight of the 16 jurists' deaths reported worldwide in the year ending February 2000. Another 10 jurists were kidnapped, and 14 threatened or assaulted in Colombia. In Pakistan, at least 34 judges and lawyers were slain over the past three years, while many more faced harassment.

During the past 11 years, I have worked with numerous organizations in their efforts to encourage development of the rule of law through yearly visits to countries of the former Warsaw Pact and former Union of Soviet Socialist Republics. In those countries, gifted and courageous individuals are

found who are willing to personally sacrifice to establish the rule of law and impartial administration of justice.

In September and October 1991, Judge John Coughenour and I taught at the Soviet Judicial Academy in Moscow. It was a remarkable time, just after the failure of the coup against Gorbachov, and immediately before the collapse of the Soviet Union. At graduation of the class of judges from all over the Soviet Union, the judges were asked what they hoped to achieve in their careers. A judge from Kazakhstan related how he had been pressured by the KGB to ignore the law, and to assist them in the coup. He refused to do so, because in a nation of slaves, the revolt of one slave is significant. I saw him many years later in a remote town in Southern Kazakhstan where he was now chief judge, as proud and independent as ever.

Last year, the American Bar Association established an institute in Prague to train Eastern European judges and lawyers. Our first class, titled "Judging in a New Democratic Society," was composed of over 40 judges, primarily from Balkan countries. There were universal stories of poor pay, poor working conditions, poor housing, inefficient and often corrupt administrators, and little public respect. Nonetheless, the judges were enthusiastic about their jobs, determined to change things in their countries, and hopeful for the future. Over the two-week course there was an opportunity to learn their individual stories, and understand their personal challenges.

One of the most striking stories was told by a judge from the Republic of Serbska, one of three Bosnian republics. He was originally from a Serbian part of Yugoslavia which was overrun by the Croats. His father was shot as he stood alongside him, and their family home of centuries was burned. He was forced to emigrate to a Serbian part of Bosnia. In the past three years he was moved to 13 different homes with his mother, trying to find some form of permanent housing.

When our class started, he was one of the most rigid students, insisting that everything was absolutely perfect in his republic, while the other students described what they hoped to change in their countries. Shortly after class began, and following discussions of the essence of a democratic government, he purchased a copy of a book on early travels through America and observations of American democracy. He began to ask questions about how democracy functioned, and by the end of the class was an enthusiastic participant in our discussions. He returned home with a new vision of what he wanted to accomplish.

Another participant was a judge serving in Yugoslavia. She had the magnificent Balkan name of Dragana, and was the personification of that name, with fiery red hair and a temperament to match. She lived with her parents, as she could not afford an apartment of her own on a judge's salary. Shortly after class ended, she was fired from her job upon returning to Yugoslavia for opposing the Milosevich regime through street demonstrations and speeches. She has since established a private organization to continue educating Yugoslav judges on how to function in their own new democratic society.

I became involved in working with the judges and legal system of Albania in 1994 through the efforts of a friend, Roger Sherrard, a Poulsbo lawyer. Six trips later, I still find some of the most touching stories of the indomitability of the human spirit from that country.

Prior to 1990, Albania was one of the most repressive countries in the world. Enver Hoja ruled the country for almost 40 years, with an iron hand matched only by the regime in North Korea. Thousands were jailed or executed on no grounds other than suspicion of possible political disloyalty. With the death of Hoja in 1990 the repression gradually began to lessen. Many of the brightest people in Albania had been either executed or imprisoned by Hoja. The political prisoners not executed were released after his death. A program was developed where the brightest of those released could become assistant judges at the lowest court level with six months' judicial training. Some were no more than political opportunists, but many became stalwart champions against oppression and corruption due to their own unjust sufferings. Nonetheless, they were looked upon with scorn due to lack of a formal legal education, regardless of the fact that most of the legal studies for existing judges consisted of Marxist doctrine, which was no longer relevant.

In my first trip to Albania in 1993, I met a group of judges from Skodra, a town in the north, bordering on Montenegro. Of the five judges from that town at the judicial conference, four had previously been imprisoned for political crimes. They still bore the marks of torture on their bodies, but were serving with great pride to help alleviate the possibility of others suffering as they had. I continue to see one of those judges on each trip to Albania. At our last meeting I asked how he was doing. He told me, in general, well, but that the criminal elements tried in his court were using threats to attempt to influence his judgments. They threatened to kill him as he walked the four miles to his home every day from his courthouse. He refused a guard, saying that if their plan was to kill him, he could not stop them, but threats would have no effect on his judgment.

One of the most striking events in Albanian judicial history was an incident in March 1997 in Gjirokastra, a town in South Central Albania. Prior to that, Albania was mired in the depths of numerous pyramid schemes that involved over half the wealth of that country. As with all pyramid schemes, they collapsed, taking down with them the savings of the most desperately poor. With their failure, all state institutions collapsed, leaving the country

The real stories of justice are also found in the solution of problems that exist in the lives of individual people.

totally out of control. Over one million Kalashnikov rifles were taken from looted armories, as well as assorted heavy weapons. Unmanageable and angry mobs set fire to almost every state institution.

The courts were the first targets of the mobs. The court in Gjirokastra was one of the oldest in the country and contained invaluable archives. Rather than surrender to the mobs attacking the courthouse, the judges and assistant judges decided to defend it. They organized into groups of four to five people — two judges and two or three assistant judges — to defend the courthouse with weapons, 24 hours a day. The judges slept in the courthouse and at times were required to be involved in door-to-door fighting to mount a successful defense. This situation lasted for three months until the general election in June 1997. The assistant judges were central to the defense of the courthouse, and in the forefront of the fighting. One who was actively involved later castigated his fellow judges at a judicial conference I attended, urging them to be brave, dedicated, and to resist corruption, or the Mafia would swallow up everything in their country.

In many ways these stories, the last in particular, remind me of the efforts of our legal service agencies fighting a valiant effort to preserve the heart of our system of law, justice, and access to courts. This in the face of assaults on their very existence, unjust criticism of their programs, and the ever-growing number of people with needs unserved.

In January, Columbia Legal Services (CLS), representing three homeless people, filed a statewide class-action lawsuit against the U.S. Postal Service, alleging that it discriminates by refusing to allow general-delivery mail at neighborhood post offices. The suit claims that the policy forces homeless people to travel long distances in order to retrieve their mail, violating the Postal Service's own statutes, and unconstitutionally infringing on the people's right to receive and send mail. The attorney for CLS noted that: "While most Americans take it for granted that a mail carrier will bring mail to their home six days a week without charge, the homeless are apparently entitled to no such expectation."

The real stories of justice are also found in the solution of problems that exist in the lives of individual people.

Maria is a mother in Eastern Washington whose three young children were kidnapped by their father. Desperate for help, Maria had not seen her children in nearly two years when she finally found legal assistance from a Legal Foundation of Washington (LFW) grantee organization. After a legal battle, Maria was joined with her children in a dramatic and tearful reunion.

Elaine is a woman living near Yakima, whose husband was killed in a tragic accident. Alone and grieving, Elaine suddenly found herself a widow with three teenage sons, a mountain of debt, few financial resources, and no will. She was facing collections and foreclosure and didn't know where to turn. Fortunately, family members connected Elaine to an LFW grantee organization, and soon a volunteer attorney represented her. Although Elaine is still struggling to recover from the loss of her husband, she has not lost her home and is beginning to re-establish a life for herself and her sons.

Through these and thousands of other similar cases each year, the Legal Foundation of Washington grantees strive to bring meaning to the word "justice" in our state. Making justice possible is accomplished each day by many unsung heroes.

David Kastle is a pro bono attorney who is in private practice in Edmonds. He volunteers through the Snohomish County Legal Assistance Program, carrying five to six pro bono cases at all times. He volunteers at the legal clinic, which provides free advice to low-income people. According to his legal assistant, he takes at least two of the cases back with him to his office when more than advice is needed. One of his cases, representing a mother and her developmentally disabled adult child, took more than 100 hours. His work resulted in allowing her to successfully get a dissolution, and stay in the family home for two additional years after her estranged husband tried to have her and her child removed.

It is not only attorneys, but office and support staff who make the system function. Ellie Linde is the support staff for the entire Northwest Justice Project CLEAR staff of 18 attorneys and paralegals who answer a hotline set up to provide intake and advice to low-income callers from all over the state. In 2000, Ellie made more than 15,000 referrals to follow up on brief services provided by attorneys in her office.

The common thread of the stories I have shared; the work of Charles Goldmark; the staff, volunteers and supporters of LFW grantees these past 15 years; and those throughout the world who work for justice and access is that they have made their work the poetry of their lives. They have decided that enlistment in the cause of justice for all is important enough to justify a sacrifice of money, prestige, and time spent on less important issues. I am honored to be a part of this event which gives due recognition to those who strive to make our system of justice in our country, and the entire world, a reality for all.

Robert F. Utter served on the Washington Supreme Court from 1971 to 1995, and was Chief Justice from 1979 to 1981. He is a Life Fellow of the American Bar Foundation, and currently serves on the Advisory Board of the ABA Central and Eastern European Law Initiative.

A Call to Arms: The Videophone Client Counseling Project

by Andrew A. Guy

Many lawyers retain their idealism about what the law can do for individuals. We all should care about fulfilling our professional responsibilities to promote access to justice for everyone, regardless of income. Yet, fulfilling these responsibilities and putting good intentions into practice can be challenging, and ideals can be de-prioritized or lost in the shuffle of a busy practice.

The problem can be particularly acute for attorneys practicing "in-house" at private corporations. While lawyers in private law firms tend to receive bar awards for pro bono services, with a few notable exceptions, it tends to be more difficult for in-house counsel to provide pro bono services. Many low-income people with legal needs are not getting help because of the shortage of attorney volunteers.

Obstacles to In-House Lawyer Pro Bono Representation

Many reasons are given for the disparity between the pro bono activities of attorneys in private firms and those in corporate law departments. Unlike their law-firm counterparts, in-house lawyers commonly aren't covered by malpractice insurance, so they may shy away from representing indigents out of self-protection. They may lack the resources to screen pro bono clients for financial eligibility, to ensure that their services aren't being given away to those who can afford to pay a private attorney. Sometimes they don't have the expertise to assist pro bono clients in areas where needs are most pronounced.

Like all lawyers, in-house counsel already have significant time demands on their professional lives, and are concerned about being drawn into an open-ended time commitment. Moreover, many in-house lawyers are business lawyers, not litigators, and assume that pro bono representation will require an appearance in court, where they may lack experience. Also, some companies might hesitate to donate in-house legal resources to help low-income clients, since, unlike law firms, they view their legal departments as cost centers instead of revenue generators.

Overcoming the Obstacles

Seeking to address these concerns and to reach a potentially huge source of in-house attorney volunteers, the Northwest Justice Project (NJP) and the WSBA Pro Bono and Legal Aid Committee have joined forces to create a task force called the Corporate Counsel Partnership for Justice.

The partnership's objective is to increase participation by identifying, creating and implementing pro bono activities that are particularly suited to in-house counsel, thus providing opportunities to perform meaningful pro bono work.

The partnership's steering committee is composed of several in-house lawyers from local companies, including Amazon.com, Bsquare Corporation, Oceantrawl Inc. and Washington Mutual, as well as NJP and WSBA staff representatives.

The Partnership's Initial Program: Focusing on Videophone Technology and Rural Clients

The partnership expects to implement its initial program, the Videophone Client Counseling Project, on a two-county pilot basis. The program will involve the use of videophone technology to connect in-house counsel in urban areas with clients in rural areas. Clients will obtain the benefit of a legal consultation without having to overcome the time, expense and logistical hurdles of traveling to an urban area to meet with an attorney in person. In addition, at least one local judge has indicated a willingness to allow attorneys to make videophone appearances at motions and show-cause hearings in appropriate cases.

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Addressing the Basic Concerns

Intake and Eligibility: NJP will provide the initial intake and screening of clients for financial eligibility, and refer clients with identified legal problems to specific corporate law departments or in-house counsel.

Malpractice Insurance: Because NJP is making client referrals, the agency is able to arrange for related volunteer services for

this project to be covered under NJP's malpractice insurance policy, which has limits of $2,000,000 per occurrence, with no deductible.

Avoiding "Down" Time: Through the use of videophone technology, in-house lawyers can confer with clients on a face-to-face basis without ever leaving their offices. There will be no travel time needed to get to a legal clinic site, and no time wasted waiting for late clients or no-shows. The partnership will arrange sites in rural communities for consultations, and provide a videophone to each location. In-house counsel will also receive a videophone, which can be plugged into a telephone jack and electrical outlet, without the need for a computer, modem or any specialized training.

Dealing with Expertise Concerns: The partnership intends to limit the pilot program to landlord-tenant and debtor-creditor law, plus any specific areas of law that in-house lawyers indicate they are interested in handling. Only clients having legal problems relating to these designated areas of law will be referred. This should minimize concerns about needing a wide range of expertise in a variety of areas. NJP and its access to justice network partners are committed to providing free training in landlord-tenant and debtor-creditor issues, and to sharing their extensive materials and publications with volunteer attorneys.

Addressing Time Constraints: The in-house lawyer will provide up to one hour of videophone consultation per client. If the consultation reveals that the client needs additional legal services, the lawyer will devote up to three hours of follow-up time — the maximum commitment and expectation. However, nothing should prevent a volunteer from spending more time on a particular matter if he is willing to do so. If the initial videophone conference reveals that the client's legal problem will require services beyond the three-hour follow-up commitment, and the volunteer attorney is unable to provide the additional services, the client may be referred back to NJP. Although we hope such referrals will be rare, this is a built-in safeguard for the in-house counsel participating in the program.

The Perry Mason Issue: In-house attorneys can provide a host of services to pro bono clients that don't involve a courtroom. Obvious examples are negotiations with landlords or creditors, helping clients complete forms or write letters, and basic client counseling regarding their rights. Client needs should be identifiable early in the process, and efforts will be made to refer nonlitigation matters to those lawyers who tell the partnership that they find courtroom advocacy to be daunting.

Weighing Costs and Benefits to the Company: Most businesses view themselves as good corporate citizens, and many encourage their employees to participate in community or charitable activities. However, such activities seldom offer corporate lawyers the chance to contribute services using their legal skills. The Videophone Client Counseling Project is custom-made for this purpose. Participation by a group of in-house lawyers in the same company should enhance employee team spirit and morale within corporate law departments, and create additional opportunities for promoting corporate visibility for participating companies.

In addition, NJP's training programs will qualify for free CLE credits, including an hour of free ethics training provided by the WSBA if desired by any participating law department. This training will enable volunteer in-house attorneys to earn mandatory CLE credits without out-of-pocket tuition charges to corporate employers. Participation in the program will allow attorneys to obtain free CLE credits under the recently enacted Regulation 103(g) of Admission to Practice Rule.

The Current Status: Rarin' to Go

Community agencies in Skamania and Stevens counties have agreed to provide sites for videophones and to act as project facilitators. NJP, through its CLEAR (Coordinated Legal Education, Advice and Referral) line, is ready to start making referrals as eligible clients in those communities call for legal advice with landlord-tenant or creditor-debtor problems. A flier has been prepared for distribution in the rural communities to be served by the pilot program, and a press release is being drafted to announce the first corporate law department(s) participating in the project. Only one element is missing: in-house volunteer lawyers.

The Call to Arms

Whether you are general counsel of your company, and thus in a position to foster the participation of the attorneys in your law department, or an individual in-house attorney willing to volunteer, you can help make a positive difference in the lives of pro bono clients in rural communities. Here is your chance to join the partnership's pilot program, which we hope will someday be implemented statewide. If you or your law department are interested in learning more about this program or would like to volunteer, please contact Andrew Guy at 206-441-7637 or aguy@oceantrawl.com.

Before joining Oceantrawl Inc., Mr. Guy was a member of Bogle & Gates PLLC. He currently co-chairs the King County Bar Association Community Legal Services Committee and is a member of the WSBA Pro Bono and Legal Aid Committee. He chairs its Corporate Counsel Subcommittee, which acts as the steering committee for the Corporate Counsel Partnership for Justice.

Recharging Your Professional and Personal Life

by Meade Brown Jr.

I discovered an annual legal conference that never fails to renew my enthusiasm for the practice of law and recharge my personal life: the annual statewide conference of the Lawyers' Assistance Program sponsored by the WSBA Lawyer Services Department. The fourth annual conference was held April 6-8, 2001 at Campbell's Resort in Lake Chelan, Washington.

The conference began on a Friday afternoon and concluded the following Sunday morning. Seminar topics included improving civility within the legal profession; interacting more effectively with clients and colleagues; encouraging accountability and responsibility in addiction recovery; ethical issues arising in mediation and arbitration; law office management techniques for reducing stress and anxiety; and maintaining your health, serenity and legal practice. Those who attended all presentations earned a total of 7.5 continuing legal education credits, including four in ethics.

What is so special about this conference, besides the great bargain for CLE credits? (The registration fee, exclusive of meals, is just $50.) It provides an opportunity for lawyers to temporarily escape their demanding practices and relax in a resort setting, while improving their skills as lawyers *and* people. Where else can we spend time with our peers away from the "busyness of our practices" to discuss important topics?

Let's face it — the practice of law is a demanding profession that never ceases to challenge our personal serenity. It can take a toll on us in many subtle and not-so-subtle ways, including the development of hostility toward other lawyers and clients, alienation, anxiety, depression and substance abuse. Avoiding these problems requires a proactive approach, and there are many skills that can be learned to enhance the quality of both our legal practices and our personal lives. The annual conference affords us the opportunity to build relationships with lawyers from both sides of the Cascades — relationships that are crucial for establishing the sense of collegiality that many claim our profession has lost.

As in years past, this year's conference included several events open to families — a Friday night desert reception, Saturday lunch and dinner, and Sunday brunch. The conference schedule left free time in the afternoon for some "quality" family time.

I encourage you to register and attend next year's conference. Details will appear in *Bar News* in late winter 2001 and early spring 2002 issues.

The **Lawyers' Assistance Program** (LAP) offers confidential assistance to WSBA members with mental, emotional, drug, alcohol, family, health and other problems. Services include assessment, referral, short- or long-term counseling, group or individual therapy, treatment follow-up and training. For information, call 206-727- 8268.

The **Law Office Management Assistance Program** offers a wide range of services to assist lawyers, especially those in solo or small firms, with the challenges of managing a law office. For information, call 206-727-8237.

The **Alternative Dispute Resolution Program** consists of two components: a voluntary fee arbitration program, to settle fee disputes between clients and lawyers; and mediation, to help resolve all types of disputes between lawyers and other individuals (e.g., clients, other lawyers and other professionals). For information, call 206-733-5923.

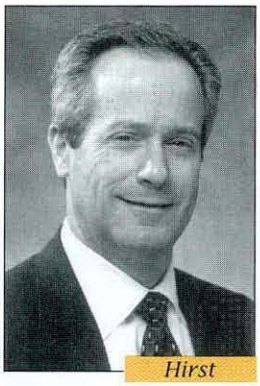
The **Professional Responsibility/Ethics Program** provides information and assistance in the following areas: ethics assistance, where a WSBA lawyer assists callers in resolving ethical dilemmas; Informal Opinions issued by the RPC Committee in response to lawyers' written ethical inquiries; Formal Opinions and Published Informal Opinions approved by the Board of Governors; and Rules of Professional Conduct promulgated by the Washington Supreme Court. For information, call 206-727-8284.

Changing Venues


Heston


Peick


Smith


Hirst


Weinstein

Honors and Awards

Washington Attorney General **Christine O. Gregoire** has received the Distinguished Alumna Award from the University of Washington College of Arts and Sciences. The award, which recognizes extraordinary accomplishments of a UW Arts and Sciences alumnus, was presented in recognition of her achievements as state attorney general.

Francois X. Forgette has been named Tri-Citian of the Year by the Rotary Clubs of the Tri-Cities. He was honored for his efforts to rally community support for four dams on the lower Snake River, his efforts to help teachers pay for classroom technology, and countless other community service projects in the last 27 years. Mr. Forgette is a partner in the Kennewick firm Rettig, Osborne, Forgette, O'Donnell, Iller & Adamson.

Seattle University law professor **Henry W. McGee Jr.** has been named a 2001-2002 Fulbright Scholar. He will spend several months teaching and researching in Spain. Mr. McGee's fellowship supports research into the impact of the European Union environmental law on the Spanish legal system, and efforts to harmonize Spanish law with those of other nations. He was previously awarded a Fulbright to Spain in 1982.

Spokane lawyer **Heidi B. Silvey** has been selected to participate in the American Bar Association Central and East European Law Initiative Program as a rule of law liaison in Yerevan, Armenia. She will serve for one year.

Mary Jo Heston, a partner in the Seattle office of Lane Powell Spears Lubersky LLP, has been inducted as a fellow into the American College of Bankruptcy. Ms. Heston is one of 36 nominees who was honored for professional excellence and exceptional contributions to the field of bankruptcy and insolvency.

Vancouver lawyer **Jeannie Bryant** has been honored as a Woman of Achievement. Ms. Bryant is a deputy prosecutor in Clark County, working in the domestic violence unit. The award was given to eight Vancouver women who inspire others to make the world better.

Willard Hatch, retired partner of Foster Pepper & Shefelman PLLC, has received the Sidney C. Volinn Memorial Award of Merit from the WSBA Creditor-Debtor Section. The award recognizes outstanding services to the bankruptcy bar and the community.

Bellevue lawyer **John C. Peick** has been named Citizen of the Year by the Washington State Chiropractic Association. The award recognizes Mr. Peick for his service and contribution of time and talent to the chiropractic profession. He has served as legal counsel to the association since it was founded in 1991.

Spokane lawyer **Richard F. Sperling** has been appointed to the Limited Practice Board by the Washington Supreme Court.

King County Superior Court Judge **Robert H. Alsdorf** has received the Judge of the Year award from the Washington chapter of the American Board of Trial Advocates. He has been a judge for over 10 years and was re-elected in 2000 without opposition. Judge Alsdorf donated his entire campaign fund last year to the King County Bar Foundation and LAW Fund. **John Patrick Cook** received the Lifetime Achievement Award for his 40-year career in insurance defense. Mr. Cook is of counsel to the Seattle firm Lee, Smart, Cook, Martin & Patterson PS.

Clark County Superior Court Presiding Judge **Robert L. Harris** has assumed the presidency of the state Superior Court Judges' Association. Other new officers are: King County Superior Court Judge **Deborah Fleck**, president-elect; Cowlitz County Superior Court Judge **Stephen Warning**, secretary; and Skagit County Superior Court Judge **John Meyer**, treasurer.

Movers and Shakers

Daniel J. Morrissey has been named dean of the Gonzaga University School of Law. He is a former dean and professor at St. Thomas University School of Law in Miami. While serving there, he oversaw the initial accreditation processes of both the American Bar Association and the American Association of Law Schools.

Maggie Smith has joined the Vancouver firm Greenen & Greenen PLLC as an associate. She concentrates on criminal and family law.

Seven associates have joined the Seattle firm Lee, Smart, Cook, Martin & Patterson PS. **David F. Betz** focuses on civil defense litigation, including construction and real estate. **Aaron P. Gilligan** emphasizes education and school law. **Michele M. Haaseth** practiced in Grays Harbor County prior to joining the firm. **Sarah R. Johnson** concentrates on school district and insurance law. **Francis X. Olding** focuses on civil defense litigation, including construction litigation. **Todd K. Skoglund**, who worked in the construction industry for 17 years, concentrates on construction law. **Noel S. Yumo** clerked at the Transportation and Public Construction Division of the Washington Attorney General's Office prior to joining the firm.

Christopher L. Hirst and **Christopher G. Weinstein** have been named partners

in the Seattle office of Preston Gates & Ellis LLP. Mr. Hirst focuses on municipal and education law. He represents public districts and school districts in construction, employment and student-related disputes. Mr. Weinstein works with established enterprises and emerging companies in technology licensing, software development, online media development and content acquisition, as well as copyright and trademark transactions. **David Domansky** (member of the New York and Washington, D.C., bars) has been named of counsel to the firm. He concentrates on the development and financing of domestic and international independent power and energy projects.

Five lawyers with the Seattle firm Foster Pepper & Shefelman PLLC have been elected to member status. **David J. Dadoun** concentrates on antitrust, trade regulation, consumer protection, and franchise litigation. **Steven P. Eakman** counsels high-tech and other emerging growth companies, and venture capital investors. He is co-chair of the firm's mergers and acquisitions practice group. **Jeffrey S. Miller** focuses on complex civil litigation. He handles class actions, major real estate disputes, securities suits, and consumer credit and breach of contract cases. **Lucas D. Schenck** counsels emerging growth companies and venture capital firms in equity and debt offerings, mergers and acquisitions, and forming strategic alliances and joint ventures. **William V. Taylor** focuses on corporate banking and regulation of financial institutions, consumer finance, mortgage lending and secondary market transactions, e-commerce and consumer privacy issues.

Jennifer L. Scully and **Reese E. Solberg** (member of the Ohio State Bar) have joined the Seattle office of Foster Pepper & Shefelman PLLC as associates. Ms. Scully focuses on intellectual property, with an emphasis on trademark issues. Mr. Solberg concentrates on intellectual property and trademark law, with an emphasis on intellectual property licensing.

Jany K. Jacob has joined the Seattle firm Oles Morrison Rinker & Baker LLP as an associate. Her practice emphasizes environmental and land use law, as well as labor and employment law.

Susan D. Hoffman has joined the Seattle office of Ater Wynne LLP. She provides bond and underwriters' counsel to state agencies, local and tribal governments, and utilities.

Joel S. Summer has been named vice president, general counsel and corporate secretary of Vopak USA Inc., formerly know as Van Waters & Rogers Inc. He has been with Vopak for 11 years, most recently serving as assistant general counsel and director of legal service.

Mark S. Nadler has been elected partner in the Seattle firm Short Cressman & Burgess PLLC. A former civil engineer, Mr. Nadler represents clients in environmental, engineering and construction law issues.

Darrin Class has joined the Vancouver firm Duggan, Schlotfeldt & Welch. His practice emphasizes real estate and construction law, and commercial litigation.

J.D. Smith has joined the Seattle office of Bullivant Houser Baily PC as an associate. Mr. Smith focuses on litigation with an emphasis in products liability, personal injury and school law.

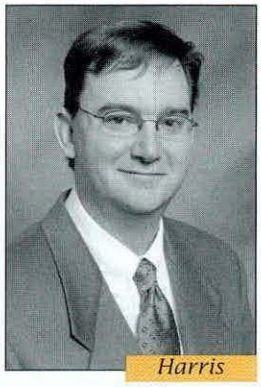
G. Michael Zeno Jr., **Leslie A. Drake**,


Jacob


Hoffman


Summer


Class


Harris

and **Richard W. Hively** have formed the firm Zeno, Drake and Hively PS in Kirkland. The firm focuses on real estate matters, business transactions and litigation, estate planning and probate, claims against stock brokers, and employment matters.

Timothy M. Harris has joined Lane Powell Spears Lubersky LLP as an associate in the Seattle office. His practice focuses on land use matters.

IN MEMORIAM

Walter Albert DePuy Jr. died March 25 at age 42 from complications related to pneumonia. Mr. DePuy graduated from the University of Puget Sound School of Law in 1983, and was a member of the Washington and Oregon state bar associations. For seven years, he was a Pierce County deputy prosecuting attorney. During that time, he helped establish a nationally recognized sexual offender program. He also served as a juvenile sexual offender consultant to the U.S. Navy. As a prosecuting attorney in Clark County, he worked on cases involving child abuse. In 1991, he became a prosecuting attorney in Cowlitz County, handling major felony cases.

The Board's Work

by Mark A. Panitch

Coeur d'Alene, ID, May 4-5

At-Large Seats

The Board of Governors decided that WSBA members who wish to apply for an at-large seat on the BOG may self-nominate with a letter stating their interest and qualifications.

The decision was reached after Governor **Lindsay Thompson** presented new language for a proposed bylaw change that would eliminate specific references to diversity and allow self-nomination to at-large seats through a letter of interest to the BOG. The BOG agreed to make the process as simple as possible by allowing candidates to explain in a letter how they would meet the intent of the seats, which is to broaden the member base.

There was substantial debate over the timing for receipt of applications, with some members arguing that the new members should be chosen in time to participate in the July board retreat. Other members thought that a shortened schedule would not allow sufficient time for applicants to write their letters and for the board to review, interview and choose the new members. A motion was made to hold a special July BOG meeting to allow interviews before the retreat; the vote tied 4-4. President **Jan Eric Peterson** voted no, broke the tie, and then supported a September interview date.

Applicants for the at-large seats should send their letters of interest to the WSBA, Office of the Executive Director, 2101 Fourth Ave., Fourth Fl., Seattle, WA 98121-2330 by August 1.

On Reciprocity

The heads of the Oregon and Idaho bars reported to the WSBA Board of Governors that tri-state reciprocal admission has moved a notch closer to reality. At this time, only Washington has a reciprocity rule.

President **Rusty Robnett** and Executive Director **Diane Minnich** of the Idaho Bar informed the governors that the Idaho Supreme Court has approved the tri-state reciprocity rule. They reported that the Idaho Bar is also working on multi-jurisdictional practice, multi-disciplinary practice, and the addition of a half-day performance skills section on the bar exam. Idaho is also refining its "Citizens Law Academy," which now includes as many as 12 multi-hour classes. Despite the rigor, the response has been very positive. Finally, in an effort to control pro hac vice admissions, Idaho is adding a $200 per case pro hac vice fee.

Oregon Bar President **Ed Harnden** predicted that the reciprocity rule would clear the Oregon Supreme Court before the end of this year. Like Idaho, Oregon plans to change its pro hac vice admissions practices to add a yearly admission fee. At this time, out-of-state lawyers are admitted by the judge on motion and on a case-by-case basis.

Both Harnden and Robnett indicated that Utah may be interested in joining the reciprocity agreement. Montana, it appears, is moving toward a less cooperative stance with other states.

After a lively discussion among the two bar presidents and members of the BOG, there was general agreement that the three states (and possibly the British Columbia Bar) should meet in the fall. Potential topics on that agenda include access to justice, law student debt, new lawyer development, family law uniformity, discipline standards, relative RPCs, and the ABA's new Ethics 2000 Model Rules of Professional Conduct and relative pro hac vice admission rules.

Other Matters

ABA delegate **Pam Grinter** reported that new ABA Model Rules for Professional Conduct will be up for adoption at the ABA summer meeting. President Peterson noted that it was important to know where and why Washington RPCs differ from the model rules, and asked the Office of Disciplinary Counsel to distribute the ABA report to the BOG and provide notice of the differences between the new model rules and the Washington rules.

Treasurer **Daryl Graves** noted that many inactive Bar members had complained about the recent 100 percent increase in their dues, from $51 to $100 per year. The governors discussed sending *Bar News* to inactive members. WSBA Director of Communications **Judith Berrett** reported that this would cost approximately $27,000 per year. The governors noted that even with this cost, the WSBA would net an additional $147,000 per year from the dues increase, benefiting both the Association and the inactive members.

The WSBA **Lawyers' Assistance Program** (LAP) asked the BOG for permission to increase the hourly sliding-fee scale for counseling from $30-$70 to $45-$95. After hearing LAP's assurance that no WSBA member would ever be turned away for financial reasons, the BOG voted 9-0 to permit the increase.

Rules of Professional Conduct Committee member **Mike Pontarolo** reported on requests by practitioners to amend RPC 1.8(e), barring attorneys from providing general financial assistance to clients. The requests came from maritime practitioners asking to be allowed to provide emergency living expenses for destitute sailors.

The RPC Committee recognizes the humanitarian aspects of the proposal, but recommended against the change on the grounds that it would create a conflict of interest for attorneys, and create attorney-client conflicts over what constitutes an emergency.

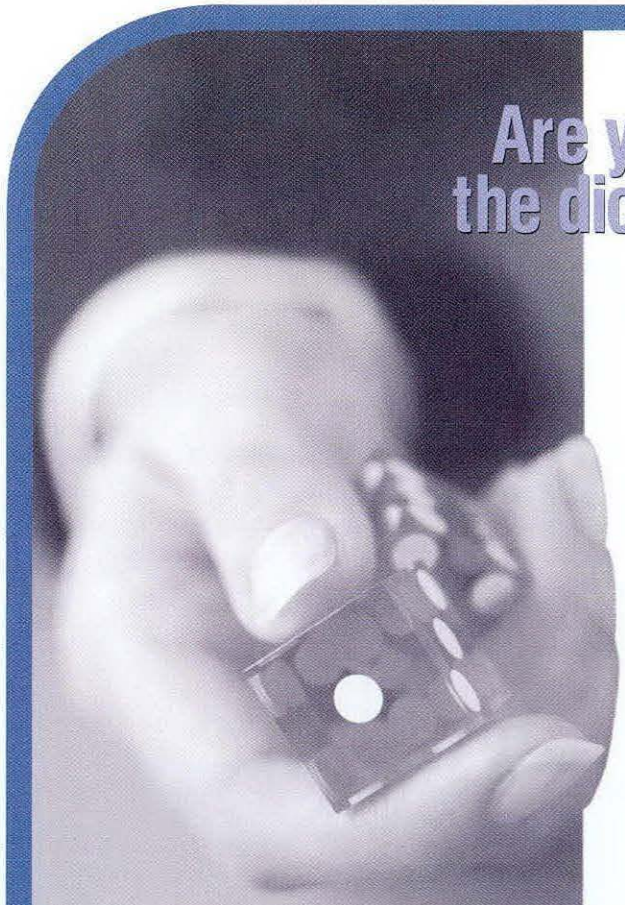
Board members were generally sympathetic, but also were concerned about having a bright line to guide them. Governor **Ken Davidson** moved to support the change. Governor Daryl Graves seconded the motion. After additional discussion the matter was tabled until the September BOG meeting to allow time to poll the Washington Defender Association and WSTLA on the proposed change.

Upcoming BOG Meetings

The Board of Governors meeting schedule is as follows:

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.



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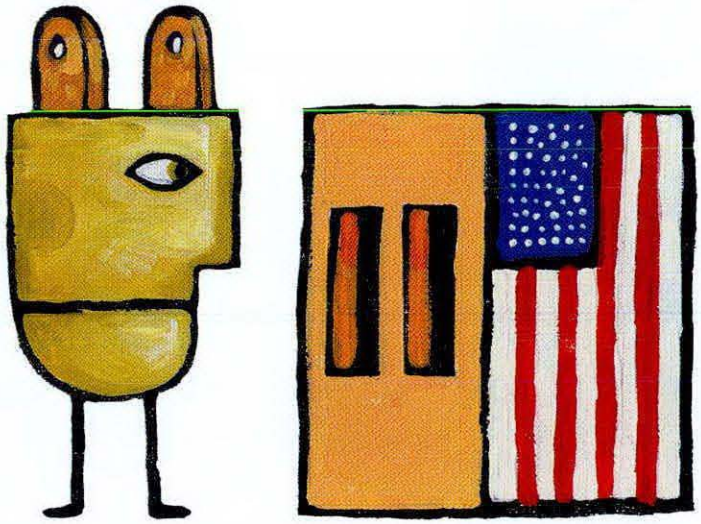
Communicating with a Represented Governmental Client

by Barrie Althoff • *WSBA Chief Disciplinary Counsel*

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



> In representing a client, a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.

Rule 4.2 of Washington's Rules of Professional Conduct generally prohibits a lawyer from communicating about the subject of the representation with a person whom the lawyer knows is represented by another lawyer in the matter.

The application of this rule is generally clear where both clients are individuals involved in a civil dispute. It is more complex where one or both of the clients is an entity. It becomes even more complex, and far more contentious, when the dispute involves criminal law, particularly involving federal prosecutors.

This article looks at only one small part of the application of the rule. It first provides a brief overview of the rule, and then examines the limited application of RPC 4.2 in a civil, noncriminal context to a lawyer who (1) represents a client in a particular matter where the opposing client is a governmental entity or official, and (2) knows the governmental entity or official is represented by counsel in that particular matter, but (3) nonetheless wants to communicate directly with the opposing governmental entity or official about the represented matter. For a more general discussion of Washington's RPC 4.2, see Althoff, "Communicating with Represented Persons," (*Washington State Bar News*, February 2000, p. 47).

Purpose and Scope of Rule

Washington's RPC 4.2, captioned "Communication with Person Represented by Counsel," provides as follows:

The rule, long a part of Washington's lawyer ethics codes and of the model ethics codes of the American Bar Association (ABA) on which Washington's are based, appears to have originated in a statement in 2 David Hoffman, *A Course of Legal Study Addressed to Students and the Profession Generally*, 771 (2nd ed. Baltimore, 1836): "I will never enter into any conversation with my opponent's client, relative to his claim or defense, except with the consent, and in the presence of his counsel."

Often known as the "anti-contact" rule, RPC 4.2 seeks to preserve the lawyer-client relationship and client's confidences and secrets. It does so by prohibiting situations wherein a lawyer might take advantage of represented persons or induce them to disclose privileged, confidential or other information, or make admissions harmful to their legal position; or wherein an opposing lawyer might undermine, or seek to undermine, their confidence in their own lawyer. The rule only applies where the lawyer knows the other client is represented by counsel as to the matter in question. Under the terminology section of the RPCs, "'[k]nows' denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances."

An official comment, not adopted by Washington, to the parallel rule in the ABA Model Rules of Professional Conduct observes: "This Rule does not prohibit communication with a represented person … concerning matters outside the representation." Comment 1 to ABA Model RPC 4.2. Thus, WSBA Informal Opinion 86-2 authorizes a prosecutor to communicate with a represented defendant as to matters other than those on which the defendant was represented. The determination of whether there is a "matter," of what the "matter" is, and of whether there is known representation as to the "matter" are each complex and crucial determinations.

If there is a matter as to which the opposing client is known to be represented, all communications with an opposing client, whether substantive or procedural, or of whatever duration are prohibited unless they fall within the rule's narrow exceptions. There is no de minimus exception. For example, a Washington lawyer was admonished for discussing for several minutes his municipal client's need for access to a property and the opposing client's concerns about damage to the property. The discussion about the subject matter of the representation was with an opposing client whom the lawyer knew was represented.

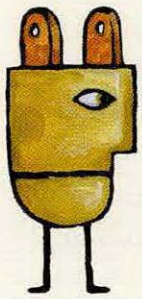
The fact that a court clerk had called the parties together just prior to a scheduled hearing on the issues, but the opposing client's lawyer had not appeared, believing the issues had been resolved, did not make the direct communication fall within the "authorized by law" exception, discussed below, to the no-contact rule. See discipline notice, *Washington State Bar News*, December 2000, p. 48.

Because the no-contact rule applies only to lawyers representing clients, it does not prohibit represented clients from communicating directly with one another. Thus, private clients and government officials are generally free to communicate directly about a matter even where each is represented by counsel as to that matter. Lawyers may not, however, "mastermind" or script their client's communications. See *Trumbull County Bar Ass'n v. Makridis*, 671 N.E.2d 31 (Ohio 1996), and Formal Opinion 1993-131 (1993), State Bar of California Standing Committee on Professional Responsibility and Conduct.

Although the rule does not by its terms prohibit a lawyer who is acting on behalf of himself or herself, and thus who is arguably not acting in a representational capacity, from communicating with a person the lawyer knows is represented by counsel in the matter, some jurisdictions, including Washington, have interpreted RPC 4.2 to prohibit such communication. For example, a Washington lawyer who communicated with an architect with whom he had a personal dispute, and whom he knew was represented as to the matter of the dispute was admonished for the contact as a violation of RPC 4.2. See discipline notice, *Bar News*, June 1998, p. 46.

Similarly, Alaska Ethics Opinion 95-7, after noting the split of authority in various jurisdictions and the purpose of the rule as insulating a client from opposing counsel, opines, in the context of a marital dissolution, that a pro se lawyer is subject to the no-contact rule. It does so on the basis that a client who retains a lawyer should not lose the protection of that lawyer merely because the opposing client happens to be a pro se lawyer. If the opposing client were a government entity or official, however, the "authorized by law" exception to the no-contact rule, discussed below, would likely permit a private pro se lawyer to communicate directly with the official unless the official was being sued in his or her personal capacity by the lawyer.

Washington law provides little guidance as to the applicability of the no-contact rule to private lawyers communicating with governmental officials on matters as to which the officials are represented by counsel. Washington's leading no-contact case, *Wright v. Group Health Hospital*, 103 Wn.2d 192 (1984), clarified applicability of the no-contact rule to employees of an entity by establishing bright-line rules. It held the no-contact rule prohibits ex parte communication with those employees "who have the legal authority to bind the corporation in a legal evidentiary sense, *i.e.*, those employees who have 'speaking authority' for the corporation." 103 Wn.2d 192, 200. It does not prohibit contacting former employees, nor does it address the special considerations applicable to dealing with a represented governmental entity.



Washington law provides little guidance as to the applicability of the no-contact rule to private lawyers communicating with governmental officials on matters as to which the officials are represented by counsel.

Exceptions to RPC 4.2

There are two exceptions to the noncommunication rule of RPC 4.2. A lawyer may communicate with a client whom the lawyer knows is represented in the matter about the subject of the representation if (1) the opposing lawyer consents to the communication, or (2) the lawyer is authorized by law to engage in the communication.

Consent Exception.

Although RPC 4.2 exists to protect the client and the lawyer-client relationship, it is the lawyer, not the client, who may waive the protection of the rule. As part of the lawyer's duty under RPC 1.4 to communicate with the lawyer's client, the lawyer should consult with his or her client prior to consenting under RPC 4.2 to such communication. An opposing client's consent to such communication without the opposing lawyer's consent is ineffectual. Thus, where the lawyer knows the opposing client is represented as to the matter, the lawyer may not communicate with the opposing client even if the opposing client offers — even pleads — to communicate with the lawyer about the subject matter of the representation unless the lawyer secures the consent of the opposing client's lawyer.

The rule does not require that consent be written, but in good practice it should be, preferably signed by the opposing lawyer, or at least by sending a writing to that lawyer confirming his or her consent. Given the purpose and strictness of the rule, it is highly perilous to engage in otherwise prohibited communication solely in reliance on an "implied" consent of the opposing counsel. A lawyer doing so should immediately seek written ratification from opposing counsel, but recognize that counsel may not at all agree such consent was implied.

While lawyers for governmental clients routinely consent to opposing counsel communicating with their clients, this article assumes that such consent has either not been asked, or has been asked but been refused. Whenever private counsel is considering communicating with known represented governmental officials about a represented matter, private counsel should consider asking for the government lawyer's consent before engaging in such communication, since there is a reasonable likelihood that the government lawyer will consent. Doing so significantly reduces the possibility of both professional ill will and of charges of ethical misconduct developing from the direct communication.

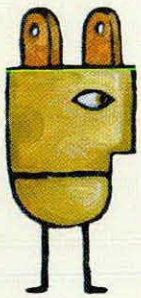
Authorized by Law Exception.

The second exception under RPC 4.2 that permits a lawyer to communicate with a

known represented person about a matter as to which the lawyer knows the person is represented is where the lawyer is "authorized by law" to communicate with that person. In the context of a private lawyer seeking to communicate with a represented governmental official about the represented matter, the most important basis for this exception is a constitutional one, discussed below. As between governmental clients and opposing private lawyers, this exception comes close to swallowing the entire rule. But it does not wholly do so.

The principal basis for permitting private persons and their lawyers to communicate with a represented governmental official about the subject matter of the representation without the government lawyer's consent is the right of petition under the First Amendment of the U.S. Constitution. That amendment provides: "Congress shall make no law... abridging the...the right of the people...to petition the Government for a redress of grievances." See, for example, *American Canoe Ass'n, Inc. v. City of St. Albans*, 18 F.Supp.2d 620 (S.D.W.Va. 1998); *Camden v. State of Maryland*, 910 F. Supp. 1115 (D.Md. 1996). Similarly, Washington's Constitution, Article I, Section 4 provides: "The right of petition... shall never be abridged."

The constitutional right of a citizen to petition for redress of grievances would seem necessarily to include the right to petition through a lawyer. See Formal Opinion 97-408, note 10, American Bar Association Committee on Ethics and Professional Responsibility. Alaska Bar Association Ethics Opinion 94-1 (1994), on the other hand, opines that for purposes of the no-contact rule, although a citizen may directly petition a represented governmental official, the citizen may not do so through a lawyer. To the author, elevation of an ethics rule over a constitutional right seems questionable. Other opinions and rules on the issue include Utah State Bar Ethics Opinions 115 (1993) and 115R (1994), District of Columbia RPC 4.2(d), Formal Opinion 1991-4 (1991) of the Ass'n of the City of the Bar of New York, and California RPC 7-103. There is considerable uncertainty and disagreement on the breadth of the right to petition and to what extent it limits the no-contact rule when applied to private lawyers seeking to communicate with known represented governmental officers.



WSBA Formal Opinion 96 (1961) similarly recognizes that communication with a represented person does not violate the no-contact rule when the communication is authorized by a court rule.

Washington's RPC 4.2 is based on and nearly identical to Rule 4.2 of the American Bar Association's Model Rules of Professional Conduct. The official ABA comment, not adopted by Washington, to ABA Model RPC 4.2 explains the scope of the "authorized by law" exception in the civil law context:

> ...[A] lawyer having independent justification or legal authorization for communicating with a represented person is permitted to do so. Communications authorized by law include, for example, the right of a party to a controversy with a government agency to speak with government officials about the matter.

Formal Opinion 95-396 (1995) of the American Bar Association Committee on Ethics and Professional Responsibility, after quoting the above official comment and noting the First Amendment origin of the right to speak with government officials, describes the scope of the "authorized by law" exception:

> The "authorized by law" exception to the Rule is also satisfied by a constitutional provision, statute or court rule, having the force and effect of law, that expressly allows a particular communication to occur in the absence of counsel — such as court rules providing for service of process on a party, or a statute authorizing a government agency to inspect certain regulated premises. Further, in appropriate circumstances a court order could provide the necessary authorization. [Footnotes omitted]

Other examples of cases falling within this exception are statutes relating to whistleblowers or to freedom-of-information-type requests and judicial precedent. See, for example, *New York State Ass'n for Retarded Children v. Carey*, 706 F.2d 956,

960-61 (2d Cir. 1983), cert. denied 464 U.S. 915 (1983), holding proper a trial judge's permission for plaintiffs to interview governmental staff to determine the government's compliance with prior court rulings. WSBA Formal Opinion 96 (1961) similarly recognizes that communication with a represented person does not violate the no-contact rule when the communication is authorized by a court rule.

Commenting on the limited application of RPC 4.2 to governmental clients, and addressing both the consent exception and the authorized-by-law exception, Charles Wolfram, Modern Legal Ethics 614-615 (1986), observes:

> Requiring the consent of an adversary lawyer seems particularly inappropriate when the adversary is a government agency. Constitutional guarantees of access to government and statutory policies encouraging government in the sunshine seem hostile to a rule that prohibits a citizen from access to an adversary governmental party without prior clearance from the government party's lawyer.

While recognizing the theoretical legitimacy of the broad constitutional right to petition for redress of grievances, a government lawyer may still very realistically perceive that a private lawyer who exercises that right on behalf of his or her client is trying to go over the government lawyer's head or around the government lawyer. Thus, such communications can be very bothersome for government lawyers.

Few government lawyers likely feel wholly comfortable with the fact that private counsel can often communicate directly with the governmental client while government lawyers are prohibited by RPC 4.2 from similarly communicating directly with the private counsel's client. It has long been clear under Washington law that government lawyers are subject to the no-contact rule. See WSBA Formal Opinion 12 (1951) opining that Rule 9 of the Canons of Professional Ethics, a predecessor to the present RPC 4.2 no-contact rule, applied to government lawyers for the Veterans Administration who were licensed in Washington.

Allowing private lawyers to communicate with governmental officials without their lawyer's consent may undercut the government lawyer and subject that lawyer's client, as embodied in the governmental decision-maker, to the very risks that RPC 4.2 was intended to remove from a private client. The careful government lawyer will anticipate that such communications will likely take place, will counsel the governmeal decision-maker in advance to expect such communications, will educate the decision-maker on whether and how to accept such communications, and will urge the decision-maker to consult with the government lawyer before making any decisions as to the matter of the representation. On the other hand, experienced governmental officials are likely more used to dealing by themselves with opposing counsel than most private clients are, and thus the protections of RPC 4.2 may not be as necessary for such governmental officials. The government lawyer should also recognize and explain to the governmental official that constitutional rights are not expected to

be convenient or advantageous to the government or its agents since they are intended to check governmental power, not facilitate it. Thus, a private lawyer may, without a government lawyer's consent, often communicate directly with the governmental official known to be represented who is handling the matter. Similarly, the governmental official (but not the government lawyer) is generally free to communicate directly with the private party's lawyer and does not need the permission of a government lawyer handling the dispute.

Limitations on "Authorized by Law" Exception.

Even when relying on the authorized-by-law exception to the no-contact rule, there are important limits on the ability of private counsel to communicate directly with a governmental entity or official without the consent of the government lawyer. Formal Opinion 97-408 (1997) of the ABA Committee on Ethics and Professional Responsibility recognizes the tension between a citizen's right of access to government and the government's right to be protected from communications by an opposing party's lawyer without the government counsel's consent. It opines that all contacts with governmental officials not consented to by officials' counsel which would otherwise be prohibited by RPC 4.2 should, to remain exempt from RPC 4.2, be subject to two conditions, one requiring the communication be only about a policy issue and to a governmental decision-maker, the other requiring advance notice to the government lawyer.

The ABA opinion's first condition is made up of two parts: (1) the governmental official contacted must have authority to take or recommend action in the matter, and (2) the sole purpose of the communication must be to address a policy issue, including settling a controversy. If the governmental officials with whom the private lawyer wants to communicate are not authorized to take or recommend action in the matter, the right to petition for redress would not apply, and the private lawyer may not communicate with that official without the government lawyer's consent. Nor may private counsel communicate directly with a represented governmental officer or employee who may be *personally* liable in a matter without the consent of that person's lawyer. This also applies where the same lawyer represents both the governmenal officer/employee and the governmental entity.

The second part of the first ABA condition requires that the sole purpose of the communication be to address a policy issue. The opinion itself notes disagreement among committee members, however, as to what constitutes "policy." Some members contended that settlement is a proper topic for direct communication only when the settlement issues to be discussed may fairly be said to be policy issues within the constitutional ambit of the right to petition, and that not every routine case against the government involves such issues. Other committee members contended, however, that a citizen's right to seek settlement of a controversy with the government goes to the very heart of the constitutional right of access recognized and given effect by the drafters of Model RPC 4.2.

The ABA opinion's second condition is that the private lawyer "must always" give government counsel advance notice of in-

tent to communicate with known represented governmenal officials about the represented matter, so as to give government counsel the opportunity to discuss with governmental officials the advisability of entertaining such communication. If the communication is written, the opinion requires the private lawyer to provide advance copies of the communication to government counsel at a time and in a fashion that will afford the government lawyer a meaningful opportunity to advise the officials whether to receive the communication from the private lawyer. The opinion notes that the majority of the committee's members believed advance notice should be mandatory, while a minority believed it should only be advisory. The opinion also observes that requiring the private lawyer to give advance notice of intended communication gives the government the benefit of most of the rule's salutary purposes while obviating the possibility that government counsel could attempt to block access to their principals by involving a rule of professional conduct.

Nor may private counsel communicate directly with a represented government officer or employee who may be personally liable in a matter without the consent of that person's lawyer.

In the context of the constitutional right to petition for redress of grievances, the ABA opinion concludes that if these two conditions are not satisfied, RPC 4.2 would prohibit the communication of private counsel with represented governmental officials as to the represented matter, unless the government lawyer consented to the communication or unless another portion of the authorized-by-law exception applied. The author, a former government lawyer, has had private counsel, without his consent or advance knowledge, communicate with his governmental clients known by opposing counsel to be represented by the author. Believing that the First Amendment right to petition may well be chilled by the ABA's stated mandatory advance-notice requirements, however, and believing that constitutional right is more important than the aims sought to be protected by RPC 4.2, the author agrees with the minority position of the ABA committee. Such advance notice requirements, while commendable, recommended, likely ethically protective of the private lawyer, and probably welcomed by government lawyers, should not be mandatory.

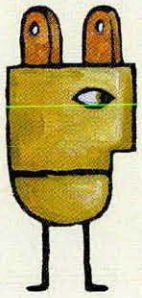
The ABA opinion illustrates its application by stating that a private person's lawyer in a lawsuit against a municipality may seek to meet with a city council committee to discuss settlement of issues the council is empowered to settle, but must give the city's lawyer sufficient advance notice to allow the city lawyer to consult with the committee and be present at the meeting if the committee so decides, or to advise the committee against having such a meeting. The private lawyer may also write to council members, but must provide an

advance copy to the city's lawyer. It concludes that many situations in which a lawyer might reasonably want to communicate directly with governmental decision-makers are likely to be ones in which Rule 4.2 either does not apply at all because no specific controversy between the government and the private party has yet developed, or are ones specifically superceded by the statute authorizing citizen communications with governmental officials.

The opinion goes on to state that Model RPC 4.2 would prohibit a communication by a private person's lawyer to a represented governmental official if that governmental official is not authorized to take or recommend action in the represented matter, or if the purpose of the communication is to develop evidence as well as to resolve a policy issue. For example, a private person's lawyer generally may not communicate ex parte with decision-making governmental officials in order to conduct a factual inquiry for an intended lawsuit against the government entity or official.

The somewhat begrudging acknowledgment in the foregoing ABA opinion of the First Amendment right of petition as a limit on RPC 4.2 is not unanimous. For example, California generally makes its no-contract rule inapplicable to representations against the government. California RPC 7-103.

The *Restatement of the Law Third, The Law Governing Lawyers* also shows considerably greater acceptance of communications with a represented governmental official than does the ABA opinion. The restatement sets out its no-contact rule over several different rules. Section 99 states the general no-contact rule. Section 99(1)(a) excludes from its application communications with a public officer or agency to the extent stated in Section 101. Section 99(1)(c) excludes communications authorized by law. Section 101(1) states that the no-contact prohibitions of Section 99 do not apply to communications with employees of a represented governmental agency, or with a governmental officer being represented in the officer's official capacity, unless, as provided in Section 101(2), the government is in a position closely analogous to that of a private litigant, such as in negotiations or litigation, and even then contact is generally permitted with a represented governmental officer as to issues of general policy. Similar to ABA Formal Opinion 94-408, Restatement Section 101(2) concludes that if the governmental officer has retained separate counsel to represent the officer's personal interests, contact with the officer is subject to the general Section 99 no-contact rule.



Where the matter of representation involves communicating with a governmental entity or official, the authorized-by-law exception to the no-contact rule significantly limits the rule's application.

Further Reading

A private lawyer who is considering communicating with a represented government official about the matter of representation, but who is not planning on securing the known government lawyer's consent to the communication, should research the ethical issues before undertaking such a communication. Likewise, a government lawyer puzzling whether such a communication is ethical should research the issues before concluding the private lawyer is unethical. Useful materials include: RPC 4.2 and the ABA commentary thereto; Formal Opinions 95-396 (1995) and 97-408 (1997) of the American Bar Association Committee on Ethics and Professional Responsibility; the *Restatement of the Law Third, The Law Governing Lawyers*, Sections 99-101; and the wealth of other authorities cited in these works. Other useful works include the ABA *Annotated Model Rules of Professional Conduct* (4th ed., 1999), 397-417; Wolfram's *Modern Legal Ethics* (1986), 614-615; the *ABA/BNA Lawyers' Manual on Professional Conduct*, Section 71:301 et seq.; and 2 Hazard & Hodes, *The Law of Lawyering* (3rd Ed. 2000), Section 38.8.

Conclusion

Washington's RPC 4.2 generally prohibits a lawyer from communicating about the subject of the representation with a person whom the lawyer knows is represented by another lawyer in the matter. Two important exceptions, however, permit such communication: if the other lawyer consents to the communication, and if the communication is authorized by law.

Where the matter of representation involves communicating with a governmental entity or official, the authorized-by-law exception to the no-contact rule significantly limits the rule's application. This is especially true when the basis for the exception is the First Amendment constitutional right of citizens to petition (likely including through counsel) for redress of their grievances. In this case, private counsel may communicate with represented governmental officials authorized to take or recommend action on the issue, without the consent of the government lawyer, but, under an ABA opinion, only if the sole purpose of the communication is to address policy issues (including settling the claim), and if the private lawyer gives the government lawyer adequate advance notice of the intended communication. While the author does not agree with the ABA that such advance notice is mandatory for the communication to be exempt from RPC 4.2, such advance notice is recommended.

Private lawyers considering non-consensual communication with a governmental official, and government lawyers encountering them, should first consider whether the no-contact rule even applies, since much everyday communication with government is not subject to RPC 4.2. If the rule appears on its face to apply, ethics research should be undertaken to verify whether the communication is or is not subject to the rule. Even if private counsel may communicate with a governmental official without consent of the government lawyer, private counsel may, to maintain a more positive and effective future working relationship, wish to seek such consent.

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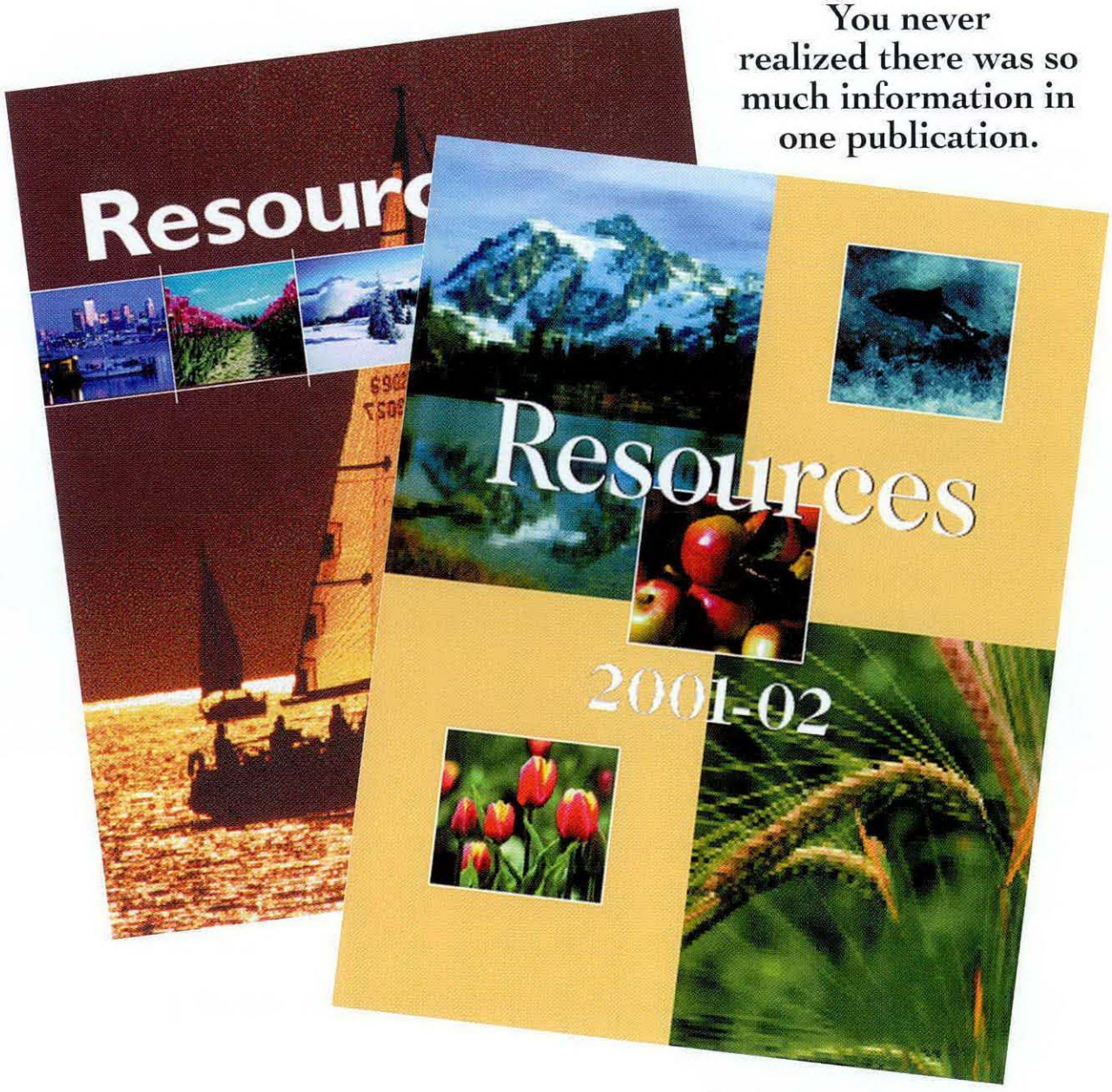

Discover the information, products and services listed in the 2001-02 *Resources* membership directory available soon. The price is $17 ($18.50 in WA) for WSBA members; $35 ($38.08 in WA) for non-members. If you haven't yet placed your order, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA. Payment may be made by check or credit card.

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.

Disbarred

Grant L. Harken (WSBA No. 11842, admitted 1981), of Seattle, has been disbarred by order of the Supreme Court effective September 8, 2000, following a default hearing. The discipline is based on his failing to represent two clients in a competent and diligent manner, making misrepresentations to his clients and to the Bar Association, and failing to cooperate with the Bar Association investigation.

Matter 1: On March 23, 1993, Mr. Harken agreed to represent a client on a contingent-fee basis. The client was injured when she fell in a department store. In May 1995, Mr. Harken received a $12,000 settlement check made out to the client and himself, but Mr. Harken did not deposit the check into his trust account. Mr. Harken sent the client $4,619 and retained $3,777 to pay the client's medical bills. Although he specifically told the client and the Bar Association investigators that he would pay the client's medical bills, Mr. Harken did not do so.

In September 1996, Mr. Harken testified in his deposition that the client's funds were still in his trust account; this testimony was false. In October 1997, after the client filed suit against Mr. Harken, he sent her a statement indicating the funds were in his trust account; this statement was also false.

Mr. Harken failed to cooperate with the Bar Association's investigation of this matter.

Matter 2: In January 1997, Mr. Harken agreed to represent a client injured in an automobile accident. The client's employer had a subrogated interest in any amounts recovered to reimburse workers' compensation benefits the employe had paid to the employee.

In May 1997, the insurance company issued a $28,075 settlement check to the client and Mr. Harken. In May or June 1997, Mr. Harken gave the client $4,679. The client was entitled to an additional $2,380 and the employer to $11,585. Sometime between May and November 1997, Mr. Harken removed these funds from his trust account.

In December 1998, after the Department of Labor and Industries sent a letter regarding the unpaid balance, Mr. Harken sent the employer the amount due. As of the date of the findings, the client had not received the balance owed him.

Mr. Harken failed to cooperate with the Bar Association's investigation of this matter.

Mr. Harken's conduct violated RPC 1.1, requiring lawyers to provide competent representation; 1.3, requiring lawyers to diligently represent their clients; 1.14, requiring lawyers to deposit client funds into the lawyer's trust account; 8.4(b), prohibiting lawyers from engaging in criminal conduct; 8.4(c), prohibiting lawyers from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; 8.4(d), prohibiting conduct prejudicial to the administration of justice; and RLD 2.8(a), requiring lawyers to comply with reasonable requests for information from the Bar Association. Mr. Harken's conduct also violated RCW 9A.56.030.

Christine Gray represented the Bar Association. Mr. Harken represented himself. The hearing officer was David B. Condon.

Suspended

Grosvenor Anschell (WSBA No. 9756, admitted 1954), of Bellevue, has been suspended for two years, effective October 30, 2000, by order of the Supreme Court, following a hearing. For more information, please see the Supreme Court opinion.

Matter 1: In October 1992, a husband and wife paid Mr. Anschell $430 to submit citizenship applications for them and their children to become naturalized citizens of the United States. Both parents are Egyptian citizens and had been permanent residents of the United States for several years; the children are Canadian citizens. The parents completed the naturalization applications on October 27, 1992.

Between this date and September 1994, the clients periodically contacted Mr. Anschell about the status of their case. He told them that the applications had been filed, and that they should not worry. In a September 1, 1994 declaration, Mr. Anschell indicated that he filed the applications, but in fact, the applications were not filed. Failure to file delayed the client's case by over two and a half years. The clients filed a legal malpractice suit and obtained a $68,483.63 default judgment against Mr. Anschell.

Matter 2: On October 5, 1994, a client retained Mr. Anschell to apply for a change of visa status for herself and her daughter. The client needed to change her status from temporary professional worker to visitor/tourist while she looked for employment. Her status was set to expire on October 10, 1994; the daughter wanted to become a permanent resident.

Mr. Anschell did not file the daughter's change-of-status application, nor did he file the mother's change-of-status form until October 25, 1994, after her legal status had expired. Additionally, Mr. Anschell did not comply with an Immigration and Naturalization Service (INS) order to file the client's form I-797 by April 26, 1995. Because of these delays, the INS denied the client's application due to abandonment. The INS decision indicated that the client had the option to file a motion to re-open within 30 days or submit a new application and fee. Mr. Anschell did not inform the client of the order or her options.

On April 8, 1995, the client found new employment, and again retained Mr. Anschell to change her status back from visitor/tourist to temporary professional worker. She was not aware of the earlier loss of her legal status.

In late 1995 and early 1996, Mr. Anschell did not respond to his client's questions regarding her case. In February 1996, the client's employer contacted Mr. Anschell regarding the client's status; however, Mr. Anschell did not reply.

In March 1996, the client retained new counsel, and requested that Mr. Anschell forward all papers relating to her case to her new counsel. Mr. Anschell did not respond to this request. The INS denied the client and daughter's change-of-status ap-

plications because they were out of legal status. As a result, the client and her daughter had to return to England for approximately three weeks and reapply from there to legally re-enter the United States.

Matter 3: On April 7, 1995, Mr. Anschell agreed to represent the wife of an American citizen in her application for permanent resident status. The clients also asked Mr. Anschell to obtain a passport for the wife's daughter, who had been living in Germany. In April 1995, the clients completed the forms, and provided Mr. Anschell with the documentation and required fees.

In October 1995, the clients requested proof that Mr. Anschell had filed the wife's application. Mr. Anschell promised to fax the documents, but never did. The clients then sent a certified letter giving Mr. Anschell until December 1, 1995 to either send proof that he had filed the application, or return the clients' money and INS packet. Mr. Anschell did not respond.

Mr. Anschell did not file the clients' application, and lost the wife and daughter's files. At the time of the hearing, he had not located the daughter's original German passport or the wife's original medical papers.

Matter 4: Mr. Anschell failed to cooperate with the investigations of these matters. He failed to return phone calls and answer written requests for information. Disciplinary counsel was compelled to depose Mr. Anschell twice.

Mr. Anschell's conduct violated RPCs 1.3, requiring lawyers to diligently represent their clients; 1.4(a), requiring lawyers to keep clients reasonably informed about the status of their matters and to promptly comply with reasonable requests for information; 1.4(b), requiring lawyers to explain matters to the extent reasonably necessary to permit clients to make informed decisions regarding their respresentation; 1.5(a), requiring lawyers' fees to be reasonable; 1.15(d), requiring lawyers, when withdrawing from a case, to take reasonable steps to protect a client's interests; and RLD 2.8, requiring lawyers to cooperate with disciplinary counsel investigations.

Bernadette Janet and Douglas Ende represented the Bar Association. Kurt Bulmer represented Mr. Anschell through the Disciplinary Board hearing. Mr. Anschell represented himself before the Supreme Court. The hearing officer was R. Michael Kight.

Censured

Kenneth W. Raber (WSBA No. 4971, admitted 1973), of Yakima, has been ordered censured pursuant to a stipulation approved by the Disciplinary Board on September 29, 2000. This discipline is based on Mr. Raber's failure to communicate adequately with a client.

In September 1991, Mr. Raber prepared wills and a community property agreement for a husband and wife. In June 1992, the husband died. Mr. Raber met with the wife and daughter, and agreed to resolve the husband's estate. The original community property agreement could not be located, and the parties disputed who had possession of the original documents.

During the delay caused by the missing documents, Mr. Raber resolved creditor and insurance issues. When Mr. Raber could not find the community property agreement, he told the wife that she would have to probate the estate. Mr. Raber stated that he told the wife and daughter that he would not file the probate until the clients paid his retainer fee and money for costs. Mr. Raber did not reduce this requirement to writing. The clients paid the costs, but stated that they did not understand that Mr. Raber would not take any action until they paid the retainer fee. Mr. Raber took no action on the clients' case.

On February 1, 1996, the daughter retained another lawyer to probate her father's estate. The probate was ultimately resolved by stipulation of the heirs.

Mr. Raber's conduct violated RPC 1.4, requiring lawyers to keep their clients reasonably informed about the status of their cases and to explain matters to the extent necessary for the clients to make reasonable decisions about their representation.

Leslie Allen represented the Bar Association. Kurt Bulmer represented Mr. Raber.

Censured

Lina Beckford (WSBA No. 23800, admitted 1994), of Olympia, has been ordered censured pursuant to a stipulation approved by the Disciplinary Board on September 29, 2000. This discipline is based on her changing the wording in declarations after they were signed, without discussing the changes with the witnesses.

In 1997, Ms. Beckford represented a father in a modification of his parenting plan, filing several declarations in support of her client's motion. Ms. Beckford's client obtained written statements from witnesses, and she drafted formal declarations based on these statements. In drafting, Ms. Beckford changed the wording and meaning of the witnesses' statements. One witness stated: "in the past I have seen [the mother] drink in the tavern and then go outside to the parking lot to take straight shot pulls off bottles of hard alcohol. She comes in to gamble frequently...."

The declaration Ms. Beckford drafted for the witness stated: "I believe that [the mother] has a serious alcohol problem" and "I believe that [the mother] is an alcoholic and compulsive gambler." Ms. Beckford then gave the declarations back to her client, who obtained the witnesses' signatures. No one from Ms. Beckford's office contacted the witnesses or discussed the changes made in the statements with them. Subsequently, three of the witnesses filed second declarations with the court stating that the originals submitted by Ms. Beckford were untruthful.

Ms. Beckford's conduct violated RPC 1.1, requiring lawyers to provide competent representation to their clients.

Becky Neal represented the Bar Association. Leland Ripley represented Ms. Beckford.

Censured

Brian T. Butler (WSBA No. 15529, admitted 1985), of Spokane, has been ordered censured pursuant to a stipulation approved by the Disciplinary Board on September 29, 2000. This discipline is based on Mr. Butler's failure to diligently represent and communicate with a client.

In August 1994, Mr. Butler agreed to represent a client in an intentional tort claim against the client's employer. The client was employed as a horticulturist at a cemetery and was asked to assist in a child's burial. This experience was devastating to the client, who resigned his position. Although Mr. Butler did not prepare the re-

quired written fee agreement, he agreed to represent the client on a contingent-fee basis.

The client asked Mr. Butler if he should file a claim against the employer with the Department of Labor and Industries (L&I). The parties dispute whether Mr. Butler advised the client to seek advice from a lawyer familiar with these claims, or whether he advised the client that the claim would not be worth pursuing. Neither Mr. Butler nor the client pursued the claim, and the statute of limitations expired.

In September 1995, after receiving no written communication or billing statements from Mr. Butler, the client requested his file. The client discovered that Mr. Butler had taken no action, and that his file contained only the intake notes and correspondence from a psychologist that the client had seen.

On June 3, 1997, the client's subsequent counsel filed a complaint for damages against the former employer. The case was dismissed on summary judgment as being barred because the client had not filed a claim with L&I.

Mr. Butler's conduct violated RPCs 1.3, requiring lawyers to act diligently; 1.4, requiring lawyers to explain matters to the extent necessary for clients to make reasonable decisions about their matters; and 1.5(c)(1), requiring contingent-fee agreements to be in writing.

C. Elizabeth Williams represented the Bar Association. Mr. Butler represented himself.

Censured

John A. Walsh (WSBA No. 20603, admitted 1991), of Seattle, has been ordered censured pursuant to a stipulation approved by the Disciplinary Board on September 29, 2000. This discipline is based on Mr. Walsh's violation of a court order during a jury trial.

In April 1996, Mr. Walsh represented a client in a criminal jury trial. The client was charged with second-degree assault against his wife. During the trial, Mr. Walsh called the wife as a defense witness and asked if she had ever testified in a domestic violence matter. After the prosecutor objected, the trial judge ruled that the answer to the question was inadmissible character evidence. Mr. Walsh then asked the witness if her former husband had been convicted of domestic violence. After the prosecutor objected to this question, Mr. Walsh shouted and pointed his finger at the witness, who then answered "yes."

The court subsequently found Mr. Walsh in contempt of court and sanctioned him $500. Mr. Walsh paid the sanction. The Court of Appeals affirmed the trial court's contempt findings and sanction.

Mr. Walsh's conduct violated RPCs 3.4(c), requiring lawyers to obey rules of the tribunal; and 8.4(d), prohibiting lawyers from engaging in conduct prejudicial to the administration of justice.

Jean K. McElroy represented the Bar Association. Kurt Bulmer represented Mr. Walsh.

Censured

Louis B. Byrd Jr. (WSBA No. 19659, admitted 1990), of Vancouver, has been ordered censured pursuant to a stipulation approved by the Disciplinary Board on September 29, 2000. This discipline is based on Mr. Byrd's direct contact with represented parties.

Mr. Byrd represented a student and his parents regarding an individualized education program (IEP) for the student as required by the Individuals with Disabilities Education Act.

On August 24, 1999, the school district's representative faxed Mr. Byrd a letter stating that RPC 4.2 prohibited him from making any direct contact with individuals in the school district regarding the case. Mr. Byrd immediately responded, stating that as the client's agent, he had authority to communicate with some district personnel about educational issues.

In September and October 1999, Mr. Byrd sent letters to district personnel asking that a meeting date be rescheduled, and questioning the qualifications of the members of a school district IEP review panel.

On October 25, 1999, the school district representative sent a letter to Mr. Byrd objecting to his contacting the district regarding another student. Mr. Byrd responded that he had no intention of contacting the district representative for issues that were not directly in litigation at either an administrative or local court level.

On January 21, 2000, Mr. Byrd sent his 10-day notice of intent to file due process litigation directly to the school district superintendent.

Mr. Byrd's conduct violated RPC 4.2, prohibiting lawyers from communicating about the subject matter of the representation with persons the lawyer knows are represented by counsel, without consent of the other lawyer or legal authority to do so.

Nancy Miller represented the Bar Association. Mr. Byrd represented himself.

Admonished

Deforest N. Fuller (WSBA No. 5911, admitted 1974), of Wenatchee, has been ordered admonished by a review committee of the Disciplinary Board. The disciplinary action is based upon his participation in a case in which he had earlier acted as a pro-tem commissioner.

On September 27, 1999, Mr. Fuller served as a pro-tem commissioner in Chelan County Superior Court, where he was assigned to hear the morning domestic-relations calendar. Mr. Fuller signed a judgment that day imposing a civil contempt sanction against a husband owing back-due child support.

In late October 1999, Mr. Fuller appeared in court for the same husband on the wife's petition for modification of the parenting plan. Mr. Fuller's pleadings referred to the judgment he signed earlier in his capacity as court commissioner. During a hearing, the court commissioner hearing the case learned that Mr. Fuller had made a prior court ruling regarding the parties. The commissioner stopped the hearing, and the wife refused to consent to the conflict of interest. Mr. Fuller withdrew from the case a few days later.

Mr. Fuller's conduct violated RPC 1.12(a), prohibiting lawyers from participating personally and substantially in a matter in which they earlier acted as a judge or other judicial officer.

Marta Powell represented the Bar Association. Mr. Fuller represented himself.

Opportunities for Service

Letters of Application Invited for the New WSBA Board of Governors At-Large Positions

Application deadline: August 1, 2001

At its May 2001 meeting, the Board of Governors adopted bylaw amendments and application procedures for implementing two new at-large positions on the Board of Governors.

Letters of application are invited and should include a description of how the applicant fulfills the intent of section M of the amended Bylaws (see below). Please submit letters of application to the Office of the Executive Director, WSBA, 2101 Fourth Ave., Fourth Fl., Seattle, WA 98121-2330. At its September 2001 meeting, the board will interview candidates and fill both at-large seats, one a regular three-year term, and the second a two-year term.

M.ELECTION OF AT-LARGE GOVERNORS.

Any active member of the Bar, except a member previously elected to the Board of Governors, may apply for the office of At-Large Governor. Filing of applications shall be in accordance with Section C of this Article, except that any candidate who has run for and failed to win a Congressional District position in that election year may supplement his or her petition to run for an at-large position within 7 calendar days of the announcement of the election results.

At the regularly scheduled June meeting of the Board of Governors following the regular election of Governors from Congressional districts, or at a special meeting called for that purpose, the Board of Governors shall elect additional Governors from the active membership at-large pursuant to the election schedule set forth below. There shall be two at-large Governor positions to be filled with persons who, in the Board's sole discretion, have the experience and knowledge of the needs of those lawyers whose membership is or may be historically under-represented in governance, or who represent some of the diverse elements of the public of the State of Washington, to the end that the Board of Governors will be a more diverse and representative body than the results of the election of Governors based solely on Congressional districts may allow. Under-representation and diversity may be based upon the discretionary determination of the Board of Governors at the time of the election of any at-large Governor to include, but not be limited to, age, race, sex, geography, areas and types of practice, and years of membership, provided that no single factor shall be determinative.

In order to implement the election of the two at-large members to staggered terms, the following process will occur. One at-large member will be elected in 2001 to a regular three-year term, and the position will be elected every three years thereafter. One at-large member will be elected in 2001 to a two-year term, and the position will be elected for a regular three-year term every three years thereafter. Each new at-large Governor shall take office at the close of the next annual meeting of the Bar following such election.

Board of Governors Elections

Ballots have been mailed for Board of Governor elections. 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.

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.

Discipline 2000 Task Force to Meet

The Discipline 2000 Task Force will meet Monday, June 4 from 2:00 p.m. to 4:30 p.m. at the WSBA office. For more information, contact Randy Beitel at 206-727-8257 or randyb@wsba.org.

WYLD Trustee Elections

Filing deadline: July 13, 2001

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 WYLD president 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.

Notice of Deadline for Filing WSBA Resolutions

Pursuant to WSBA Bylaw Article VII, Section F – Resolutions, any 10 active members of the WSBA may present a written resolution to the Board of Governors for consideration at the WSBA's annual business meeting, which will be held 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 address-

Shirley Naccarato Celebrates 25 Years at the Bar

WSBA Accounting Manager Shirley Naccarato was honored at a special celebration on March 15. While several WSBA staff members have reached the 20-year mark, Shirley is our most senior staffer. Congratulations to Shirley on reaching the quarter-century milestone!

ing 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.

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.

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.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in May 2001 is 3.738 percent. The maximum allowable interest rate for June is therefore 12 percent. Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills and past maximum interest rates for 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.

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. Future issues of *Bar News* will contain information about the event.

CASA Volunteers Needed

King County Superior Court is seeking volunteers to serve as Court Appointed Special Advocates (CASAs). 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.

Kittitas County Bar Reorganizes

The Kittitas County Bar Association has been reactivated. Meetings are tentatively set for noon on the first Friday of each month at the Elks Temple in Ellensburg. Paul T. Ferris is the current president, and Scott Sparks is the secretary/treasurer. For more information, please contact Paul T. Ferris at 509-925-4744 or ptferris@elltel.net.

Citizen Panel Requests Comments

The current term of U.S. Magistrate Judge Ira J. Uhrig will expire on November 11, 2001. The U.S. District Court is required to establish a panel of citizens to consider the reappointment of the magistrate judge to a new four-year term. Comments from members of the Bar and the public regarding reappointment are welcomed, and are due by August 31, 2001. Comments should be directed to Bruce Rifkin, District Court Executive; William Keno Nakamura U.S. Courthouse, Room 215; Seattle, WA 98104.

UW School of Law Installs Dwyer Chair

On Thursday, June 28, the University of Washington School of Law will install the William L. Dwyer Chair in Law. Professor Stewart M. Jay will be the inaugural holder of the William L. Dwyer Chair at the law school. Both Judge Dwyer and Professor Jay will speak at the ceremony, which will be held in Kane Hall 220 at 3:30 p.m. A reception will follow. This program is open to the public, but space is limited. For more information, contact Dexter Bailey at 206-685-1998.

Consumer-Information Pamphlets Available

Provide a valuable service to your clients by offering them consumer-information pamphlets! Published by the WSBA as a public service, these pamphlets educate consumers about their legal rights and responsibilities, answer frequently asked questions, and explain basic aspects of Washington laws. The information, of course, is general, and not intended as legal advice or as a substitute for a lawyer's services.

For pricing information or to place an order, please call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or send an e-mail to questions@wsba.org. A list of available pamphlets is on the WSBA Web site at www.wsba.org/consumer-information.

Note: A special discounted rate is available for qualified nonprofit organizations – contact the WSBA Service Center for details.

Keller W. Allen
and
Thomas W. McLane
are pleased to announce
the formation of their new firm:

ALLEN & MCLANE, PC

The principals will continue to
focus their practices on labor and
employment law litigation and advice.

The address of the firm is:

ALLEN & MCLANE, PC
The Paulsen Center, Suite 421
421 W. Riverside
Spokane, WA 99201
Telephone: 509-777-2211
Fax: 509-777-2215

Richard D. Brady, P.S.
has become

BRADY & MCLEAN, PLLC

Richard D. Brady
Brian P. McLean

Brian P. McLean, formerly an associate at Vandeberg, Johnson & Gandara, attorney at the Court of Appeals, general counsel at Construx Software, member of Law Review, chair of the Moot Court Board, cum laude graduate of and commencement speaker at UPS Law School, will focus on complex civil and criminal appeals, emphasize condominium law, and represent homeowner associations. Mr. McLean will also manage the firm's marketing.

Richard will continue to do whatever it is he does.[1]

1008 S. Yakima Avenue, Suite 202
Tacoma, Washington 98405
Tacoma: 253-573-1207
South King: 253-852-4422
www.bradymclean.com

[1] Stockbroker fraud, civil and criminal law, consumer protection.

BRETT & DAUGERT, PLLC

takes great pleasure in announcing that
Gene Knapp
has joined the firm as of counsel and
Cynthia Novotny
has joined the firm as an associate.

Gene was formerly a partner with
Lane Powell Spears Lubersky in its
Mt. Vernon office. He will practice civil litigation
and act as an arbitrator and mediator.

Cynthia previously practiced as a
registered nurse in the emergency room at
Northwest Hospital; received a B.A. in psychology,
magna cum laude, and a law degree from the
University of Washington; and was an associate with
Danielson, Harrigan & Tollefson.
She will practice in civil litigation.

BRETT & DAUGERT, PLLC
300 N. Commercial
Bellingham, Washington 98226
Telephone: 360-733-0212
brettlaw.com

The Law Office of

DENO, MILLIKAN, DALE, DECKER & DAVENPORT

PLLC

is pleased to announce that

H. Scott Holte

has joined the firm as of counsel,
focusing his legal practice
in the areas of plaintiffs' personal injury,
and commercial and probate litigation.

Mr. Holte will continue his association
with Washington Arbitration & Mediation
Services as a mediator and arbitrator.

3411 Colby Avenue
Everett, Washington 98201
Telephone: 425-259-2222

Foster Pepper & Shefelman PLLC

Attorneys at Law

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

Pamela McClaran
Member/Estate Planning

Meri E. Glade*
Of Counsel/Business & Intellectual Property

Wendy J. Batchelor**
Of Counsel/Business & Intellectual Property

Corey B. Zion
Associate/Litigation

* *Admitted in New York and qualified as an English Solicitor*
** *Washington admission pending*

www.foster.com

Anchorage Portland Seattle Spokane

William T. Hines

Attorney at Law

is pleased to announce the relocation of his office to

Bank of America Fifth Avenue Plaza
800 Fifth Avenue, Suite 4000
Seattle, Washington 98104
Telephone: 206-632-8053
Fax: 206-464-1496

Criminal Defense
Federal and State Courts

Johns Monroe Mitsunaga PLLC

wants to share the good news that

Duana T. Koloušková
has joined the firm as an associate.

Before joining the firm, Ms. Koloušková served as a deputy prosecuting attorney for Snohomish County in the land use department of the civil division.

Johns Monroe Mitsunaga PLLC continues its emphasis in land use, real estate, municipal, construction, and related litigation matters.

Johns Monroe Mitsunaga PLLC
1500-114th Avenue SE
Cypress Building, Suite 102
Bellevue, Washington 98004
Telephone: 425-451-2812
Fax: 425-451-2818

Littler Mendelson, PC

is pleased to announce the following additions to its Seattle office during the past year

Daniel L. Thieme
Office Managing Shareholder

Leigh Ann Tift
James G. Zissler
Michael J. Kelly
Associates

With almost 400 attorneys in 31 offices nationwide, Littler Mendelson is the largest law firm in the United States practicing exclusively in employment and labor law, representing management.

The National Employment & Labor Law Firm℠
999 Third Avenue, Suite 3900
Seattle, Washington 98104
Telephone: 206-623-3300
www.littler.com

SEBRIS BUSTO, PS

is pleased to announce that

Tina M. Aiken

has joined the firm as an associate.

SEBRIS BUSTO, PS
14205 SE 36th Street, Suite 325
Bellevue, Washington 98006
Telephone: 425-454-4233
Fax: 425-453-9005

G. Michael Zeno Jr., Leslie A. Drake and Richard W. Hively

are pleased to announce our new firm

ZENO, DRAKE AND HIVELY, PS

Mike Zeno is a former shareholder, and Leslie Drake and Rick Hively are former associates at Davidson, Czeisler, Kilpatric & Zeno, PS.

Our practice will continue to emphasize real estate matters, business transactions and litigation, estate planning and probate, claims against stock brokers, and employment matters.

ZENO, DRAKE AND HIVELY, PS
4020 Lake Washington Blvd. NE, Suite 100
Kirkland, Washington 98033
Telephone: 425-822-1511
Fax: 425-822-1411
Email: mzeno@zdhlaw.com, ldrake@zdhlaw.com, rhively@zdhlaw.com

Calendar

ALTERNATE DISPUTE RESOLUTION

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

Advanced Professional Mediation Skills Training
June 14-15 – Seattle. CLE credits TBD. By UW-CLE; 800-CLE-UNIV or 206-543-0059.

BUSINESS

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

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

COMPUTER SKILLS

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

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™ – Legal Research & PowerPoint
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 estimated. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

How to Advise a Business in Distress
July 26 – Seattle. 7 CLE credits. By WSBA-CLE; 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 estimated. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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.

2001 Northwest Envirolabor Law Institute
June 7 – Seattle. 5 CLE credits, including 1 ethics pending. By King County Bar Association; 206-340-2578.

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

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

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

ESTATE PLANNING

The Lawyer's Toolbox: Nuts & Bolts of Estate Planning and Probate
June 20 – Seattle. 2 CLE credits, including .25 ethics estimated. 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.

FAMILY LAW

Family Law Potpourri: A Cornucopia of Legal Tidbits
June 6 – Spokane. CLE credits TBD. By Spokane County Bar Association; 509-477-2665.

Grandparents and Other Relatives Raising Children
June 7 – Seattle. 6 CLE credits pending. By UW-CLE; 800-CLE-UNIV or 206-543-0059.

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

GENERAL

How to Raise Private Equity Capital and Survive in a Slowing Economy
June 1 – Seattle. 3.5 CLE credits pending. By UW-CLE; 800-CLE-UNIV or 206-543-0059.

Judge Pro Tem Training Seminar
June 23 – Seattle. 6 CLE credits pending. By King County District Court; 206-296-3598.

LAW OFFICE MANAGEMENT

Doing the Dance Solo: Solo and Small-Firm CLE
June 14 – Seattle. 6.5 CLE credits pending. By King County Bar Association; 206-340-2578.

LITIGATION

Motor Vehicle Accident Primer
July 19 – Seattle. 7 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Appellate Practice: A Day with the Oregon Court of Appeals Judges
July 20 – Portland. 6.5 CLE credits pending. By Oregon State Bar; 503-684-7413.

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

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

REAL ESTATE

Advanced Commercial Leases Conference
June 18-19 – Spokane. 9.75 CLE credits, including 1 ethics pending. By The Seminar Group; 206-463-440.

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

TAX LAW

2nd Annual Oregon Tax Institute featuring Mary Hevener and John Porter
June 8-9 – Skamania Lodge, Stevenson. 10 CLE credits and .5 ethics pending. By Oregon State Bar; 503-684-7413.

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

Professionals

APPEALS

Charles K. Wiggins
&
Kenneth W. Masters

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

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241 Madison Avenue N.
Bainbridge Island, WA 98110
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Sidney S. Royer
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are available for association or referral on medical malpractice lawsuits, including failure to diagnose, surgical malpractice, medication errors and psychiatric malpractice cases.

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206-622-8000
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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).

CARNEY, BADLEY, SMITH & SPELLMAN, PS
701 Fifth Avenue, Suite 2200
Seattle, WA 98104
206-622-8020
E-mail: lobsenz@carneylaw.com

MEDICAL OR DENTAL MALPRACTICE

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

BELLEVUE
425-451-1202
E-mail: jgreaney@qwest.net

Referrals, Associations and Consultations in

IMMIGRATION LAW MATTERS

Robert H. Gibbs
(21 years' experience)

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Seattle, Washington 98101
206-682-1080

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announces his availability for consultation, association or referrals. Practice emphasizing representation of fathers in child custody fights.

4500 Ninth Avenue NE, Suite 300
Seattle, WA 98105-4762
206-623-6750
fax: 206-633-6049
E-mail: DadsLawyer@aol.com

LEGAL MALPRACTICE and DISCIPLINARY ISSUES

Joseph J. Ganz
is available for consultation, referral and association in cases of legal malpractice (both plaintiff and defense), as well as defense of lawyer disciplinary and/or grievance issues.

2101 Fourth Avenue, Suite 2100
Seattle, WA 98121
206-448-2100
E-mail: jganzesq@aol.com

BRITISH COLUMBIA LAW

Tom Prescott
is available for consultation or referrals on civil and employment cases in British Columbia.

Admitted in BC: 1989
WSBA# 27404

PRESCOTT & COMPANY
1480 Gulf Road, Suite 206
Point Roberts, WA 98281
360-945-2616
E-mail: info@tomprescott.com

APPEALS

Michael T. Schein
and
Douglas W. Ahrens
are available for referral, consultation or association on all issues relating to appeals and the appellate process.

MALTMAN, REED, AHRENS & MALNATI, PS
801 Second Avenue, Suite 1415
Seattle, WA 98104
206-624-6271

ETHICS & LAWYER DISCIPLINE

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

206-781-8737

APPEALS

Margaret K. Dore

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

Passed CPA exam in 1982

206-624-9400
206-907-9066
www.margaretdore.com

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.

Stunning original 1880s 6-ft. American oak roll-top desk with 34 drawers, matching 7-ft. work table and three matching chairs, and beautiful oak-and-glass bookshelf cabinet; once the office furniture of William E. Boeing's personal legal counsel. Call R. Nelson, 206-447-1240.

SPACE AVAILABLE

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.

Amazing deal! Far below-market value sublease available. Corner suite with extensive windows and panoramic views in the heart of downtown Seattle. 2,300 sq. ft. in class-A building with five large, private offices, workroom, kitchen and spacious reception. Top-of-the-line phone system included; network cabling installed. Available July 1st. Must see to believe. Call 206-343-1999, ext. 106.

Downtown Tacoma: Unfurnished office space available to share with established attorneys. Convenient downtown location; parking; phone/Internet service available; various services. Call Annie or Mark at 253-383-1666.

Lease/sale: Newer office building on two-and-a-half city lots, with/without established practice. Good opportunity for semi-retirement? Enjoy Montana; growing community. Endless possibilities. Judith Loring, 406-777-5414.

Enjoy large partner-sized office in Laurelhurst (University) area: Clerical space available. Share receptionist, library, conference rooms with attorneys, CPA and consultants. Great location; nice environment. Possible joint marketing and referrals. For information, call 206-523-6470.

Office share: Downtown Edmonds law office seeks replacement for departing attorney (the joys of semi-retirement). Three solo practitioners who share office expenses and support staff seek attorney whose practice is compatible with their existing real estate/condo, business/corporate, light litigation, estate planning and family law work. The office is a good opportunity for a personal injury attorney or a developing law practice. Our practices are low-key (though high quality); our office is casual (though professional); and our sense of humor is finely tuned (though sometimes low). If this sounds like an interesting opportunity for you, send inquiries to Tom Overcast at 152 3rd Ave. S., Ste. 101, Edmonds, WA 98020; 425-771-4846 or 425-774-9842; e-mail tom@ overcastlaw.com.

Downtown Seattle, class-A office space available, 26th floor of Rainier Tower. This is a suite-sharing opportunity with private view offices, large and small conference rooms, reception service and other amenities. Available is a single office with Puget Sound view, and a block of six offices (four with great views), including staff-support areas. Call Office Administrator Kay Verelius at 206-624-8890 to make an appointment to see the space.

For sublease: Single office on 22nd floor, 1111 3rd Ave.; reception services provided; additional space available for support staff or paralegal. Contact Al Bentley or Emily Coward at 206-343-9391 or emilycoward@hotmail.com.

Sweeping, unobstructed view of Mount Rainier (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 Paula at 206-624-9400.

Downtown view office sublease: Stunning penthouse suite of seven view offices located in Wells Fargo Building (formerly First Interstate Center). Beautifully remodeled, with four-plus secretarial stations, large workroom, fully equipped kitchen, and shared library and conference room. Available June 1st at bargain rate. Ideal for one or two small firms, but willing to consider lease of individual office spaces. Call Lisa at 206-223-2048.

POSITIONS AVAILABLE

Employment law paralegal: This key position will assist attorneys to coordinate investigations and information gathering with management and human resources professionals and respond to claims made by current and former employees. This position requires a legal background, which should include familiarity with concepts related to employment law issues. Must possess the ability to conduct legal research. The following skills are also required: excellent verbal skills, ability to work and communicate with all levels of staff and management, including conducting effective interviews of witnesses. *Reasoning skills:* ability to gather, organize and synthesize factual information and understand its relationship to the employment issue presented. *Excellent writing skills:* ability to draft and proofread 1) memoranda to human resources group and legal team, 2) responses to government agencies, and 3) letters to opposing attorneys. *Organizational skills:* ability to track and manage caseload for legal team. At least four years' experience working as a paralegal is preferred. 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 #161960, 1191 2nd Ave., SAS0108, Seattle, WA 98111, or e-mail your résumé to john.soth@wamu.net. If you have any questions, please contact John at 206-461-2598. Equal opportunity employer. Visit our Web site at http://www.wamu.com.

Associate attorney: AV-rated commercial litigation firm seeks associate with minimum two years' experience, preferably as litigator. Must

To Place a Classified Ad:

Rates: *WSBA members:* $40/first 25 words; $0.50 each additional word. *Non-members:* $50/first 25 words; $1 each additional word. Blind-box number service: $12 (responses will be forwarded). Advance payment required; we regret that we are unable to bill for classified ads. Payment may be made by check (payable to WSBA), MasterCard or Visa.

Deadline: Text and payment must be received (not postmarked) by the 1st day of each month for the issue following, e.g., July 1 for the August 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.

be team player with strong track record producing top-quality work. Professional liability defense with emphasis on accountants, stockbrokers, real estate and insurance agents/brokers and athletic/sporting event associations/promoters. Send résumé promptly to: Firm Administrator, Eklund Rockey Stratton, 1011 Western Ave., Ste. 807, Seattle, WA 98104-1083.

Williams, Kastner & Gibbs PLLC is seeking attorneys for the following positions: Products liability litigator with aviation litigation experience who can work with minimal supervision, is able to work up cases, conduct discovery and handle pre-trial matters; litigation attorney with a minimum of three years' experience in construction litigation matters; general litigation attorney positions with a minimum of two years' experience; multiple attorney positions in growing asbestos litigation practice, requiring some asbestos litigation experience, good writing skills, willingness to delve into cutting-edge scientific and medical issues, and ability to take on significant responsibilities for development and implementation of various defense strategies. All applicants should be motivated, hard-working individuals with a strong academic background. Applicants should also have excellent communication and organizational skills. Send résumé to: Patti Christiansen, Recruiting Administrator, Williams, Kastner & Gibbs PLLC, PO Box 21926, Seattle, WA 98111-3926.

Preg O'Donnell & Gillett PLLC, a 12-attorney litigation firm, seeks an associate with a minimum of three years' experience, preferably in insurance defense and title insurance matters. The successful candidate will be self-motivated and self-driven. Please direct your confidential reply to: John Hegna, Firm Manager, Preg O'Donnell & Gillett PLLC, 1215 4th Ave., Ste. 920, Seattle, WA 98161-1008.

Looking for a slower pace? Consider relocating to Southwest Washington, only 90 minutes from Seattle. Well-established five-attorney firm in Southwest Washington seeks family law attorney and attorney for debtor/creditor and civil litigation. Prefer energetic, community-oriented individual with good communication skills. Please send résumé to: PO Box 1123, Chehalis, WA 98532.

Hillis Clark Martin & Peterson PS is seeking applications for an associate position in its business and corporate group. Applicants should have at least two years' experience in one or more of the following areas: securities, mergers and acquisitions, intellectual property, high-tech transactions, emerging growth companies, and ongoing corporate counseling. Applicants should also have excellent academic records, creative and practical problem-solving abilities, and superior communication and interpersonal skills. Please send résumé to: Eileen J. Kraabel, Recruiting Administrator, Hillis Clark Martin & Peterson PS, 1221 Second Ave., Ste. 500, Seattle, WA 98101-2925.

Kent law office has an opening for an associate attorney with at least two years' experience in family law; additional areas of practice a plus. Must be organized and easy to work with, have strong communication and writing skills, and be highly computer friendly. We offer excellent medical and dental coverage. Compensation is competitive, with a base salary and quarterly bonus based on productivity. Qualified individuals should submit a résumé, writing sample and references to: Hiring Attorney, 23837 108th Ave. SE, Ste. 404, Kent, WA 98031; jobforme@justice.com.

Corporate counsel: Large financial institution located in Seattle seeks an experienced attorney for its corporate legal department. This position requires excellent written and oral communication skills, references, and at least five years' experience. Experience should include: handling software and technical consulting agreements; assisting with trademark matters; intellectual property experience; and reviewing, drafting and negotiating contracts. 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 #165982, 1191 2nd Ave., SAS0108, Seattle, WA 98111, or e-mail your résumé to john.soth@wamu.net. If you have any questions, please contact John at 206-461-2598. Equal opportunity employer. http://www.wamu.com.

The Board of Industrial Insurance Appeals (BIIA) is seeking a qualified attorney for a position as industrial appeals judge (IAJ). The BIIA is a Washington state agency that hears and decides appeals from decisions made by the Department of Labor and Industries. IAJs conduct preliminary conferences and hearings, and issue proposed decisions as part of the dispute resolution process. If the position is filled at the IAJ1 level (salary range $45,312-58,032), the incumbent will advance to the IAJ2 level ($50,016-64,008) upon successful completion of a 12-month in-training period. Complete benefits plan and Washington state retirement program. Minimum qualifications for the IAJ1: active membership in the WSBA and two years' experience in general trial practice under court rules of evidence, or two years of service as a judge of a court of general jurisdiction which observes the rules of evidence. For further information and application forms, contact: Jane Beaulieu, Human Resources Consultant, BIIA, 360-753-9639; beaulieu@biia.wa.gov.

Wilson Smith Cochran Dickerson, a midsized Seattle litigation firm, seeks an associate attorney with at least two years' civil litigation experience. Experience in personal injury, medical malpractice, or pharmaceutical litigation a plus. Applicants must have high academic achievement, and excellent writing skills and references. Please send your résumé and two writing samples to: Hiring Partner, Wilson Smith Cochran Dickerson, 1215 4th Ave., Ste. 1700, Seattle, WA 98161.

Attorney: Established Seattle midsized law firm seeks commercial litigation attorney to join its Seattle office. Position entails immediate work in a variety of complex commercial litigation matters. Candidates must have high academic credentials as well as communication, writing and client-relations skills. Firm offers opportunity for professional growth. Send résumé to: John R. Tomlinson Jr. at Barokas Martin Ahlers & Tomlinson, 1422 Bellevue Ave., Seattle, WA 98122, or jrt@bmatlaw.com.

Land use and environmental attorney: Helsell Fetterman seeks an associate with at least three years' experience to join our land use group. Clients include individual property owners, community organizations, and government entities. Requires knowledge of federal statutes, SEPA, GMA, SMA and administrative agency procedures. Candidates must have excellent writing and advocacy skills. Please fax 206-340-0902 or e-mail statement of interest, résumé and references in confidence to Susan Alford at salford@helsell.com. Visit our Web site at http://www.helsell.com. Helsell Fetterman LLP, 1325 4th Ave., Ste. 1500, Seattle, WA 98101.

Real estate/business associate: Midsized downtown Seattle law firm seeks associate attorney to join our thriving business and real estate practice. Candidate must have superior academic credentials and a minimum of six years' experience in business and/or real estate transactions. Practice areas should include one or more of the following: corporate finance, intellectual property, trademarks, licensing, strategic alliances, product distribution and marketing, employment, secured land transactions and leasing. Salary negotiable. Excellent benefit package. Direct résumé to: Michael Cason, 600 University St., Ste. 2700, Seattle, WA 98101; mcason@mcnaul.com. Résumé should include project-by-project summaries of the candidate's experience.

The law firm of McIntyre & Barns, an established Seattle law firm, is seeking an experienced litigation attorney with a minimum three years' experience. Must have excellent writing and communication skills. Personal injury and insurance defense experience is preferred. Please send cover letter and résumé to: Lee Barns, 1325 4th Ave., Ste. 1700, Seattle, WA 98101.

Dionne & Rorick, a Seattle law firm of seven attorneys, is seeking an experienced construction attorney to assist in counseling our municipal and school-district clients, and litigating a broad range of construction matters. Successful applicants will possess outstanding writing skills and a strong record of academic and professional achievement. Forward résumé and letter of interest to: Hiring Attorney, Dionne & Rorick, 999 3rd Ave., Ste. 2550, Seattle, WA 98104; fax 206-223-2003; attorneys@dionnerorick.com.

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Quality attorneys sought to fill high-end permanent and contract positions in law firms and companies throughout Washington. Contact Legal Ease, LLC by phone 425-822-1157, fax 425-889-2775, e-mail legalease@legalease.com, or visit us on the Web at http://www.legalease.com.

Bankruptcy attorney position available: Small firm needs help with both consumer and business debtor/creditor matters. Work involves some litigation and lots of client contact. May be part or full time depending on situation. Fax résumé to Gloria at 206-224-3463.

The Anchorage office of Lane Powell Spears Lubersky LLP is seeking a litigation associate with a minimum of two years' litigation experience. Admission to the Alaska Bar is preferred. Send cover letter and résumé to: Brewster Jamieson, Lane Powell Spears LLP, 420 L St., Ste. 300, Anchorage, AK 99501-1937; fax 907-276-2631; jamiesonb@lanepowell.com.

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.

Estate planning: Expanding Eastside firm seeks experienced attorney for integrated estate-planning practice with strong client skills and knowledge of interrelated tax, trust and business issues. Send résumé to: R. Sailer, Pacific Northwest Law Group, PO Box 86, Redmond, WA 98073.

Farmers Insurance house counsel defense firm seeking attorney with a minimum of one year's experience. Send résumé to: Rod Hollenbeck; Hollenbeck, Lancaster & Miller; 15500 SE 30th Pl., Ste. 201, Bellevue, WA 98007.

Associate attorney: Midsized Spokane firm seeks new associate with strong research and writing skills. At least two years' experience in civil litigation a plus. Admission to practice in Washington required; Idaho license also a plus. Please send or fax résumé and cover letter to: Brad Smith, Huppin Ewing Anderson & Paul PS, 21 N. Wall St., Ste. 500, Spokane, WA 99201.

The Confederated Tribes of the Colville Reservation seeks an attorney for its five-attorney General Counsel Office of the Reservation (ORA) on the Colville Reservation (1.4 million acres) in Nespelem, WA. We would prefer at least eight years' experience as an attorney, with substantial amount of such experience in Indian law and tribal government work, and some litigation background and skills. We will also consider otherwise strongly qualified applicants with less experience, including recent law school graduates with relevant work experience prior to or during law school. Strong preference for applicants already admitted to the WSBA, but will consider admittees from other jurisdictions. Above all, we seek excellence and commitment. ORA is an Indian preference employer, and Native American attorneys are encouraged to apply. Salary schedule based on number of years' experience as an attorney. Medical and retirement benefits. Please send cover letter, résumé and writing sample to: Office of the Reservation Attorney, Confederated Tribes of the Colville Reservation, PO Box 150, Nespelem, WA 99155, 509-634-2381; fax 509-634-2387.

Join a 2,000-plus person law firm, the Army JAG Corps! The Army Reserve has 20 part-time, paid judge advocate officer positions available in Seattle, Spokane, Tacoma and Vancouver. Join a 225-year tradition of providing legal counsel to commanders and soldiers. Enjoy a rewarding second career that provides supplemental income, low-cost life insurance and dental benefits, commissary and exchange privileges, a defined-benefit retirement plan, personal and professional development, and interesting overseas assignments. Idaho and Oregon attorneys and law students are welcome to apply. Visit our Web site at http://www.jagcnet.army.mil. Send résumé to: Commander, 70th RSC, Attn: AFRC-CWA-JA (Staff Judge Advocate), 4570 Texas Way W., Fort Lawton, WA 98199-5000. Call 206-281-3070 for more information.

Associate attorney: Montana litigation firm seeking associate attorney to start as soon as possible. Strong research and writing skills necessary. Some experience preferred. Salary depends on experience. All inquiries kept confidential. Send résumé, writing sample and references to: Stephanie Hollar; Smith, Walsh, Clarke & Gregoire; PO Box 2227, Great Falls, MT 59403.

Labor and employment lawyer: Sebris Busto PS, a 10-attorney Bellevue firm representing employers in labor and employment law, seeks an associate with a minimum two years' experience. This individual must have some labor and employment law experience. Our firm has a congenial work atmosphere, and provides com-

petitive salary and benefits. Please send cover letter and résumé to: Cindy Kendall, 14205 SE 36th St., Ste. 325, Bellevue, WA 98006.

Associate trial lawyer: The Law Office of Ron Perey, a Seattle personal injury and medical malpractice law firm which exclusively represents plaintiffs, seeks an associate lawyer with at least two years' civil litigation experience. Experience in personal injury or medical malpractice, or medical or nursing education a plus. Defense lawyers with compassion and willingness to switch gears are encouraged to apply. Applicants must have high academic achievement, excellent writing skills and references. Please send a letter of interest, your résumé, two writing samples (a trial brief which you wrote and a legal memorandum or letter containing legal analysis), and a copy of a deposition which you took to: Jane Seavecki, R.N., J.D., Law Office of Ron Perey, 2025 1st Ave., Ste. 250, Seattle, WA 98121; 206-443-7600; fax 206-443-4785.

The Seattle office of Lane Powell Spears Lubersky LLP is seeking a bankruptcy associate with a minimum of two years' experience in bankruptcy matters which may include creditor and debtor rights, reorganizations, bankruptcy issues, foreclosure matters, lender liability defenses or counterclaims, receivership/conservator matters, collections, loan restructurings or workouts. Send cover letter and résumé to: Len Roden, Recruiting Coordinator, Lane Powell Spears Lubersky LLP, 1420 5th Ave., Ste. 4100, Seattle, WA 98101-2338, or e-mail rodenl@lanepowell.com.

Keating Bucklin & McCormack Inc. PS, established downtown midsized AV-rated Seattle law firm doing civil litigation defense, seeks associate with minimum three years' experience; prefer prior government legal service. Salary negotiable DOE with excellent benefits, bonuses and profit-sharing. Opportunity for advancement for proven hard worker who enjoys litigation. Send cover letter and résumé to: KB&M, Attn: Mark Bucklin, 800 5th Ave., Ste. 4141, Seattle, WA 98104-3175.

Assistant city attorney: The City of Puyallup Legal Department is seeking applicants for an assistant city attorney. Responsibilities include prosecution of violations of the city's criminal and civil codes, advising the police department regarding criminal matters, and providing a variety of civil legal services for all city departments. Requirements: member of WSBA with criminal and/or civil trial experience; municipal law experience preferred. Salary range: $3,711-4,824 per month, plus excellent benefits. Closes 6/15/01. Job announcement, required application form, and supplemental questionnaire available at www.ci.puyallup.wa.us, or call 253-841-5541. EOE.

POSITIONS WANTED

CFO/Controller; CPA, MBA, BS Mech. Engineering. Results-oriented finance and administration manager with analytical and technical skills. Experienced strategic planner, organizer, analytical problem solver; strong communicator, leader, team player. Proven record providing financial and administrative structure to successfully meet goals. Call 206-314-1491 or e-mail stevewel35@hotmail.com.

Detail-oriented, client-dedicated, experienced personal injury attorney with significant malpractice and product liability experience has recently moved to Washington. Now seeking opportunity to practice law in this state. Will entertain contract work while seeking full-time employment. Member of the WSBA. Please contact George Senteney at 206-851-4212 or georgesenteney@yahoo.com.

WILL SEARCH

Seeking information regarding location of the will of Jimmie Sumler Jr. of Seattle, WA. Please contact Waunda Washington at 206-328-5788 or Joel H. Paget, Esq. at 206-464-4224.

Seeking will or information regarding the original or copies of estate planning documents of Judi Moncrieff of Seattle, WA. Please contact Phillip L. Thom at Stafford Frey Cooper, 206-623-9900, or pthom@staffordfrey.com.

Searching for the will of Gene A. Edwards. Date of birth: 6/30/29; date of death: 4/1/01. Please call 206-723-1203 or 206-722-1908.

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Since 1989, Corporate Service Center, Inc. has formed over 6,000 corporations and LLCs. Serving clients in all 50 states and over 40 foreign countries, we've helped small businesses minimize taxes while protecting assets and financial privacy. Call 800-638-2320 or visit http://www.corporateservicecenter.com.

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Experienced appellate attorney. 20 years' state and federal experience, civil and criminal. Former deputy prosecutor. Superb writer. Robert A. Weppner. Telephone 206-728-9332; e-mail raw_law@earthlink.net.

Free estate appraisals – U.S. coins. Dealer/collector paying cash! Finders' fee for referrals. Member: ANA #R185172; PNNA 901. Call for appointment, 425-766-8194; discount. coins@gte.net.

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Insurance claims consultant: Difficult insurance issues? Expert witness? Coverage questions? 20 years' insurance claims experience. CPCU and JD practice. Call 425-353-5515.

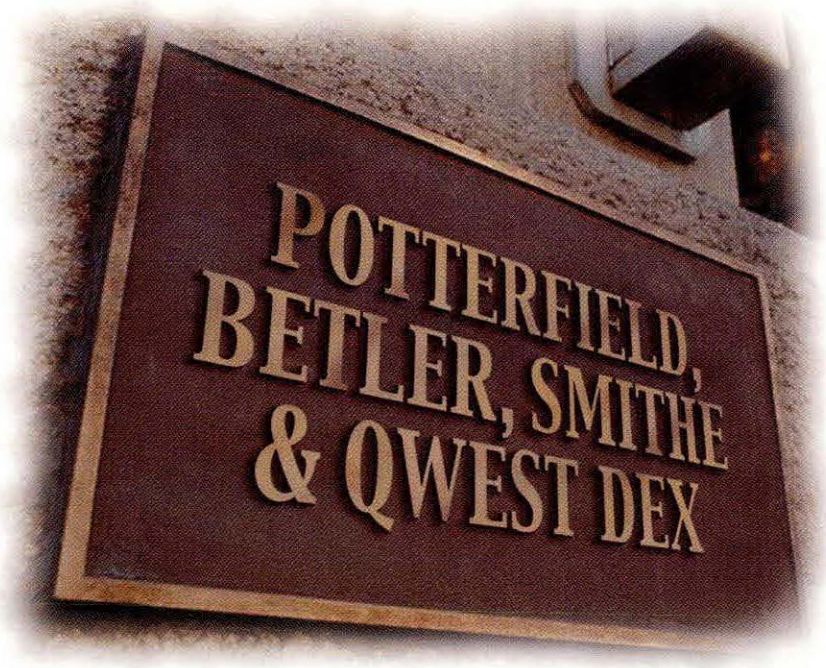
Lump sums cash paid for remaining payments on seller-financed real estate notes and contracts, business notes, structured settlements, annuities, inheritances in probate, lottery winnings. Since 1992. Cascade Funding, 800-476-9644, http://www.cascadefunding.com.

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

MISCELLANEOUS

Black Butte, Central Oregon: Secluded E. Meadow home available for rent some weeks of June, July and August. One-week minimum stay. Sleeps eight; three bedrooms, plus den with VCR and cable. Amenities include fully equipped kitchen, spa, stone fireplace with conversation pit. No pets/non-smoking. Contact Sharon at 503-639-3316, or after June 7th, call Aliki at 503-774-8533.

Beautiful lakeshore vacations: Weekly vacation rental located in BC's Okanagan Valley. Waterfront home, all amenities, peaceful and relaxing. Large deck – great view! Just paces from the lake. $1,050/week. Call soon, 206-260-1704, or e-mail mrivard@sapientcorp.com.



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