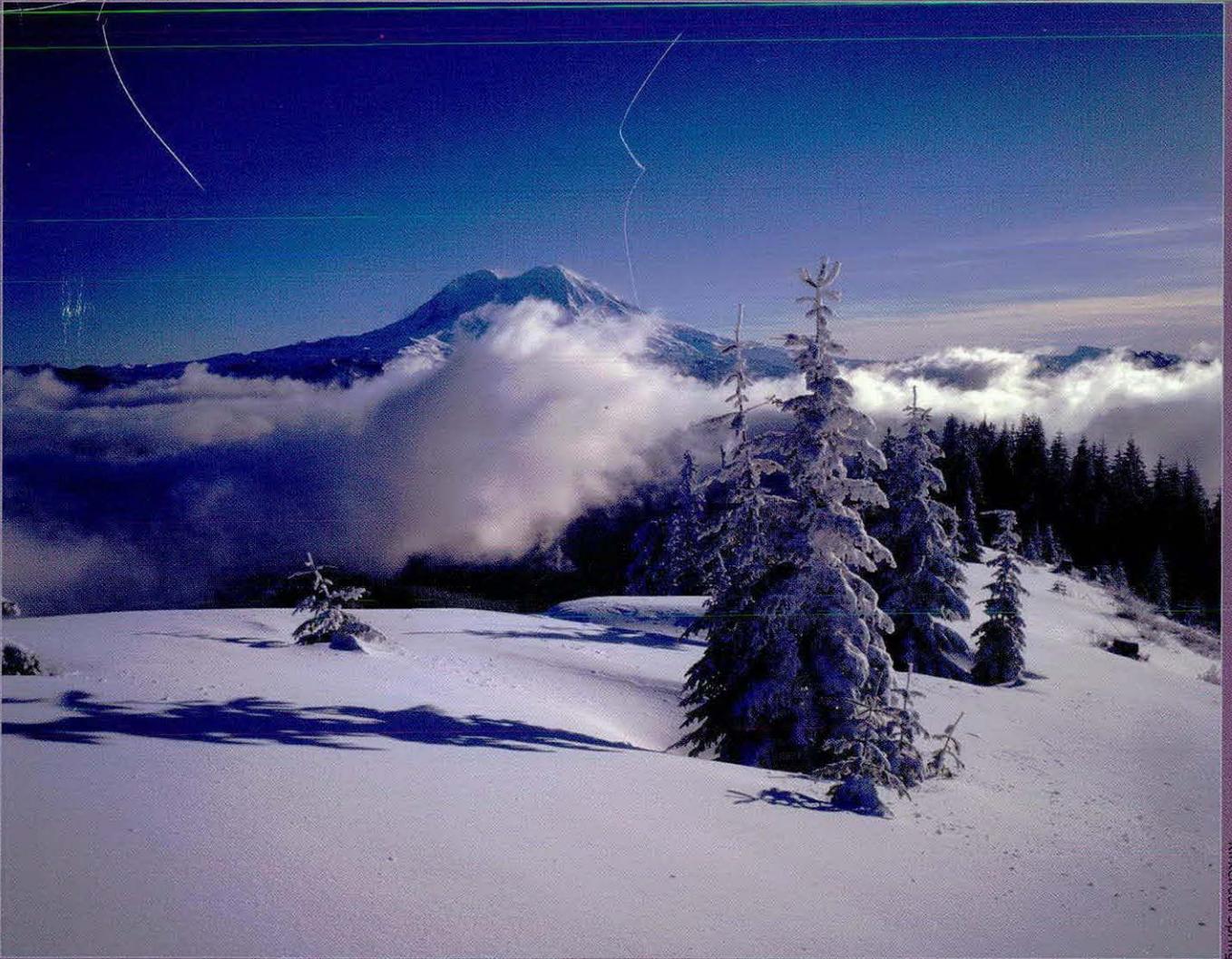


Washington State

# BarNews

The Official Publication of the Washington State Bar ■ DECEMBER 2002



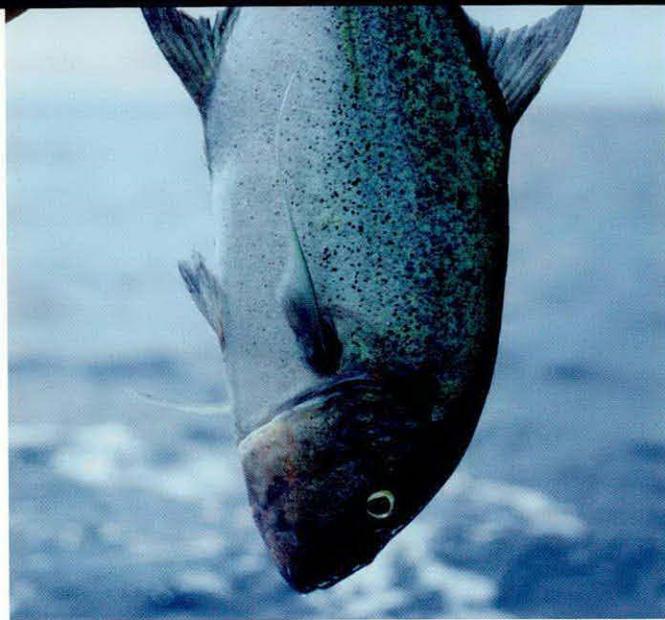
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Benito Juarez and the Legal  
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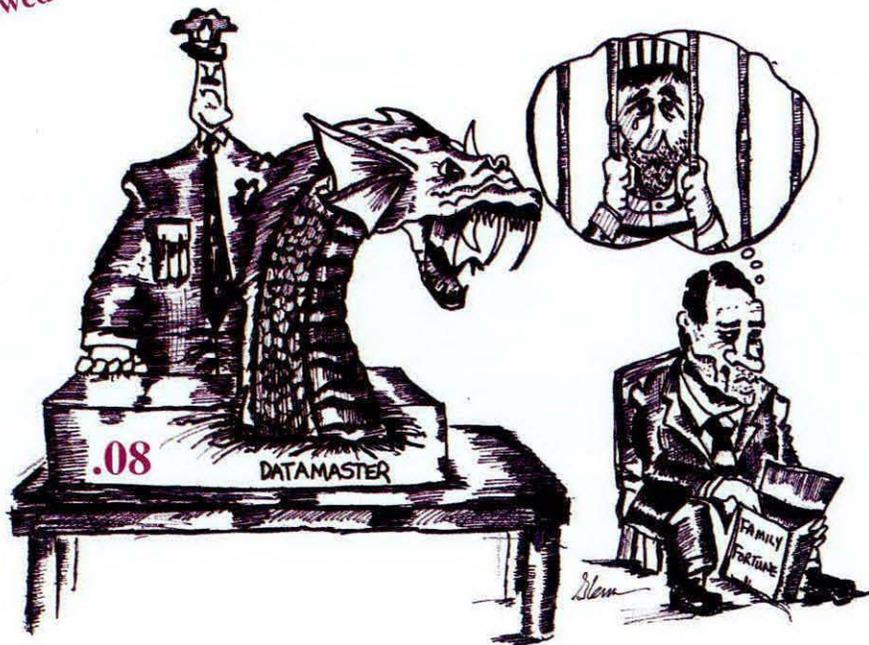
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**CORRECTION:** The November *Bar News* incorrectly stated that Cynthia A. Jordan (co-author of "Just Like a 'Real' Court!"), an attorney and judge for the Nez Perce Tribal Court of Appeals, has also worked for the Coeur d'Alene Tribe, Kootenai Tribe of Idaho, Spokane Tribe, Colville Tribe and Mohegan Tribe. Judge Jordan has not worked for the Mohegan Tribe. We regret the error and send our apologies to Judge Jordan.

We also apologize to Judge Edythe Chenois for the misspelling of her name.



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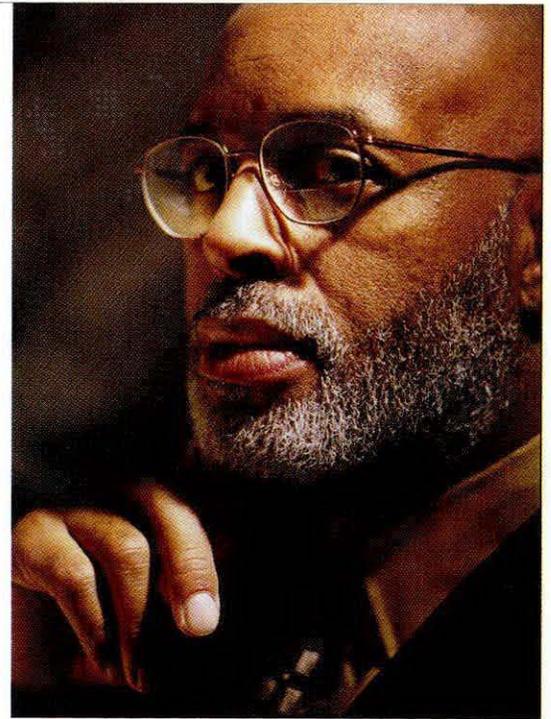
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## Bar Association Should Trust Its Members to Be Professional

Editor:

Another Bar year, another column by the incoming president bemoaning the disrespect given to our profession by the public and our need to work harder to overcome it. It's as predictable as rain in winter. Equally predictable is yet another annual move by the Bar to pass yet another rule showing how little they in fact trust their members to be professionals and act responsibly.

If the Bar Association really believes that its members are responsible professionals, why don't they treat us as such? The latest proposal comes from the WSBA Pro Bono and Legal Aid Committee. The present RPC 6.1 is a statement of principle that leaves it up to responsible professionals to determine how to mesh their *pro bono* responsibilities with their other professional responsibilities, their obligations to family, church and community, and other responsibilities they may have. The Bar committee proposes to replace this with a very specific requirement of the number of hours we should feel obligated to provide, limits to the kinds of activities that can count, encouragement to tell teacher just how good (or bad) we have been, and a pat on the head for those who are especially good little boys and girls. Bottom line statement: the Bar doesn't trust us to be responsible professionals in managing our time and range of commitments, but has to tell us just what they expect of us and set up a system to look over our shoulders to make sure we're being obedient.

During my limited years as a member of the Bar I have witnessed an increasing number of such changes made or supported by the Bar. Without going back through years of Bar journals, I can name a few off the top of my head.

Attendance at CLE events is being more closely tracked and monitored. If we were truly viewed as responsible professionals, our word as to the CLEs we attended would be more than sufficient. But apparently we aren't to be considered as such, but as children who need to be signed into class by the teacher.

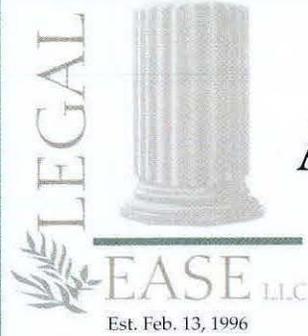
Several years ago the Bar supported the addition of an ethics requirement to the

basic CLE requirement. The CLE requirement itself is an assumption that lawyers are so irresponsible that, left to act on their own, they cannot be trusted to remain current in the law. The addition of an ethics requirement adds insult by assuming that first, we aren't smart or responsible enough to know how much ethics education we need, and second, without constant exposure to ethics teaching we will presumptively fall into sin and error. If we were responsible professionals you would think we could be trusted to make those decisions for ourselves. But the Bar Asso-

ciation obviously doesn't think so.

The Bar's position during the lengthy discussion over the amendment of RPC 8.4 to prohibit certain speech or other acts was a clear indication that the Bar doesn't trust its members to act responsibly or professionally in their exercise of their First Amendment rights of free speech.

There is President Blair's now infamous column in which, using his soapbox paid for by the members of the Bar, he exhorted us to oppose I-200, as though we lacked the wisdom or responsibility to make up our own minds on this issue.



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Ward says that while most lawyers depend on referrals, not one in 100 has a referral system. "Without a system, referrals are unpredictable. You may get new business this month, you may not," he says.

A referral system, however, can bring in a steady stream of new clients, month after month, year after year, he says.

"It feels great to come to the office every day knowing the

phone will ring and new business will be on the line."

Ward, who has taught his referral system to over 2,500 lawyers worldwide, has written a new report, "**How To Get More Clients In A Month Than You Now Get All Year!**" The report shows how any lawyer can use this system to get more clients and increase their income.

Washington lawyers can get a **FREE** copy of this report by calling **1-800-562-4627** (a 24-hour free recorded message), or by visiting Ward's web site at <http://www.davidward.com>

Then, of course, we have the Bar's endorsement of RPC 1.8(k), which would peer into our bedrooms to detect sexual indiscretions. What I find most frightening is the statement of a Bar officer justifying the proposed rule on the grounds that there is no right for lawyers to be "sexual predators." Apparently our professional association's attitude is that we are all potential predators who without threat of disciplinary action by the Bar would use our offices to prey on sexually vulnerable clients. No hint here that maybe we are

professionals who can make responsible decisions about who we should and should not sleep with.

The bottom line of all these changes is that even as the Bar exhorts the public to view lawyers as honorable and trustworthy, it continues to treat we who practice law rather than administering the Association as a bunch of untrustworthy, irresponsible and unprofessional men and women.

The Bar's schizophrenic attitude toward its members needs to be remedied. If the

Bar believes we are responsible professionals, they should treat us as such. If they don't, they should stop lying to the public telling them we are. Pick one or the other, guys. But this "lawyers are really responsible professionals but we need to treat them like children" hypocrisy needs to go.

*Christopher Hodgkin  
Friday Harbor*

### **New Attorneys' Median Salaries in Question**

**Editor:**

While reading the October issue of the *Bar News*, I read Allison Parker's interview with new WSBA president Dick Manning with keen interest. I was astounded to read our new WSBA president declare that "the median starting salary for lawyers in private practice in Washington is \$90,000." This comes as a great surprise to me and, I'm sure, to all the other lawyers who bring down much more realistic (read "lower") salaries out here in the real world.

Perhaps Mr. Manning is referring to Washington, D.C., instead? This I could believe. A well-qualified colleague of mine (law review, top 10 percent, etc.) recently relocated there after only four years of corporate and energy law experience, and he's pulling down about \$90,000. Or perhaps \$90,000 is the median salary for *all* lawyers in private practice, including veteran solos and senior partners? This I could also believe, although I'm sure this statistic is skewed by the stratospheric compensation packages of a handful of senior partners and class-action specialists.

I would be interested to learn the actual median starting salary for private practice lawyers, which includes unemployed and under-employed recent admittees. Our state has among the highest unemployment rates in the nation, to which lawyers are unfortunately not immune. In any event, I am curious to see the numbers on which Mr. Manning relied in his statement. Perhaps I can be convinced.

*Christopher J. Dumm  
Vancouver*

**Editor:**

Dick Manning seems like a fine choice for our new WSBA president. However, if he is president of the whole Bar, not just King County, perhaps he should find out what

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attorneys in the rest of the state are paid. In Snohomish County, I think most people right out of law school would be happy to start at one half of that \$90,000. In addition, if he is really concerned about people going into legal services, maybe he should find out what they make, rather than guessing. Mr. Manning may be shocked to find out that, due to their low income, many legal services employees could qualify for the very services they are providing. Perhaps the Bar should be looking at ways to increase funding to legal services. That way, people who want to work in this area can get paid a decent salary, and do not have to choose between doing good or providing for their family.

*Denice Patrick  
Lynnwood*

**Advertisement for Hayne Fox  
Bowman "Defending DUIs" Seminar**  
*Editor:*

As a retired prosecutor and a member of the Washington State Bar, I'm offended by the recurring advertisement for the above referenced seminar, prominently labeled: "No prosecutors or law enforcement personnel allowed."

First, that label implies there is "secret stuff" known only to the sponsors of the seminar, which they don't want prosecutors to learn. The truth is that the law is the law, the facts are the facts, and everyone benefits by being on the same page and speedily resolving cases. Prosecutors, defense attorneys, judges and juries have nothing to fear from the truth.

Second, in order for the seminar to qualify for CLE credit hours under the rules of the Washington State Bar, don't the sponsors of seminars open to the general lawyer public, especially those being held in a place of public accommodation, have to admit *any* lawyer or other qualified person who registers and pays for the seminar?

*John W. Chessell  
Riverside, CA*

**Maintain Judicial Independence**  
*Editor:*

Judge McSeveney's article in the October *Bar News* was an excellent survey of the law of judicial independence in Washington and a primer as to the current prob-

lems that our judiciary faces. It should be required reading for all attorneys. As "officers of the courts" we should all be vigilant that the independence of the judiciary at all levels is honored, as the current budget crisis will place ever-increasing pressure on the courts to "cut corners." Access to justice for our citizens, whether represented or not, will suffer in ways that will ultimately do irreparable damage to our balanced system of three equal branches.

*Morris H. Rosenberg  
Seattle*

**Objection to Proposed RPC 6.1**  
*Editor:*

I object to the proposed RPC 6.1, summarized in the September *Bar News* (p. 43), which sets forth detailed non-mandatory standards for lawyers to provide "pro bono" services.

The Supreme Court of Washington should not take policy positions on the economic or ideological structure of the legal profession. Courts are supposed to be detached and neutral on all issues. Otherwise they cannot fairly decide cases and apply the law to contestants who come

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before them. This means that the court may not take a position on whether legal services should be market-oriented or government-paid, like "national health." It also means, to cite other examples, the Court cannot have a position favoring or opposing broad application of insurance policies with regard to personal injury plaintiffs, nor can it have a position favoring or opposing one group or another of lawyers. Unfortunately the Supreme Court has done the latter in enacting IOLTA, which is an indirect method of supporting Columbia Legal Services (CLS).

This rule does deviate from the principle of judicial neutrality and does take a policy position on the economic and ideological structure of the legal profession by supporting the Columbia model of providing legal services at public expense, as opposed to the market model of providing legal services controlled and paid by the beneficiary. Amazingly, the rule supports lawyers who litigate in the name of civil rights, civil liberties, or public rights, as well as on behalf of charitable, religious, civil, community, governmental or educational organizations! These lawyers usu-

ally support the Democratic party or self-designated conservationists. The Supreme Court should not say such lawyers are any better or worse than those who oppose them. In fact, people who are being sued by so-called public-interest lawyers are perhaps more deserving of assistance than the lawyers who attack them. The Court should not endorse "public rights" or activist lawyers in this indirect fashion and thereby also imply that the Court believes there is any such thing as a justiciable "public right." Many believe that public rights should be determined by the public, in the Legislature, and not by courts, with the assistance of lawyers elected by nobody. This issue should not be prejudged by a court rule favoring so-called public-rights lawyers.

There are questions about the value of charitable or taxpayer-supported delivery of legal services. First, providing free legal services does not encourage the recipient to be responsible. And if the litigation involves welfare services, it doubly discourages the recipient from being responsible. This could be particularly important to immigrants who may be impressionable because they are becoming acclimatized to life in America. Second, public lawyers often promote their own ideology rather than focusing on their clients' needs. They can do this because their clients don't pay them and have no control over them. For example, Columbia sued the post office to demand more rights for general delivery mail rather than expending its taxpayer money to represent individuals. Other examples: public defenders never raise Second Amendment (the right to bear arms) issues because the Second Amendment is not popular with them; public lawyers challenge the authority of the Legislature but few challenge the authority of courts. Third, public lawyers sometimes litigate trivial cases for ideological reasons, or because they hope to win a fee for acting as a private attorney general. However, we have an attorney general elected by the people, and the taxpayer should not have to pay a private lawyer to assume the position of attorney general. Fourth and not least, *pro bono* or public lawyers often do not do as well as private lawyers, because private lawyers are driven by the need to please their clients, the competitive mar-

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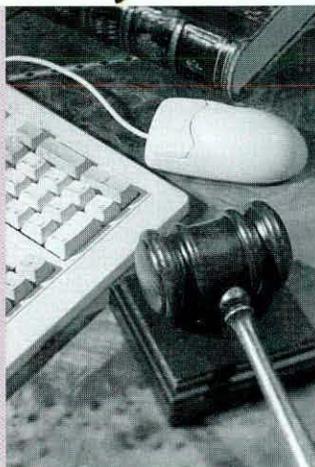
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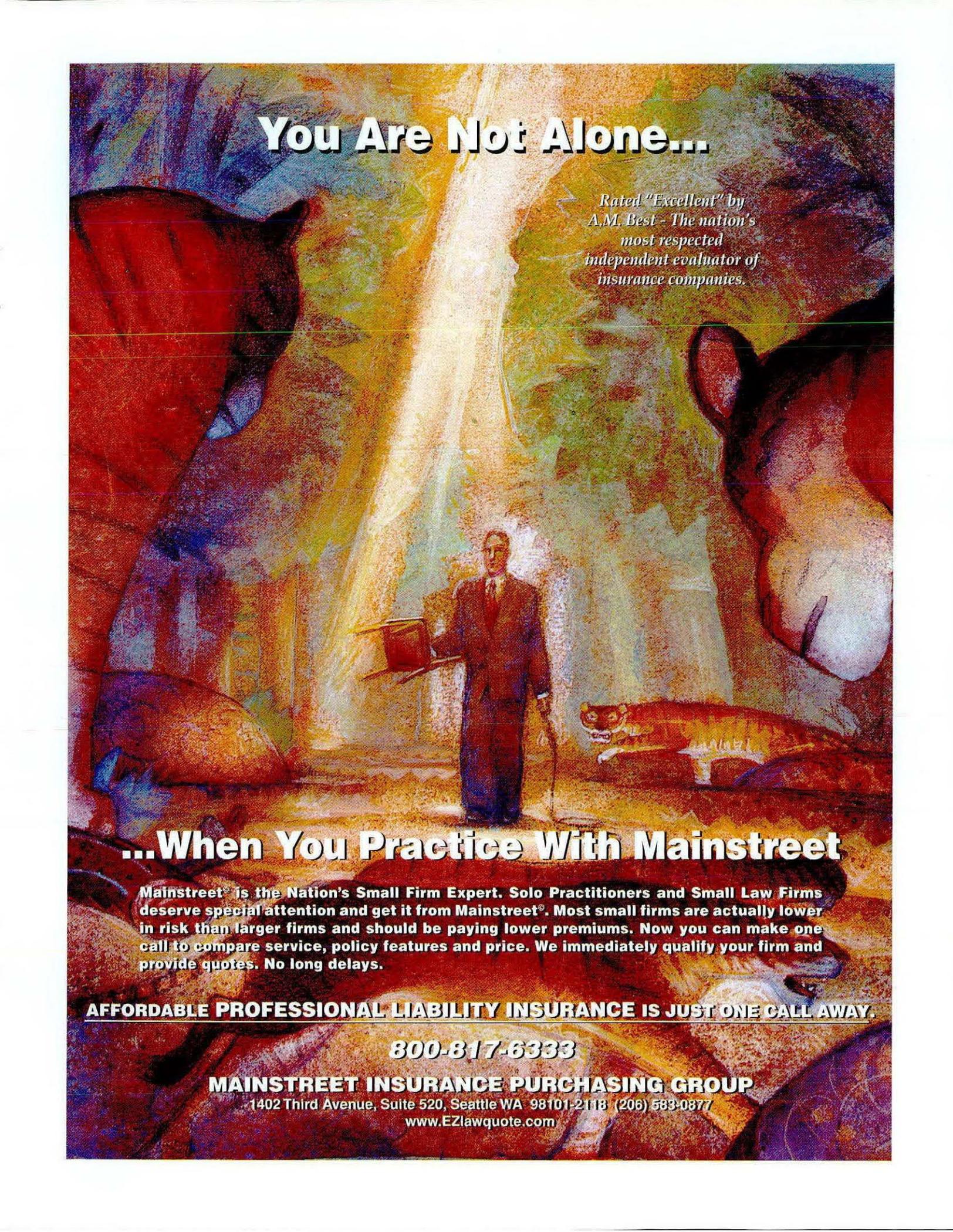
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ket, the need to make a living, and the need to get referrals. The *pro bono* concept implies that unpaid lawyers are just as good as private lawyers.

These issues are debatable. The Supreme Court should not take a position on them or on any of the ideology implied by this rule. It has been said that lawyers are officers of court and are intrinsically within its regulatory jurisdiction. This is not the case. Courts are government agencies with the power to take money and destroy institutions. Asbestos companies

are a good example. The function of the lawyer is to protect the client from the power of the court. The attorney is in opposition to the court, not a part of it. The other lawyer petitions the court to take money from someone, or to destroy someone, but the petitioning lawyer is partly in opposition to the court too because that lawyer is subject to being told no.

One final issue is the little penultimate paragraph encouraging lawyers to contribute to agencies that provide legal services to persons of limited means. This presum-

ably means CLS and its affiliates, which already benefit from taxes hidden in filing fees and from the tax on banks in the form of IOLTA. One wonders if this is a precursor to a rule that will compel lawyers to contribute directly to Columbia Legal Services in lieu of doing 30 hours of compulsory "pro bono" work. Thirty hours is quite a bit of time when one considers that many lawyers don't work more than five real billable hours per day, and so donating this amount of time would be like sacrificing each year's vacation to the nebulous cause of being a "pro bono" lawyer. Many lawyers would buy out of this commitment by simply paying another tax, this time to CLS. Whether this plan is in the wings or not, the Supreme Court would stray from the sacred concept of detachment and neutrality if it were to adopt even the current proposed rule encouraging lawyers to give money to CLS, or to any other political, activist or charitable organization.

Our government requires that the Legislature pass laws in the hurly-burly of partisanship, and that the courts decide cases in absolute neutrality. The Supreme Court should start to return to this concept by rejecting this proposed rule.

*Roger B. Ley  
Seattle*

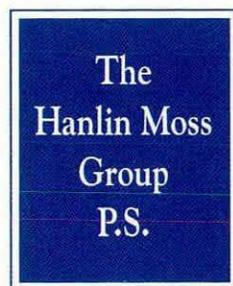
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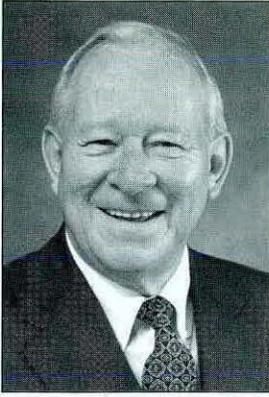
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## On the Brink: Legal Services and the Courts

by Dick Manning  
WSBA President

### The Apartment: Judy and Her Three Children

Judy was a single parent living in an apartment with her three children. She struggled to support her family on her modest income, to keep food on the table, and to provide her children with basic necessities. Because of her modest income, she received the benefit of Section 8 federal housing assistance.

Not long ago, while she was getting her children ready for school, she heard the sound of water gushing, followed by the stench of raw sewage. A sanitary pipe had ruptured and was spreading its contents around her apartment. She left repeated messages for the landlord asking for assistance. None was forthcoming. She gathered her children, some clothing and personal items for the next couple of days (that's all she could afford), and moved into a cheap hotel. To compound her anxiety and loss of her family's meager possessions, when she contacted the federal housing authority to explain her problem, she was advised that she was in danger of losing her federal subsidy. She and the children were now homeless, and would soon be out on the street.

There is some real-life drama here. To the rescue came CLEAR, a program of the Northwest Justice Project (NJP). NJP is one of many partner organizations including *pro bono* and specialty provider organizations, Columbia Legal Services, law school clinical programs, law libraries and other equal-justice entities that, together, form a statewide, coordinated civil equal-justice delivery system in Washington. NJP receives federal funds from the Legal Services Corporation. It also maintains the statewide CLEAR (Coordinated Legal Education Assistance and Referral) system as well as several staffed field-service offices in key areas around the state. Those offices provide civil legal services for the poorest and most vulnerable people in Washington. Due to inadequate resources, the existing delivery system has the capacity to serve only a fraction of the people in need.

But back to Judy and her children. CLEAR intervened with the housing authority and helped Judy and her children obtain a new Section 8 subsidy voucher and emergency assistance for temporary alternative housing; the housing authority supervisor kept the office open late so Judy could obtain

the benefits of this emergency assistance. CLEAR was also able to assist her in finding counsel to seek restitution from the recalcitrant landlord who had failed to remedy the contamination caused by the ruptured sewage pipe.

The foregoing is a true story and just one example of the many thousands of clients assisted by our civil equal-justice delivery system, which is supported with federal, state, IOLTA and private-sector funding. The grim fact is that

in 2003 there is a good chance that if the same catastrophe were to befall Judy and her children again, they would be on the street, and this time there would be no legal assistance.

The loss of state and IOLTA funding has exacerbated a pattern of reductions and stagnant federal funding over many years.

### Unfunded Mandates

Recently, the largest legal-messenger service in King County sent a notice to its subscribers that they could expect to wait anywhere from two to 10 weeks *after* their pleadings were filed in a district court in South King County before the pleadings were docketed. The court is drastically understaffed because of county budget restraints. The county has announced it will close two district courts before the end of this year because there simply isn't the revenue to support them. In King County, the law-and-justice budget consumes approximately 70 percent of all general-fund revenue. The counties are charged with the responsibility of providing the entire financial support of the district courts and all but one-half of superior court judges' salaries. The counties are not to blame for the crisis thrust upon them.

Judge Gordon Godfrey is the Washington State Superior Court Judges' Association guru on mandates thrust upon our courts by the Legislature and our voters. Far from adequately funded, Washington ranks 50th among all 50 states in its financial support of its state courts. Judge Godfrey has assembled a scholarly collection of data which indicates, for example, that criminal-justice costs have increased 85 percent between 1989 and 1996, yet funding only increased to cover 18.5 percent of these increased costs. And that is only for the criminal justice system. Mental health and domestic violence are just a few of the additional tasks imposed on the courts with little or no funding.

## On the Brink

In the 2002 legislative session, the Legislature faced a \$1.2 billion dollar shortfall in revenue. This resulted in a drastic cutback in services of all kinds. One victim was funding for civil legal services for poor and vulnerable people — a 20 percent reduction (nearly a million dollars) compared to 1999 levels. The state cuts are being compounded by a steep decline in IOLTA funds; the decline is a result of the current economic downturn and declining interest rates. The loss of state and IOLTA funding has exacerbated a pattern of reductions and stagnant federal funding over many years. The Legal Foundation of Washing-

ton (which administers IOLTA) has recently had to eliminate funding for nine programs, including volunteer legal services in Grays Harbor, Jefferson, Okanogan and Whitman counties — and these are programs where a dollar is leveraged to the maximum: the lawyer services are donated *pro bono* in those counties. This coming year, the Legislature faces a projected record revenue shortfall of \$2.9 billion — more than twice as much as the current year's deficit. The civil equal-justice delivery system's infrastructure — particularly the staffed field-service programs such as NJP and Columbia Legal Services — has never been in greater peril in the history

of this state. These staffed services provide much of the coordination and framework for an efficient and effective statewide delivery system. The erosion and loss of this infrastructure will put us right back where we were before President Nixon signed into law the bill that established the Legal Services Corporation in 1973.

Similarly, the district and superior courts are facing crises in varying parts of the state. The demands of the public for more services as it votes to reduce sources of revenue (such as license fees and taxes) will result in terrible hardships for poor people and for the courts.

## No Political Voice

There is no voice to speak out for a person like Judy and her family, cast out of their home by raw sewage; and there is no political voice for the courts. The Washington State Supreme Court's Task Force on Civil Equal Justice Funding has recommended raising the superior court filing fee to \$200 as an emergency interim measure to restore some funding for civil legal services for poor and vulnerable people, and possibly to provide some financial assistance to the courts. As this column goes to press, this proposal has not been vetted by the Board of Judicial Administration, various judicial associations, county officials associations, trial lawyers, and other stakeholders. Although the proposal does not provide a total answer, it would at least bring legal-services funding back to 1999 levels. Given the size of the budget hole that legislators must fill this year, every potential solution is on the table, including a sales tax on professional services or an increase in the B&O tax.

## What Should We Do?

So I am asking you: What should we do? What voice can we give to Judy and other poor people, and what voice can we give to the courts that are so strapped? At this time, an increase in the filing fee seems to be a viable option, but I recognize that any increase can have an adverse effect on access to the courts for some. Are there realistic and politically viable alternatives we can put forward and support? What are they? What would you do? 

Dick Manning can be contacted at [jmb@seanet.com](mailto:jmb@seanet.com); fax 206-624-3865; phone 206-623-6302.

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## Time Is Our Commodity

by Jan Michels

WSBA Executive Director

At the recent Association of Legal Administrators and Managing Partners dinner, the featured speaker, Dean Joe Knight of the University of Washington School of Law, talked about lawyers' time as their commodity. He asked: "How do you spend your time? Do you spend it on things that matter?"

Families matter, communities matter, and people in need matter. What do we offer to these people and things that matter? Would how we actually spend our time reflect these values? In weight control and debt reduction, experts advise that documenting what we do is a strong support for ensuring that our practices reflect our values or goals.

Documenting what we do in the area of *pro bono* work gained support from the Board of Governors, when, at their October meeting, they voted to recommend a voluntary *pro bono* reporting rule to the Supreme Court (see related article on page 26). The rule asks lawyers to report their *pro bono* hours each year.

We know that some lawyers will have a negative response to the idea of reporting volunteer hours. They may feel that it's not the WSBA's business, or that failure to meet the guidelines may be used against them. Some may assume that voluntary reporting is the first step toward mandatory report-

ing. Please take a minute to consider why the board has taken this action and what it means.

Knowing the extent to which lawyers as a whole spend their commodity (time) on *pro bono* work and community service will help both the crisis in legal-services funding and the image of our profession. The Legislature and the public simply do not know all that lawyers do for their communities. We know lawyers give generously, but we have

**We know lawyers give generously, but we have had to rely on anecdotal or one-time survey information about the extent of this giving.**

had to rely on anecdotal or one-time survey information about the extent of this giving.

The proposed rule describes *pro bono* work as providing legal services at no charge or without expectation of a fee, or at substantially reduced rates, to persons of limited means, or to charitable, religious, civil, community, governmental or educational organizations primarily addressing the needs of persons of limited means. The definition includes work to improve the law and legal system. The proposed rule sets an aspirational goal of 30 hours a year.

Consider a day in the life of a small-firm practitioner in a medium-sized town. This lawyer starts her day at 7:00. She sees a client she knows cannot fully pay for her services, so she offers her advice and counsel for an hour at a reduced fee. She makes a call on behalf of the client's neighborhood association. She picks up her children at school, coaches softball for an hour, and heads home to review a legal matter raised by her church. After spending an evening with her family, she finishes the day by reviewing an employment contract for the softball coach. *Pro bono* hours today: 2.

Or consider a prosecutor. This lawyer has an exhausting day in court, where emotions run high. After work, he donates an hour to the legal-services clinic in his area, and then goes home to review the bylaws proposed by a newly formed community organization. *Pro bono* hours today: 2.

Jane practices family law, so she has expertise and experience in the area where there is the greatest demand for *pro bono* services. She offers a free initial consultation, 25 percent of her clients pay only partial fees, and she offers reduced fees through the Bar's GAAP Program. She routinely helps friends and neighbors recognize their custody and child-

Emeritus attorney Hon. **Jack P. Scholfield**, Washington State Court of Appeals (Ret.) tells us: "I signed up with the Eastside Legal Assistance Program (ELAP) after my retirement because I knew from previous experience that there is a real need for legal assistance and guidance among those who simply cannot afford to hire a lawyer. Through ELAP, I have counseled with many who came in confused, worried and anxious, and without any clear idea as to how to address their legal problems. Many times, advice and suggestions that are routine to a lawyer can go a long way toward relieving anxiety and worry." *Pro bono* hours: more than 100 annually.

support rights. *Pro bono* hours in an average week: 4.

Or consider Diane. She maintains an active license but does not carry cases. In any one week, Diane is likely to present a free seminar at a nursing home about Medicare and Medicaid coverage, serve on her local bar's executive committee to oversee their *pro bono* program, and write an article for a newsletter. Diane's community service often includes advising others on their legal rights, suggesting courses of action on potential family law or landlord-tenant matters. Average weekly *pro bono* hours: 6.

Andy, an in-house corporate counsel,

handles a *pro bono* marital dissolution on behalf of a 60-year-old woman. In addition to handling the basic dissolution paperwork, he assists her in dividing her limited community assets, which include pension benefits and the family residence. The representation lasts 17 months, because items accumulated by the husband over decades (including birds, "junker" cars, and a wide assortment of debris) have to be cleared from the property before it can be sold. When the husband, who still lives in the home, proves unable or unwilling to clean up the property, Andy moves for and obtains appointment of a receiver to handle the cleanup. With the help of the

receiver, whose fees are paid from the husband's sale proceeds, the sale is closed and the net proceeds disbursed to the parties. *Pro bono* hours for this case: 20.

Martha is a business lawyer at a large firm. She volunteers two hours a week at the local domestic-violence shelter, and often finds herself assisting clients in need of protection orders and parenting plans. Average *pro bono* hours each week: 2.

**T**hese are real stories about real lawyers' lives. All these members will more than meet the aspirational guideline, and their stories of *pro bono* activities are very common. The WSBA's request for the reporting of these hours serves both to help secure responsible levels of legal-services funding, and to enhance the image of the profession. Lawyers' reluctance to report, sense of privacy, or constrained ability to offer *pro bono* hours to those in need and their communities are understandable. What and if WSBA members choose to report is a matter of their choice and conscience. No individually identifiable information will be developed or released, and there will be no penalty for not reporting.

Most lawyers choose the profession of law to help others, to give back to their communities and to society, and to protect justice. The proposed rule is not about having to either do *pro bono* work or report it. Rather, it is about the value of collective documentation. Even the most avid proponents of the voluntary reporting rule are adamantly against mandatory reporting. "Who would want to require legal work done begrudgingly, or without sincere desire to help others?" they ask.

If lawyers' time is their commodity and helping others is their value, *pro bono* legal service is their gift. Please consider the value and privilege of reporting these voluntary hours, and help us objectively demonstrate that lawyers care and do more than their share of work to maintain a viable justice system. The proposed rule is another building block in the "Proud to Be a Lawyer" initiative — please help! ☞

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# Proud to Be a Lawyer

... [I]n Latin America, lawyers have been key actors in their respective societies, and instrumental in shaping the basic political and judicial institutions of new nation states.

## Hispanic-American Lawyers: Benito Juarez and the Legal Tradition in Latin America

by Zulema Hinojos-Fall • *WSBA Governor at Large*

In August 1828, a 22-year-old orphaned Mexican youth began the study of law at the newly established Institute of Sciences and Arts in Oaxaca, Mexico. The law student, Benito Juarez, a Zapotec Indian, became a great statesman, and the first indigenous president of the newly independent Mexico.

Though certainly unique in its historical perspective, Juarez's pursuit of a legal education is an experience shared in its general contours by many American-born Hispanic lawyers practicing in the United States today.<sup>1</sup> In 1818, Benito Juarez ran away from home, deserting his uncle and his duties as a shepherd in the mountains of southern Mexico, to seek learning in Oaxaca, capital of the southern Mexico

state of the same name. At the time, his native village of San Pablo Guelatao had about a hundred inhabitants and lacked a school. The city of Oaxaca had an estimated population of 24,400, and the estimated population of the state was 411,000. Approximately 88 percent of the population were pure-blooded Mixtecs and Zapotecs.

At that time, the population of Mexico was about 6,500,000, including two or three million pure-blooded Indians. Indians generally had no civil rights or access to education. Few of them spoke any Spanish at all. But the most important fact about the Mexico in which Benito Juarez lived

and worked is that on September 16, 1810, Mexico proclaimed its independence from Spain. After receiving his law degree, Juarez was to become instrumental in shaping the independent Mexico of the 20th century.



The 12-year-old Juarez walked 41 rugged miles between his village and Oaxaca to arrive at the house where his sister worked as a cook. He stayed and worked there for a short time while he looked for more permanent work. Soon after, Don Antonio Salanueva, a pious bookbinder who wore the habit of the Third Order of St. Francis, offered Juarez employment as a houseboy, and to send him to school to learn to read and write. Only a few days after being received into Salanueva's household so that Juarez would be permitted to study at the seminary, Juarez was confirmed as a Catholic.

Juarez began to study Latin grammar

without knowing Spanish grammar or having the benefit of any other element of a primary education. Eventually, Juarez would become fluent in Latin, Spanish and French. He completed his study of Latin grammar in 1823, receiving the highest grades. At that point, Juarez had obtained a strictly ecclesiastical education from clerical teachers. Salanueva's hope was that Juarez would go on to study theology and become a priest. Juarez had other ideas.

In January 1827, Oaxaca opened its first civil college, independent of the clergy and designed for the instruction of youth outside the parochial system. Prior to the opening of the institute, Oaxaca had no institution of higher learning other than the seminary, where Oaxacans were taught only Latin grammar, philosophy, elementary physics and theology. In order to follow a non-ecclesiastic career, a student had to possess sufficient means to attend a school in Mexico City or a foreign country. Juarez began his law studies at the college in 1828, and the rest, as they say, is history.<sup>2</sup>

The relevance of Hispanic lawyers in the process of state-building in 19th century Latin America, of which the Benito Juarez story is but one famous example, is not widely known in American legal circles. However, in Latin

America, lawyers have been key actors in their respective societies and instrumental in shaping the basic political and judicial institutions of new nation states. By 1830, Juarez was advocating direct elections. On September 16, 1840, Juarez, the young lawyer, delivered a patriotic address to his fellow citizens in Oaxaca, opposing indifference to civil rights and championing education. Juarez was the elected governor of Oaxaca from 1847 to 1852. In 1853, he was imprisoned for his opposition to Mexican President Antonio Lopez de Santa Anna. After a period of exile to the United States, he became the chief architect of the revolution that overthrew Santa Anna. When Juarez became acting president in 1857, he transferred political power from the Creoles to the Mestizos<sup>3</sup> and forged Mexico's national consciousness. He was re-elected in 1867 and 1871.

**Today, there are more than 25,000 Hispanic-American attorneys in the United States practicing in all areas of law, serving in all levels of the judiciary, and working in all branches of federal and state government.**

Benito Juarez wrote proudly of his race and humble origins, and he never forgot his own people and his Indian ancestry. His remarks on civil rights and self-determination are often quoted: "El respeto al derecho ajeno es la paz." Generally translated: "Respect for the rights of others equals peace."

Today, there are more than 25,000 Hispanic-American attorneys in the United States practicing in all areas of law, serving in all levels of the judiciary, and working in all branches of federal and state government. According to the 2000 U.S. census, Hispanics comprise 12.5 percent (35.3 million) of the nation's total population, and 573,000 Hispanics hold an advanced degree. Hispanic lawyers are slowly gaining recognition in America. Many of us are already familiar with a few notables: Henry B. Gonzalez, the first Mexican-American to represent Texas in the U.S. Congress after earning his law degree, and Federico Peña, the former U.S. secretary of transportation. But the names of other distinguished Hispanic-American lawyers are not yet so widely known. For example: Petra Jimenez Maes, who in 1998 became the first Latina appointed to serve on the New Mexico Supreme Court; Vilma

S. Martinez, a graduate of Columbia University School of Law, who was instrumental in the Mexican-American Legal Defense Fund's efforts to expand the Voting Rights Act to Mexican-Americans in 1975; and Sonia Sotomayor, judge in the U.S. Court of Appeals for the 2nd Circuit, who has traveled far beyond the South Bronx projects, where she grew up, to become the first Puerto Rican woman to serve as a U.S. circuit court judge.

There are numerous outstanding Hispanic attorneys in Washington. A few who should be mentioned, because we look to them as role models, include retiring Supreme Court Justice C.Z. Smith,<sup>4</sup> a former associate dean of the University of Washington School of Law, whose distinguished career includes service as a special assistant to U.S. Attorney General Robert F. Kennedy, judgeships in Seattle municipal

and King County courts, and work as an appointed member on numerous special task forces, including the U.S. Commission on International Religious Freedom and the Stockholm Accords on Ethnic Cleansing; recently elected King County Superior Court Judge Steven C. Gonzalez, a former assistant U.S. attorney and co-chair of the government's successful prosecution of Seattle's most infamous terrorist threat, Ahmed Ressam; Municipal Court Judge Michael Hurtado, whose innovative youth program seeks to positively influence school children and deter juvenile crime by stressing the value of education; and U.S. Federal Magistrate for the Western District of Washington Judge Ricardo Martinez, who, as a former King County senior prosecuting attorney and King County judge, spearheaded the innovative drug-court program in King County.

Sadly, there are no Hispanic judges currently serving in Eastern Washington courts. However, Eastern Washington Hispanic lawyers like Victor Lara, a distinguished practitioner and pillar of the Hispanic legal community, and Myrna I. Contreras, one of the longest-practicing Hispanic attorneys in the state, who champions community rights from her personal

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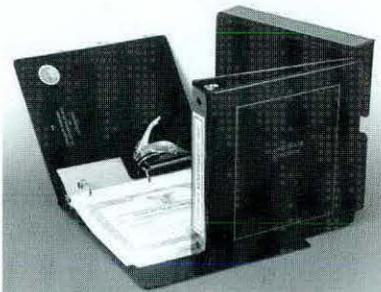
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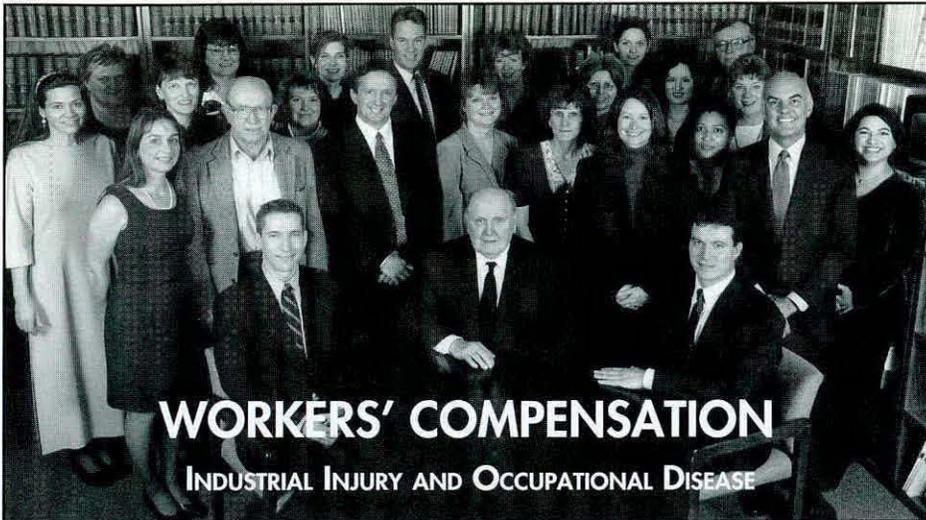
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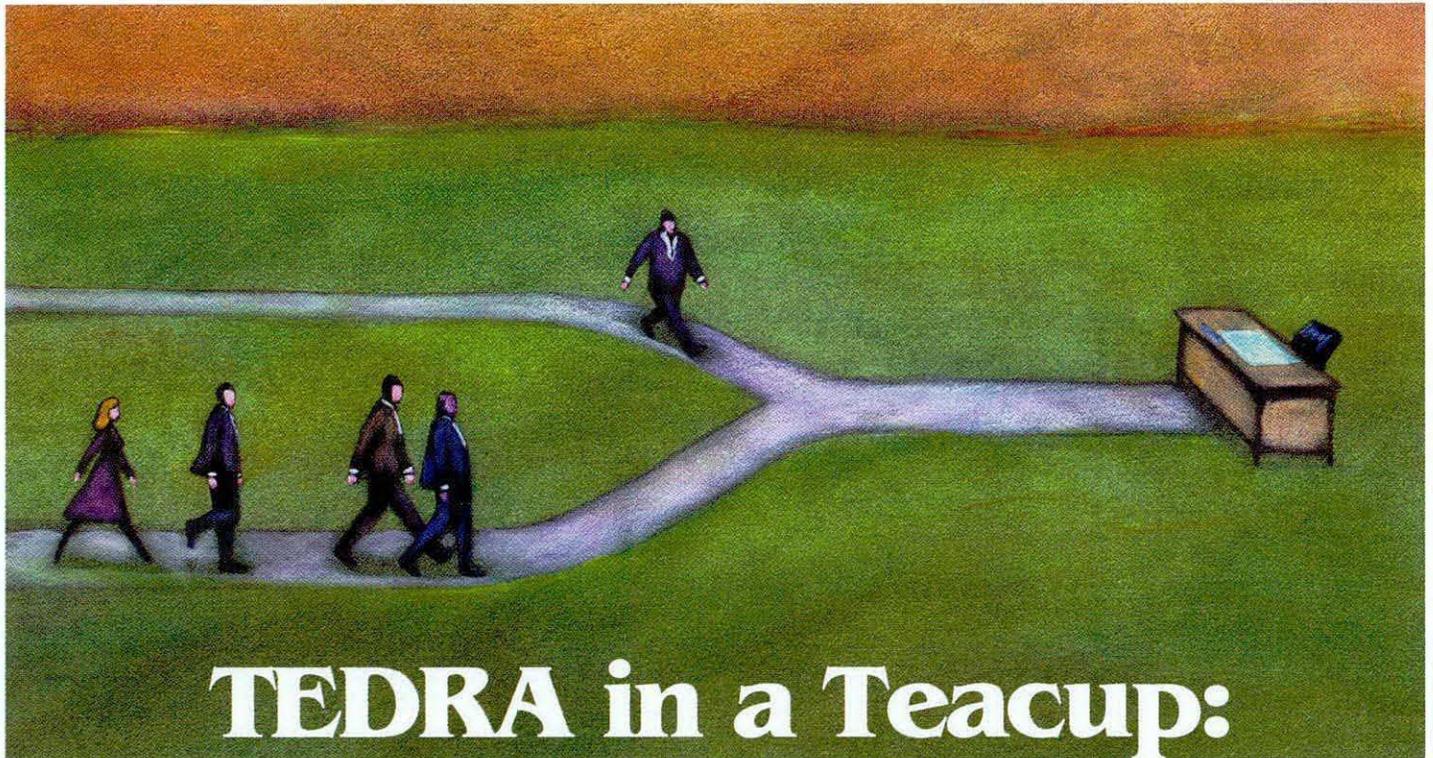
One last example: Judge Reynaldo G. Garza of the 5th Circuit Court of Appeals and the first Mexican-American to serve as a federal judge. During the depression, he earned money as a laborer for the Works Progress Administration to pay his tuition at the University of Texas, and ventured into social activism after meeting a congressional hopeful named Lyndon Johnson. The background and experiences of Judge Garza, a first-generation American, are not too different from those of Benito Juarez. And yet, in his biography, *All Rise*,<sup>5</sup> Judge Garza recalled: "I've always said I hope I got the appointment because I was qualified, not because I'm Mexican American, but I knew I had to do a good job or else my actions would reflect not only on my ability, but also that of other Mexican Americans." ♪

*Zulema Hinojos-Fall is the first Hispanic-American to serve on the Washington State Bar Association's Board of Governors. She is an administrative judge for the U.S. Equal Employment Opportunity Commission.*

**NOTES**

1. The Office of Education (then an agency within the Department of Health, Education and Welfare [HEW]) officially adopted the term "Hispanic" in 1973 for the purpose of developing racial and ethnic categories which it could use for data-gathering purposes. Although the adoption of the term "Hispanic" quickly led to controversy, other federal agencies such as the Office of Management and Budget and the Bureau of Census soon followed suit in adopting the term. According to HEW's guidelines, the term "Hispanic" encompasses Mexican, Puerto Rican, Central American, South American, Caribbean and Spanish peoples who share some common cultural values. Hispanics can be of any race. Flores-Hughes, Grace. "Why the Term 'Hispanic?'" *Hispanic*, September 1996.
2. Charles Allen Smart, *Viva Juarez*, J.B. Lippencott Company, 1963.
3. As used in the West Indies and Spanish America. Creole: a white person of native birth but of European descent. Mestizo: a person of mixed European and Indian ancestry. *Webster's New Collegiate Dictionary*, 196, 532, 7th Ed. 1969.
4. Justice Smith is honored as a native son by both the Loren Miller and Hispanic bar associations. His father was Cuban and his mother African-American.
5. Louise Ann Fisch, Reynaldo G. Garza. *All Rise*, Texas A & M University Press, 1996.





# TEDRA in a Teacup:

## A Brief Look at the Trust and Estate Dispute Resolution Act

by **Stephen M. Gaddis**  
and  
**Richard T. Cunningham**

**TEDRA affords great  
latitude to parties to  
effect a voluntary  
resolution of a  
probate matter.**

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*Note: The following comments are those of the authors alone, and do not necessarily represent the conclusions or positions of any other person or entity.*

**T**he 1999 Washington State Legislature enacted the Trust and Estate Dispute Resolution Act (TEDRA), effective January 1, 2000. The law was codified as RCW 11.96A. The Bar committee which proposed the law returned to the Legislature in the 2000 session with technical amendments which were subsequently adopted. This article discusses the parameters and specifics of the changes it effected.

### **No Big Changes?**

While certain legal observers have reached differing conclusions as to whether TEDRA represents a comprehensive fine-tuning of the now-repealed RCW Chapter 11.96 or a wholesale restatement and rearrangement of all probate procedures, this really appears to be more an issue of form over substance. To date, the consensus of those in practice appears to be that the procedures set forth in Title 11 prior to the enactment of TEDRA remain in place, and *additionally* the practitioner is given the tools provided by the TEDRA amendments. So notwithstanding whether TEDRA is viewed as an all-encompassing redrawing of the framework in which probate matters are resolved, or merely a specification of supplemental procedures, practices may, but need not, change.

### **Non-Judicial Binding Agreements**

TEDRA affords great latitude to parties to effect a voluntary resolution of a probate matter. They may do this by entering into a binding agreement. RCW 11.96A.220. The

agreement may be kept confidential from the public and successor beneficiaries (who were virtually or specially represented), and may be filed without being shown to a judge. If the agreement is filed without being shown to a judge, it "will be deemed approved by the court and is equivalent to a final court order binding on all persons interested in the estate or trust." RCW 11.96A.230(2). Alternatively, the agreement may be submitted for court approval. RCW 11.96A.240. The court shall determine whether or not the interests of the represented parties have been adequately represented and protected, and an order declaring the court's determination shall be entered. *Id.*

Special representatives should take note that the submission of the agreement for court approval will protect them from liability by accelerating the statute of limitations. See RCW 11.96A.070(3)(c)(i).

#### Special Representatives

TEDRA deals with the issue of representation of minors, incapacitated persons, and missing and unascertained beneficiaries by the appointment of a "special representative." This person, unlike a guardian *ad litem*, is selected by the personal representative or trustee. The court must approve this nomination unless it enters findings of good cause to the contrary. RCW 11.96A.250. However, should the court appoint a guardian *ad litem*, that appointment may supercede the need for, or appointment of, a special representative. RCW 11.96A.160.

#### Alternative Dispute Resolution Is Encouraged

The express provisions of TEDRA encourage private dispute resolution by providing for referral on petition of a party or on the court's own motion to mediation or arbitration at any point in the proceeding. RCW 11.96A.300-310. If a party objects, the court shall order mediation except for good cause shown. That determination is not subject to appeal or revision. RCW 11.96A.300(2)(d).

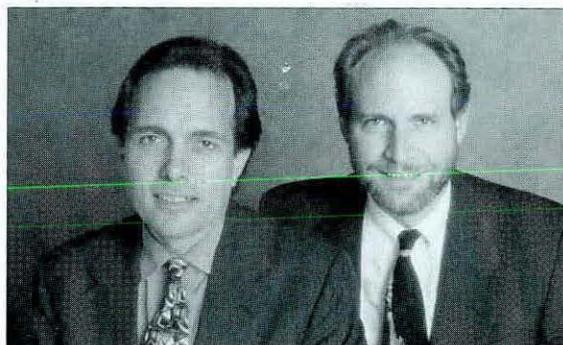
#### Procedures for Contested Matters

A distinct process, complete with 20-day summons and petition, is provided as a procedure for contested actions under RCW Title 11. The summons requires no specific answer time other than not later

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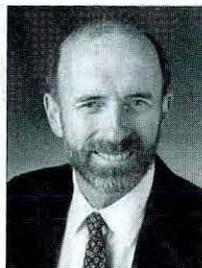
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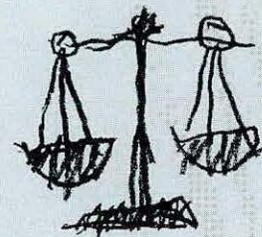
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than five days prior to a hearing on the petition, to be heard at least 20 days later (there is no distinction whether service is in or out of state). RCW 11.96A.090-110. If the proceeding is commenced as an action incidental to an existing proceeding relating to the same matter, a summons will only need to be served to the parties who were not already parties to the existing proceeding. RCW 11.96A.100(2).

The procedure under RCW 11.96A.090-110 is an alternative procedure in matters where procedures are already enumerated in the Probate Code (RCW Title 11). RCW 11.96A.080 states that "the provisions of [RCW 11.96A] shall not supercede, but shall supplement, any otherwise applicable procedures contained in [RCW Title 11]." Therefore, the various procedures enumerated in the Probate Code (RCW Title 11) for the adjudication of matters are still effective, and the procedure under RCW 11.96A.090-110 may, but need not, be used. There are several contested or potentially contested matters that already have enumerated procedures, such as the admission of a will to probate, the court's approval or rejection of a creditor's claim, and the removal of a personal representative or trustee, to name a few. However, when there are no enumerated procedures for judicial proceedings, the default procedure will be the procedures under RCW 11.96A.090-110.

**Jurisdiction and Venue**

Under TEDRA, every superior court has original jurisdiction to hear matters. In probate proceedings, RCW 11.96A.040 allows a party to select the venue for a proceeding. For example, a probate proceeding for a decedent who resided in Kitsap County may be commenced in King County. This may be convenient if all the heirs and personal representatives live in King County; however, if any party objects to the venue and if good cause cannot be shown why the proceedings have been commenced in King County, the proceedings will be moved to the county of the decedent's residence. RCW 11.96A.050(3).

**Reaffirmation of the Doctrine of  
Virtual Representation**

TEDRA built on the foundation of existing law by acknowledging the doctrine of "virtual representation," whereby existing

beneficiaries who stand in the shoes of contingent or successor beneficiaries are deemed to fully represent the successors' interests, notwithstanding any potential conflict which one class might have with another. RCW 11.96A.120. If an actual conflict of interest exists between the classes, virtual representation cannot occur. RCW 11.96A.120(3).

**Summary**

The changes effected by TEDRA increase the ability of the parties and practitioners to resolve matters out of court, and to have additional formal procedures for resolution within the framework of the court. While some of the procedures are far more cumbersome (mediation, for example) than existing procedures (the citation process or filing a simple petition in probate, for example), they may afford a more comforting level of due process. However, some of the more expansive doctrines will have to await appellate approval or interpretation before they can be fully utilized with confidence. Only the test of time will disclose whether the substantial grant of authority given to parties of non-judicial agreements will continue to protect the interests of minors, incapacitated persons, and missing and unascertained beneficiaries as well as court processes have in the past. For further insight into the use and application of TEDRA in probate settings, practitioners may wish to consult the latest edition of the *King County Probate Policy Manual*, being released in spring 2003. <sup>23</sup>

*Stephen M. Gaddis has served as a superior court commissioner in King County for 21 years, with the last 18 in the court's Ex Parte and Probate Department. He is on the Certified Professional Guardianship Board and has presented on the topics of guardianship, probate, and minor settlements at the Washington State Judicial College, superior court judges' conferences, and state and county continuing-education programs.*

*Richard T. Cunningham is an associate with Riddell Williams PS, and is a member of the firm's trusts, estates and personal planning, and tax practice groups. Mr. Cunningham received his J.D. from the University of Washington School of Law and his LL.M. in taxation from the University of Washington. He is a member of the committee drafting the latest edition of the King County Probate Policy Manual.*

# The Board's Work

## by Mark A. Panitch

*Bremerton (Oct. 18-19)*

The WSBA Board of Governors conducted a short but intense meeting, dealing with such "lightening rod" topics as methadone treatment for heroin addicts and funding for civil legal services.

### Quinault Counsel Joins BOG

The BOG welcomed **Fawn R. Sharp**, a member as well as counsel to the Quinault Nation, to an at-large seat. Ms. Sharp was elected by the board at the September meeting, to fill the position vacated by **Dave Savage**, new president-elect. During most of September, Governor Sharp led a group of Quinault members and others in a cross-country run through 13 states to call attention to threats to tribal sovereignty. The U.S. Supreme Court is scheduled to hear two cases that bear on tribal sovereignty during the current term.

### Civil Legal Services

Two separate panels painted an increasingly desperate picture of civil legal services in Washington as lower interest rates cut into IOLTA funds (see p. 54), and a generally weak economy sends state lawmakers to attack the financial underpinnings of legal services. Legal Foundation of Washington (LFW) Director **Barbara Clark** also reported that on December 9, the U.S. Supreme Court is scheduled to hear cases from several states — including Washington — challenging their various IOLTA or similar programs.

At the same time, Clark reported that declining interest rates had left a \$1.2 million shortfall in IOLTA income compared to last year when the program brought in about \$6 million. The Legislature has cut about the same amount specifically from legal services, forcing the program to lay off attorneys and staff, and close offices.

In a written report to WSBA President **J. Richard Manning**, LFW President **Katrin E. Frank** stated that the LFW's "basic concern is the delivery to low-income people of effective high-quality legal assistance."

Frank wrote that the LFW Board had decided to de-fund at least 10 programs for 2003 to protect funding for legal services. These include legal-aid programs in Gray's Harbor, Jefferson, Okanogan and Whitman counties, as well as programs at such well-known organizations as the Northwest Women's Law Center and the annual WSBA Access to Justice Conference.

A second panel, including Columbia Legal Services Director **Ada Shen-Jaffe** and

WSBA Director of Legislative Affairs **Gail Stone**, reviewed recent meetings of the Supreme Court's Task Force on Civil Equal Justice Funding. They reported that legal services would take a \$3 million budget "hit" in the coming year, and there would be no additional funding unless there was an additional source of revenue.

The only immediate source of funding would be an increase in the superior court filing fee, the panel members said. Task force members developed the concept of a \$90 filing-fee increase at their October 16 meeting. They described the fee increase as a short-term "crisis strategy."

President Manning called for an advisory vote to see whether the BOG would support a filing-fee increase. There was no apparent opposition from either BOG members or liaisons.

Ms. Shen-Jaffe closed the presentation with an uncharacteristically emotional plea for support that clearly emphasized how serious the situation is. She described having to make "impossible" decisions to close equally important offices, and to lay off equally dedicated and able attorneys and staff. The WSBA has supported legal services for 25 years, she said, and now with a real crisis in the offing it is time to increase those efforts.

### Drug Policy

Governor **Ken Davidson**, new WSBA treasurer and delegate to the King County Bar Association (KCBA) Drug Task Force, offered the BOG a description of the Kafkaesque process that addicts must go through

in order to obtain treatment for their heroin addiction.

Governor Davidson described a bureaucratic nightmare in which methadone sites with openings for new clients could not accept people with a need, while many of those same people were shunted to distant sites with no openings, where they were placed on long waiting lists. He questioned whether anyone should be expected to have the stamina to stick with a program that seemed designed to defeat its own purpose.

Governor Davidson urged the BOG to adopt and support a KCBA resolution calling for additional funding and simplification of the methadone-maintenance program. He noted that Washington's Medicaid Program does not cover methadone treatment even though the treatment is inexpensive and provides a high social return. He pointed out that this new resolution focuses on the methadone program, while supporting the BOG's entire resolution of December 2001, which covered virtually every problem associated with drug and alcohol abuse. There was discussion among members about the need for functional and accessible methadone programs if the new drug courts are to succeed.

The BOG voted to adopt the KCBA position on methadone programs. The BOG resolution specifically referred to "untreated drug addiction" being "many times more costly than the cost of opiate replacement treatment." And the resolution called for "Medicaid funding for [methadone] treatment." (For the text of the resolution, see the WSBA Web site at [www.wsba.org/bog](http://www.wsba.org/bog).)

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## BOG Proposes New Amendments to RPC 6.1, and Voluntary Reporting of *Pro Bono* Hours

by Gail Smith • WSBA Pro Bono and Legal Aid Committee Chair

After months of discussion and debate, the Board of Governors (BOG) has proposed to the Supreme Court the adoption of revisions to Rule of Professional Conduct (RPC) 6.1, which addresses lawyers' public-service responsibilities. The proposed revisions, printed below, define what is meant by *pro bono* public service; recommend at least a 30-hour annual *pro bono* contribution; and provide for voluntary reporting of *pro bono* hours. The proposed amendments are now before the Supreme Court for review.

The BOG is very appreciative of all members who provided comments on this proposal in response to a September 2002 *Bar News* article. Those comments and the debate at the October 18 BOG meeting were instructive, and helped shape the final proposal. Issues worth noting are:

- The proposed rule is not mandatory, nor is it the first step toward mandatory *pro bono* service or mandatory reporting of *pro bono* hours. Neither the Access to Justice Board nor the WSBA Pro Bono and Legal Aid Committee supports the concept of mandating attorney participation in public-service work. Washington attorneys take an oath to "never reject, for any consideration personal to myself, the cause of the defenseless or oppressed..." RPC 6.1 simply provides suggested guidelines for honoring that oath.
- Attorneys can discharge their responsibilities under RPC 6.1 in any number of ways. There were concerns raised by government attorneys, for example, about institutional limitations to providing direct representation to low-income clients. The rule provides for "participation in activi-

ties for improving the law, the legal system or the legal profession," which could include mentoring or serving on a *pro bono* program board. The BOG rejected language that would have prioritized direct representation (subsection (a)) over alternative ways to contribute (subsection (b)).

- The data collected from the annual voluntary reporting of *pro bono* hours will prove extremely useful in demonstrating Bar support for requests to increase financial support for our state's civil legal-services delivery system. The Legal Foundation of Washington tracks the level of *pro bono* participation by private attorneys through the LFW-funded *pro bono* programs in the state. While there is anecdotal information that many attorneys provide *pro bono* legal services to low-income clients and organizations that serve low-in-

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come people outside these formal structures, there is at present no mechanism to track those contributions.

- The proposed amendments constitute a message from the WSBA Board of Governors that there is a need for more attorneys to provide *pro bono* public service. Participation on formal *pro bono* panels in our state is stagnant — and has been for a number of years — despite an annual increase in the number of new lawyers. Our state's civil legal-services delivery system continues to lose capacity because of fund-

ing reductions — \$2.1 million this year. While *pro bono* participation is not a panacea for addressing a problem of this magnitude, every low-income client that is assisted by the private bar is a testament to our professionalism.

**RPC 6.1**

**Pro Bono Publico Service (current)**

A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to per-

sons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.

**Proposed RPC 6.1**

**Pro Bono Publico Service (as approved by the BOG, October 18, 2002)**

The legal profession has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least thirty (30) hours of *pro bono* public legal services per year. In fulfilling this responsibility, the lawyers should:

(a) provide legal services without fee or expectation of fee to:

- (1) persons of limited means or
- (2) charitable, religious, civil, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide *pro bono* public legal services through:

- (1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civil, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;
- (2) delivery of legal services at a substantially reduced fee to persons of limited means; or
- (3) participation in activities for improving the law, the legal system or the legal profession.

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means. *Pro bono* services may be reported on the annual fee statement furnished to the WSBA. Lawyers rendering a minimum of 50 hours of *pro bono* service shall receive a recognition award for such service from the WSBA. ☐

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# This “Emperor” Has No Clothes

Reviewed by Judith A. Endejan

### *The Emperor of Ocean Park*

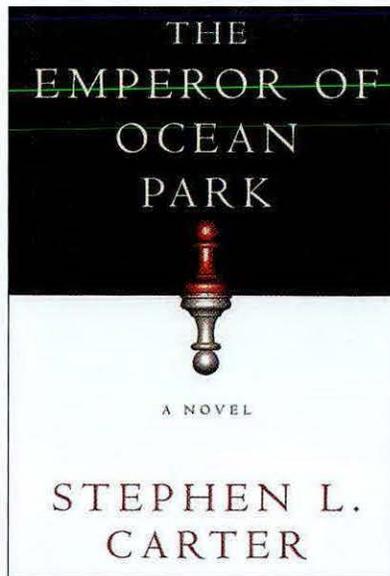
by Stephen L. Carter

Publisher: Alfred A. Knopf, 2002

By the time I reached page 300 of law professor Stephen L. Carter’s tedious 650-plus-page *The Emperor of Ocean Park*, I no longer wanted to find out if, and how, former Judge Oliver Garland was killed. I simply wanted the tedious, self-pitying voice of his son, narrator Talcott Garland, to stop! This book is supposed to be a suspense-filled, “gripping” thriller — selected for the *Today* show book club and well-received in some circles. Instead, it is a pedantic bore with a disconnected, jerky plotline and a *deus ex machina* ending involving a teddy bear.

Talcott is a black law professor at a prestigious, fictitious Eastern law school. His father, the former Judge Garland, is found dead in his Washington, D.C., home. The judge is “former” because he resigned from the U.S. Court of Appeals after he failed to be appointed to the U.S. Supreme Court due to his connections with a supposed denizen of the underworld, Jack Zeigler — “Uncle Jack” to the judge’s kids. (Why Jack and the judge are such buddies is never well-explained.)

Indeed, the judge, who is the “Emperor of Ocean Park,” comes across as nothing but a cardboard figure, rather than the tragic Shakespearian figure the author apparently intended. The author tries to portray him as a man possessing virtually every honorable human trait possible, but who nonetheless is the perpetrator of incredibly stupid, cruel and preposterous acts to his family and others. James Earl Jones as Darth Vader in “Star Wars” was a more believable (and more interesting) father than the judge. The dear dead judge leaves behind some “arrangements” without telling Talcott, intermittently referred to as “Misha” by his intimates. “Others” want to find those “arrangements,” and



The plot advances in fits and starts by obscure references to complicated chess problems.



generally make poor Talcott/Misha’s life miserable for the next year, in which his marriage unravels and his career flounders. Talcott/Misha ultimately succeeds after hundreds of pages that could have been written only by a law professor.

The plot advances in fits and starts by obscure references to complicated chess problems. Clues are dropped in rambling conversations with Garland relatives — some significant, some not; it’s hard to tell. Characters get introduced and then vanish with no reason or explanation. The book fails to tie loose plot threads together

in its predictable conclusion. Any cynical attorney/reader will have figured out what’s in those nasty “arrangements” long before the book’s end.

All the characters in this book are unpleasant, and most are unbelievable. The one exception is the protagonist’s four-year-old son, who is portrayed as an object of the other characters’ affections. Talcott/Misha is a morose, whiny, humorless creature. He always seems to be wrestling with the questions of morality and God. The product of an upper-middle-class upbringing, Talcott/Misha divides the world repeatedly into the “paler nation” and the “darker nation.” He seems equally bitter toward both races for no apparent reason, given his affluent background.

His wife, Kimmer, is equally despicable — a mere caricature of a successful woman attorney. She is a powerful character, up for an appointment to the U.S. District Court of Appeals. She is (a) beautiful beyond belief; (b) sensual beyond belief; (c) brilliant beyond belief; (d) ambitious beyond belief; (e) emotionless beyond belief; and (f) selfish beyond belief. In sum, she’s beyond belief. Why Talcott/Misha loves her is as much a mystery as why this book ever got published in the first place. The author should have stuck to nonfiction expositions on topics like constitutional or Brandeisian theory (which creep into the book anyway).

In need of a good, tight edit, *The Emperor of Ocean Park* is about as dissatisfying a book as I’ve read in a long time. What a waste of good summer reading time. ❧

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*Judith A. Endejan is a shareholder at Graham & Dunn PC. A member of the communications industry team, she primarily counsels telecommunications, media and related Internet clients. She also counsels media clients with respect to defamation, privacy and trespass law, the First Amendment, access to public records and related issues.*

# Unemployment and the Modern Lawyer

by Rebecca Nerison, Ph.D.

Except in rare circumstances, losing a job hurts. A lot. It's one of the things we fear the most and for good reason — the loss usually implies financial difficulty. Recent graduates who can't find work feel the same pain. Some never recover, financially or emotionally.

I've talked to many people in these circumstances over the past five years. Since the problem doesn't seem to be going away, I thought I'd share my observations on why unemployment is so painful, and offer some suggestions about coping with the condition should it afflict you or someone you care about.

### The Problem

The obvious reason unemployment hurts is that lack of income threatens survival. Stretch back in memory to Psychology 101 and Abraham Maslow's theory of motivation, expressed in his triangle-shaped hierarchy of needs. The triangle's base comprises physiological and safety/security needs fundamental to a person's physical survival in the world. These include food, shelter, clothing, and a sense of being protected from threatening people or circumstances. In Maslow's theory, these basic needs must be met before the higher needs can be addressed, including (in order of ascendancy) love/affiliation, esteem/recognition, the need to know and understand, aesthetic needs, self-actualization (self-fulfillment; realizing your potential), and transcendence (helping others find self-fulfillment and realize their potential).

Considering this hierarchy, you can see why it's difficult to enjoy a forced time-out and to start that novel you've always been meaning to write. If survival needs are threatened, it's nearly impossible to pursue self-actualization.

In our culture, well-being depends on money. For most of us, our personal income ensures that we have enough to eat, a place to live, safety (to some degree), and

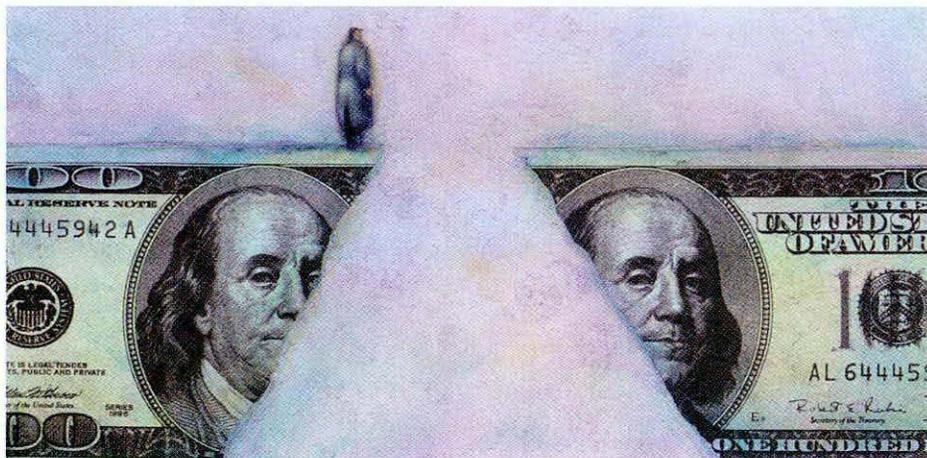
access to medical care. It's easy enough to see that when income and savings are threatened, fear quickly dominates.

Fear ranges from the discomfort of mild anxiety to the desperation of heart-stopping panic, with many gradations in between. A modicum of fear is a good thing, because it motivates us to get off the couch and do what's necessary for our survival. But too much fear can lead to paralysis, which explains why some people become unable to keep looking for work when they really need to. (A sense of hopelessness related to clinical depression can

tional to the threat, unless it takes on a life of its own in the form of a clinical anxiety disorder. Our goal is to keep fear at an optimal level — enough to motivate but not enough to paralyze.

There are some less-obvious consequences to unemployment that can be nearly as debilitating as fear. Feelings of loss, shame and blame are probably the most difficult to cope with because they often reside a layer or two beneath the surface of awareness.

More often than not we experience losing a job as just that — a loss — even if



contribute to paralysis as well, but that's another article.)

For most of us, physical survival isn't threatened when unemployment hits, at least not at first. We probably have a safety net in the form of family, friends, savings or investments, or a spouse's income that will protect us from starvation and homelessness. But the size of our net depends on a lot of things, some of which are beyond personal control. Prolonged unemployment for even the thriftiest among us eventually can trigger a financial free-fall.

We see then that lack of predictable income threatens our sense of survival and security, which in turn triggers fear. Normally, the fear will be more or less propor-

we feel some relief from stress or unhappiness that the job may have caused. The magnitude of loss depends on our need for the income, our attachment to the job, and its meaning in our lives. Most jobs are a mixed bag of good feelings (a sense of achievement and accomplishment, affiliation with co-workers, earning money) and bad feelings (pressures to produce, fatigue, performance anxiety). Even if the job's only virtue was the income it produced, we are likely to experience a feeling of loss once it's gone.

Recall the stages of grief you learned about in Psych 101 (see how useful that course turned out to be?). Grief is the feeling most associated with loss, and people

who lose their jobs often respond in the same way as people who lose someone or something precious to them.

The first stage of grief is *denial*. We are in shock. "This can't be happening to me." The second stage is *anger*. "Why me?" We direct blame or resentment at others. (Some people get stuck and stay here for years.) Third comes *bargaining*. "If I could just get my job back, then I'd be a model employee, bill 80 hours a week," whatever. Fourth is *depression*. "This feels terrible and it always will." Finally comes *acceptance*. "It happened, this is what I've learned about myself, and now I'm moving on."

As you probably remember, the stages of grief are theoretical; not everyone resolves a loss successfully by moving smoothly and sequentially through them. The model can be helpful, however, as a way of thinking and working through painful feelings that crop up and threaten to derail our ability to get on with our lives after a loss.

Perhaps even more difficult than the sadness of grief is the sting of shame. A feeling of shame often accompanies the loss of a job, especially for highly educated professionals like lawyers. Shame involves not just a sense of personal failure, but also a sense that who you are is somehow flawed or not good enough.

It's difficult to avoid stepping on the landmine of shame, particularly if the employer has failed to provide clear, descriptive information about the lawyer's specific performance. Sadly, this is often the case. In the absence of data, the fired lawyer too often concludes that he is a flawed human being who simply isn't cut out to be a lawyer. From someone else's perspective, he might conclude more accurately that the job was not a good fit for his level of skill and experience, or that the employer lacked the skill and commitment to communicate expectations and requirements effectively — all too common, as well.

And then there's blame. If a lawyer feels unjustly let go, anger will be his predominant reaction. Blaming others for a poor outcome is a natural human tendency and can be part of a normal grieving process (stage two of grief resolution). Beyond a certain point, however, anger and blame become counterproductive and even destructive. Ongoing righteous indignation

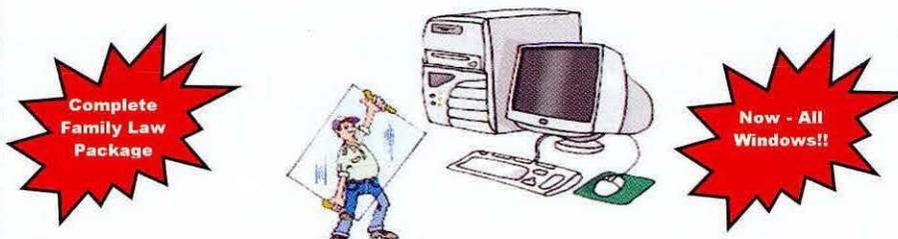
blinds us, rendering us unwilling or unable to examine our contribution to an outcome. This constitutes a failure to take responsibility for ourselves, and results in untold suffering and paralysis.

#### So What Should I Do?

First, if you find yourself mired in fear, sadness, shame or anger — for whatever reason — get some help. This is what professional counselors are for. If you've been struggling with these feelings for some time, you may have developed a clinical

depression or anxiety disorder, which should definitely be treated by a professional. In addition to counseling or psychotherapy, make use of all the social support you can muster from your family and friends. A natural tendency for many lawyers in these circumstances is to withdraw from others. Don't do it. If your friends and colleagues avoid you because you're unemployed and they're afraid it will rub off, get new ones. If they avoid you because you're unpleasant to be around, do something about it.

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Third, increase your tolerance for ambiguity. Many lawyers are not good at this. Here's an opportunity that may not come along again — hopefully not in this form, anyway. Increased tolerance for ambiguity makes you more flexible and more likely to be (come) a happy, healthy human being.

Fourth, rethink your goals. If you've been miserable in your last few jobs, maybe you're really *not* cut out to be a lawyer, or at least the kind of lawyer you've been. This can be a very painful conclusion to draw after the hefty investment you've made in your career. There is no shame in this, unless of course you persist year after year at what is for you a soul-numbing job. Now *that's* a shame.

Finally, practice positive psychology. Studies show that it is more important to avoid pessimism than it is to boost optimism. Translation: It is more important to avoid negative thinking patterns that make you feel more scared, sad or angry (e.g., "Nothing is ever going to work out for me...") than it is to chant affirmations. There's nothing wrong with affirmations, of course; sometimes we actually can talk ourselves into feeling better. However, it may be more useful to simply tell yourself the positive side of the truth, which probably sounds something like this: "This really hurts, and I don't know where this new road is leading. But I still have some things going for me (list these here) and I'm going to make the most of what I have." And then proceed to do so.

### **This Will Never Happen to Me**

I hope you never find yourself unemployed against your will. We don't like to think of ourselves as vulnerable, so it's difficult to think about and to prepare for the worst that could happen. But it's a good idea nonetheless. The following suggestions are a place to start. If you manage to accomplish these three things, you might even get to retire early or on schedule!

First, reduce your debt. Creditors are the vultures that will come swooping down if you find yourself without resources for a significant period of time. The fewer vultures hovering above you, the easier you can breathe.

Second, increase your safety net. Work toward saving that six months of salary the experts say we should have stashed away. Then if the worst happens, you can delay panic significantly and with any luck forego it completely.

On the subject of lawyers' financial health, here's a frightening factoid related to me by a colleague. A loan-officer friend

**Life and business are uncertain, so it behooves us all to prepare for the worst and expect the best while we have the opportunity.**

with a major bank in Boston was processing personal-guarantee applications for partners in law firms. He related that about half the applications supported a net worth of \$50,000 or less, despite having consistent gross income over \$300,000 per year. Astonishing? Yes. Appalling? Absolutely. Third, take inventory of your skills and experience from time to time with an eye toward future employability. Don't allow yourself to be lulled into complacency; the world is changing at an amazing rate, and we can't always predict what will be needed in the future. But if you keep one eye on outer circumstances and the other on your skillset, you are less likely to be caught unaware and unprepared.

Life and business are uncertain, so it behooves us all to prepare for the worst and expect the best while we have the opportunity. And sometimes, bad things do happen despite our best efforts to avoid them. As the cognitive psychologists say, what's important is not so much *what* happens to us as *how we interpret it*. Job loss can result in soul-crushing crisis or in opportunity and new beginnings. It's largely your call. ☞

*Rebecca Nerison is a psychotherapist with the WSBA Lawyers' Assistance Program.*

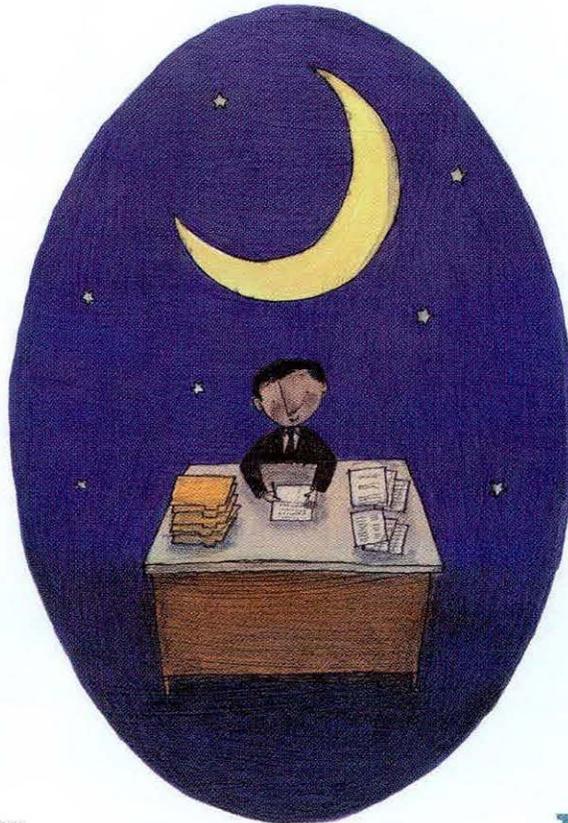
## A File Titled “Humor”

by James M. Hawk

While updating a résumé that was last exposed to the open air prior to Desert Storm, I came across a bulging file folder with “Humor” handwritten on the label. The prosaic inventory of my professional experience would be committed to 10-point Arial at a later date; I retreated to a comfortable chair and settled in. I opened the file that grew for a decade alongside CLE materials, legal research, and case files. I was pleased to find that what I thought was funny in 1990 or 1997 — and therefore worthy of my “Humor” file — was still funny.

I never tidied up this file; it was never policed by a secretary. So it didn't surprise me when a couple of yellowed newspaper comic strips fell to the floor. While stuffing the comics back in the file, I recalled the time when I used these comics in an attempt to inject some levity into a presentation at work. In addition to comic strips, my humor file contains numerous *Bar News* articles on the topic of humor (see “Lawyers Should Take Lawyer Jokes in Stride,” December 1996; and under the title “Allegedly Humorous,” Jeff Tolman’s article “A Small-Town Legal Dictionary,” November 1995, which deserve to be reprinted, with permission of the authors, of course). There are transcripts from depositions and trials in the file, there are a few e-mails, and there is a pithy answer to a written interrogatory. There is a copy of a Tacoma attorney’s yellow pages ad, newspaper articles, and more.

Copies of several Washington reported cases also made it into the file. In one, a Washington State Supreme Court justice succinctly makes his point — somehow abstaining from employing the exclamation point — with a one-word sentence: “Poppycock.” (For computer research, keyword “poppycock.”) In another case, a Di-



vision III opinion observes in a footnote: “Laughter does occur sometimes during trials; it is not a rarity.” That is good stuff that stays in the file.

Maybe it’s because a lawyer’s career begins in this state with the grave words “I do solemnly declare[,]” but too often the day-to-day work of the lawyer is unabashedly solemn, or at other times sufficiently adversarial to seemingly preclude a little jocularly from creeping into regular discourse. (Although the Oath of Attorney probably has no business in the humor file, I am amused by the ambiguity of the mandatory declaration that “I will abstain from all offensive personalities.”) Being a lawyer should not be a humorless undertaking. Quite the contrary — with sensitivity to time, place and manner — should be true.

Does the lawyer storm out of the room at the beginning of what promises to be a tedious deposition when opposing counsel proposes that the parties stipulate that “Oz never did give nothing to the Tin Man that he didn’t, didn’t already have”? Does the lawyer report this “misconduct” or tomfoolery to the Bar Association? Do the answers to these questions depend on whether either lawyer completed the ninth grade prior to 1975?

As in life outside the profession, humor has its place in the practice of the law. Most lawyers certainly know the value of using humor as a tool to inform and persuade. It is hard to imagine a trial’s *voir dire* experience that would not naturally lend itself to some humor. It is harder still to imagine that practitioners of “elder law” would not regularly consult the comic strip “Herman” that appears daily in major papers.

Because lawyers are, in part, paid thinkers who are involved in myriad socially relevant initiatives and contests, most will find many chuckles in the diverse offering of comics in the morning paper. After all, any comic strip has the potential to remind the lawyer of a case, a personality, a client meeting. One of the comics in my humor file has a frazzled gentleman standing and facing a judge. Leaning forward, his arms folded, the judge speaks: “The jury has found you not-guilty, but I’m going to give you two years just to be on the safe side.” In another one, the caption reads: “Never hire a lawyer who uses the word ‘whatever’ a lot.” Such sagacity cannot be acquired in law school.

While on the topic of comic strips, why doesn’t the WSBA have a comic-strip page in every issue of *Bar News*? There must exist burgeoning cartoonists with Bar numbers who would gladly offer their tal-

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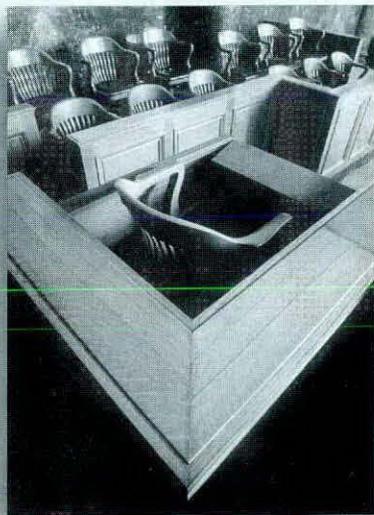
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ents *pro bono publico*. If that service were realized, then chances are most readers would develop a healthier routine than to turn first to the "Disciplinary Notices" en route to the "In Memoriam" section.

Anyway, I developed this file without serious thought, and without any routine or discipline I made contributions to the file over time. In reviewing the contents, I am reminded (usually happily so) of various people, cases and circumstances that I have encountered as a Washington lawyer. For example, I remembered a time, long forgotten, when I asked a secretary to create a file on "Inorganic Arsenic," a topic I was researching. The secretary blithely typed "IGNORANCE ARSENIC" on the file label. I kept the file and used it with the label just as I received it — but not before I made a trip to the copy machine.

On another occasion I was researching clear rule-writing concepts for government regulations. During that time, while working on another matter entirely, I was delighted to come across the Department of Labor and Industries' definition of "nonskid" that appears in its Safety Standards for Fire Fighters (WAC 296-305) in this clear rule-writing era:

Nonskid: The surface treatment that lessens the tendency of a foreign substance to reduce the coefficient of friction between opposing surfaces.

What are the chances that this definition was written by a lawyer with a good sense of humor? Probably zero, and that is why it's funny. This definition could not have been written by a lawyer providing genuine service to a client. In 1999, I copied this definition of "nonskid" and put it in my file for future use.

Now as I return to the humor-free pursuit of résumé-writing, I am satisfied there is merit in maintaining this humor file with my professional papers. Moreover, from this point on, this effort shall be more solemn than whimsical. Poppycock! ♪

*James M. Hawk is an attorney in private practice in Seattle. He is a graduate of the University of Washington and the University of Puget Sound School of Law.*

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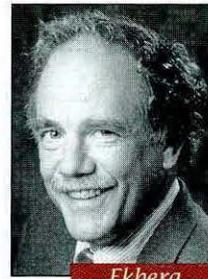
Washington lawyers from Foster Pepper & Shefelman included in *The Best Lawyers in America* are: Brad Berg, Jack Cullen, Bob Diercks, Gary Fluhner, Dillon E. Jackson, Dick Keefe, Mike Kuntz, Judy Runstad, Lee R. Voorhees Jr. and J. Tayloe Washburn. Lawyers from Foster Pepper & Shefelman have also been named "Rising Stars" by *Washington Law & Politics* magazine. They are: Krista J. Ayers, Joseph A. Brogan, Richard P.



Beck



Dwyer



Ekberg



Gittinger

Chamberlain, Edward A. Harley, Bradley W. Hoff, Sarah K. Johnson, Jeffrey S. Miller, Alice M. Ostdiek, Thomas J. Parkes and Jennifer L. Scully.

Dean D. DeChaine, R. Thomas Olson, Jeffrey C. Thede and Robert J. Walerius of Miller Nash LLP have been included in *The Best Lawyers in America*.



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The Washington state chapter of the American Immigration Lawyers Association has elected new officers. They are: **Carol L. Edward**, chair; **Davis C. Bae**, vice-chair; **Cletus M. Weber**, secretary; **Diane M. Butler**, treasurer; and **Laurie B. Bernbaum**, membership chair.

**Stuart C. Allen** has been elected to the board of directors of Seattle Goodwill. Mr. Allen is a partner in the Seattle office of Lane Powell Spears Lubersky LLP.

**Steven F. Hill** has been named president of the Vancouver Symphony Orchestra board of directors. Mr. Hill is an associate with Miller Nash LLP.

**Adrienne E. Quinn** has received the Housing Development Consortium's Pedestal Award for significant contributions to affordable housing. A land use lawyer for Buck & Gordon, Ms. Quinn serves as



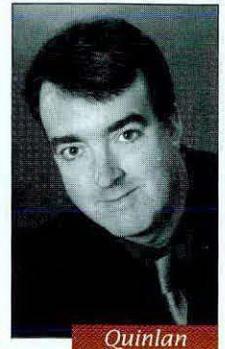
Hill



Quinn



Scanlan



Quinlan

president of the board of directors for Plymouth Housing Group.

**James F. Williams** has been named to the *Puget Sound Business Journal's* "40 Under 40" list. He was the only lawyer to be named to the list, which recognizes young leaders in the business community.

**Kristi L. Helgeson** has been elected president of Washington Women Lawyers. As president, she is responsible for the organization's business and activities, serves as the primary representative to the public, and chairs the board and executive committee.

Kittitas County Prosecuting Attorney **Greg L. Zempel** has been elected presi-

dent of the Washington Association of County Officials (WACO). He has served on the WACO board of trustees since 1996.

Seattle lawyer **Terence J. Scanlan** has been selected to serve on the board of the King County Sexual Assault Resource Center.

**Mark L. Lorbiecki** has been elected secretary of the Washington State Patent Law Association. He previously served as treasurer of the association.

Fircrest lawyer and Army Reserve JAG officer **Thomas P. Quinlan** has received the Military Outstanding Volunteer Service Medal for his service as president of the WYLD. The medal is awarded to members of the Armed Forces who per-



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form outstanding volunteer service of a sustained nature. He has also received the Army Commendation Medal for his service as the officer in charge of the Legal Liaison Officer Program. The medal is presented to a member of the U.S. Army who distinguishes himself by heroism, meritorious achievement, or meritorious service.

**Merrilee A. MacLean** has been elected to a three-year term on the executive committee of the 9th Circuit Judicial Conference. She previously served as a lawyer representative to the conference.

Seattle lawyer **Michael J. Longyear** has been appointed to the Certified Professional Guardianship Board by the Washington State Supreme Court.

**Stanley H. Barer** has been designated Distinguished Alumni by the University of Washington School of Law. He is a 1963 graduate of the school, and currently serves as of counsel to the Seattle firm Garvey Schubert & Barer.

#### Movers and Shakers

**Daniel J. Gibbons** has joined the Spokane firm Paine, Hamblen, Coffin, Brooke & Miller LLP as an associate focusing on bankruptcy and business law.

**John Tirpak** has joined the Unemployment Law Project as supervising attorney. In that capacity, he also serves as visiting attorney for the Access to Justice Institute at Seattle University, working with law students representing clients who have been denied unemployment compensation benefits.

**Ruth Sparrow** has joined the Olympia firm Owens Davies PS as of counsel. She focuses on affordable housing, tax, business and real estate transactions.

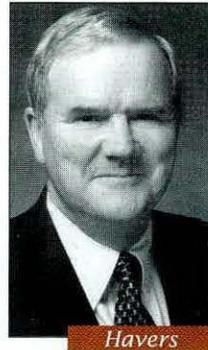
**Michael J. Havers** has joined Carney Badley Spellman as a shareholder concentrating on commercial law. **Nicki D. McCraw** has joined the firm as of counsel, concentrating on employment law and litigation.

**Duncan McIntosh**, **Elizabeth Poh** and **Chris Wion** have joined the Seattle firm Mundt MacGregor LLP as associates focusing on business law, immigration and litigation, respectively.

**Gretchen Herbison** has joined the Seattle office of Bullivant Houser Bailey PC. Ms. Herbison works with the firm's employment litigation and counseling; life,



Sparrow

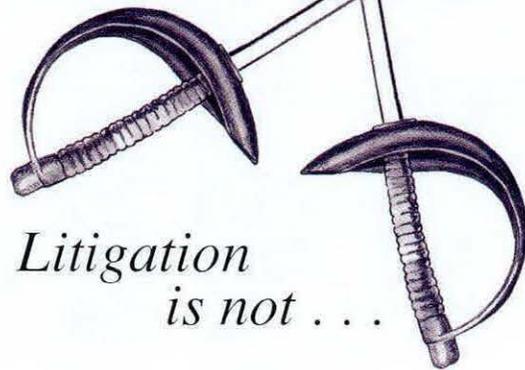


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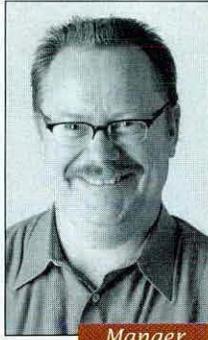
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Burke



Manger



Espinosa



Jones



Andersson



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health and disability; and insurance practice groups.

**Katherine L. Mason** has joined the workers' compensation litigation team at the Causey Law Firm in Seattle.

Five first-year associates have joined the Seattle office of Preston Gates & Ellis LLP. **Holly A. Harris** practices in the areas of environmental law and litigation. **Daniel P. Hurley** focuses on employment and la-

**Maureen D. Burke** has joined the Seattle firm Cairncross & Hempelmann PS as an associate in the litigation and employment law groups. **Charles B. Manger** has joined the business and corporate transactions group as of counsel.

**Deborah K. Espinosa** and **Steven G. Jones** have joined the Seattle firm Marten Law Group PLLC. Ms. Espinosa practices environmental litigation, and advises cli-

chair the firm's new municipal finance practice.

**Julia A. Bahner** has joined the Seattle office of Lane Powell Spears Lubersky LLP as an associate concentrating on bankruptcy, creditor rights, and commercial litigation. **Andrew F. Rigel** has joined the firm as an associate in the litigation group. **Karin E. Valaas** has joined the firm as an associate in the employment group.



Koegen



Bahner



Rigel



Valaas



Rudman



Haley

bor law, and litigation. **Susanne P. Kollrack** concentrates on technology. **Jessie K. Minier** focuses on business law. **Daniel H. Royalty** concentrates on intellectual property litigation.

**Linda C. Severin** has joined the Seattle office of Garvey Schubert Barer to expand the firm's white-collar criminal defense practice.

ents on environmental and natural resource issues. Mr. Jones is an environmental litigator concentrating on clean-air issues, wastewater, stormwater, wetlands, shoreline permits and water rights.

**Magnus R. Andersson** and **Ryan D. McFarland** have joined the Bellevue firm Hanson, Baker, Ludlow and Drumheller PS. Mr. Andersson is an associate focusing

on real estate and eminent-domain litigation. Mr. McFarland concentrates on real estate, eminent-domain and general business matters.

**Roy J. Koegen** has joined the Spokane office of Lukins & Annis PS to

**J. Britton Gourley** has joined Short Cressman & Burgess as of counsel. He focuses on general representation of privately held and emerging businesses.

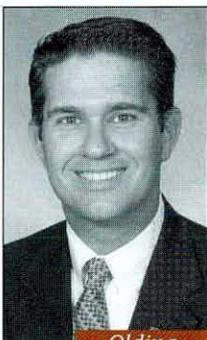
**Dianne K. Rudman** has joined the Spokane firm Dunn & Black PS as an associate concentrating on employment, and construction law and litigation.

**Paige D. Haley** has joined the Tacoma and Federal Way firm Lutz Law Offices as an associate focusing on family law.

**Cristian M. DeFrancia** has joined the Seattle firm Hillis Clark Martin & Peterson as an associate concentrating on business law.

**Francis X. Olding** has joined the Seattle office of Betts Patterson & Mines PS as an associate in the litigation group.

**Kirsten J. Pederson** and **Bryn Peterson** have joined the Yakima firm Halverson Applegate as associates.



Olding



Pederson



Peterson

### In Memoriam

**Robert Irwin Deutscher** died September 5 following a brief illness. He was 59. Mr. Deutscher practiced law in Tacoma for more than 30 years, and was known for his work in the areas of tort law and medical malpractice. He was a contributor to ABC's 20/20, served on the board of the Seattle Symphony and Tacoma Philharmonic, and was a member of the Taskforce for Creation of a Heart Center at the University of Washington Medical Center.

Memorials may be made to the University of Washington Medical Center Heart Transplant Program (UW Dept. of Surgery, Box 356410, Seattle, WA 98195-6410).

**Amy Diane Dewing Merrill** died October 17 at age 42, following a heroic fight against breast cancer. She attended Creighton University School of Law and worked as a criminal defense lawyer for 15 years. Prior to her legal career, Ms. Merrill worked as a probation officer.

**Linda Marie Scott** died September 29 at age 52. Ms. Scott worked for the Washington State Department of Transportation at the time of her death. Before joining DOT, she worked in the legal unit at Seafirst Bank for seven years and clerked for King County Superior Court Judge Nancy Holman for eight years. A long-time Seattle resident, she received her B.S., MBA and J.D. degrees from the University of Washington.

**Charles H. Todd** died November 6 at age 96. A native of Seattle, Mr. Todd was one of the founders of the firm now known as Davis Wright Tremaine, and he actively practiced law until age 72. He served in the state Senate from 1933 to 1939 and in the state House of Representatives from 1939 to 1941. It was while serving in the Legislature that he began his legal studies. An avid outdoorsman, Mr. Todd enjoyed horses, fly fishing and golf, as well as international travel. He visited 60 countries on six continents.

Retired Snohomish County Superior Court Judge **John F. Wilson** died October 29 at age 75 of liver cancer. Judge Wilson was appointed to the superior court bench by Governor Dixie Lee Ray in 1978, and retired in 1995. Prior to his appointment, he worked for the state Attorney General's office and was in private practice in Eve-

rett. In the 1990s, Judge Wilson was presented with a Distinguished Jurist Award from Gonzaga University. A native New Yorker, Judge Wilson was known for his Irish tenor voice (tinged with a Lower East Side accent), and his sense of humor.

Judge **Eugene Allen Wright** died September 3 at age 89. Judge Wright practiced with his father in the Seattle firm Wright & Wright before going into active duty in the U.S. Army. He served as a combat intelligence officer and Japanese translator in the South Pacific, and was awarded the

Bronze Star, Combat Infantry Badge, and Army Commendation Medal. Judge Wright worked as a judge *pro tem* in Seattle Municipal Court, and as a King County Superior Court judge. In 1969, President Nixon appointed him to the 9th Circuit Court of Appeals, where he served until his death.

Memorials may be made to the Eugene A. Wright Scholarship Fund at the University of Washington School of Law (1100 NE Campus Parkway, Seattle, WA 98105-6617). ☞



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ATTORNEYS AT LAW

# Lawyers and the Art of Motorcycle Riding

by **Barrie Althoff** • *WSBA Professionalism Counsel*

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

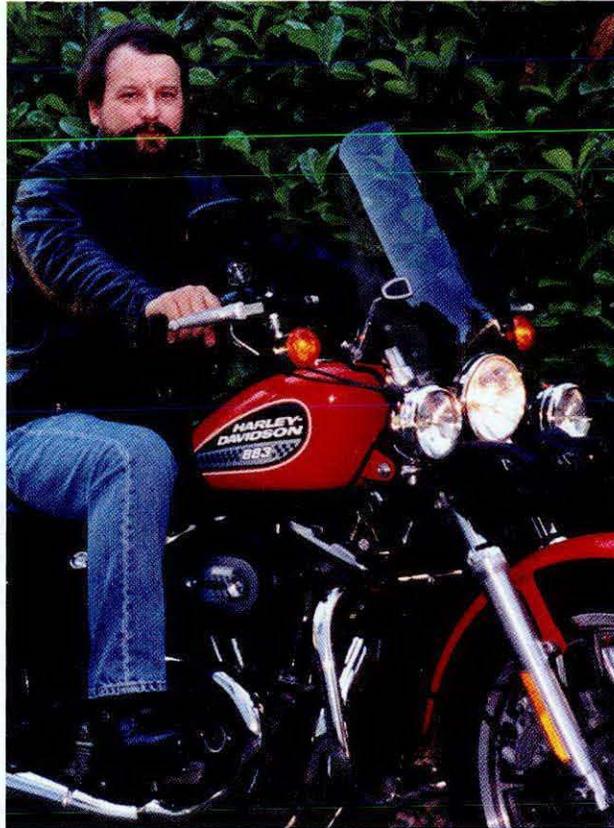
This is the first article of a two-part series.

**T**his past summer I motorcycled around the perimeter of the United States, touching its four corners in California, Florida, Maine and Washington. In 23 days and 11,570 miles of riding, I roasted, baked, fried, steamed and froze my way through 30 states and three Canadian provinces, mostly on two-lane country roads.<sup>1</sup> I visited numerous friends and relatives, and saw unforgettable beauty. While riding, I thought about parallels between motorcycling and the practice of law.

### **You Gotta Have Aptitude, Attitude and a Whole Lot More**

To become a skilled motorcyclist takes aptitude, attitude, training, common sense, a sense of balance, and a lot of practice. Before setting out on my journey, I took a motorcycle safety course and systematically and intensively practiced safe-riding techniques. I rode in heavy rush-hour and city traffic, in interstate traffic, and on twisting country and mountain roads. I rode on pavement, on gravel, and on dirt. I rode when it was hot, sunny, cloudy, cold, drizzly, raining, foggy, and even snowing. I was prepared when I later rode narrow, winding coastline and mountain roads; in rush-hour urban traffic; in torrential rain and 114-degree deserts (while I straddled a furnace-like engine); through drenching heat and humidity; and through chilly, cloudy and foggy Maine and North Dakota mornings.

I learned to anticipate danger, stop



*The author on his Harley Davidson Sportster 883R.*

quickly and safely, swerve around obstacles, and make myself and my bike more visible to others. Above all else, I practiced riding defensively — scanning and identifying potential dangers, predicting what other drivers might or might not do, deciding what I needed to do to remain safe — and then executing those decisions. I practiced graciously yielding the right-of-way — no easy task for motorcyclists or lawyers — so as to be alive to ride rather than be dead right. Since in most automobile-motorcycle collisions the automobile driver claims never to have seen the motorcyclist, I assumed in riding that drivers would not see me no matter how visible I was, and thus I needed to ride as if they could not see me. On my trip I was twice forced off the road by adjacent sports-util-

ity-vehicle drivers moving directly into me without signaling, once in a torrential downpour in Miami rush-hour traffic, and once in Santa Cruz. Defensive riding also prepared me to react safely when a buck and doe suddenly leapt into my immediate path from an adjacent forest one early foggy morning in Wisconsin. Had I not practiced emergency handling for such dangers, I likely would not be here to write this article.

Riding a motorcycle requires a rider's full attention. It is a whole-body (and for some of us, an out-of-body) experience. Your head constantly scans for dangers — and enjoys the ride. Your left hand controls the clutch, lights, horn and left-turn signal; your right hand the throttle, front brakes and right-turn signal. Your left foot shifts gears, your right controls the back brakes, and both feet balance the bike when starting and stopping. Shifting body weight controls the bike's degree of lean for turning.

Some potential riders lack the dexterity, strength, coordination or skills to safely balance and control a 500- to 800-pound motorcycle, even though they know what is required. Others lack the aptitude to ride defensively, or the common sense to anticipate and react to hazards. Others have learned only basic riding skills, have never improved them, and remain novices. These riders are hazards to themselves, other riders and the public.

Lawyers need an aptitude for law practice, a sense of balance, common sense, and a willingness to improve their skills. Some lawyers, perhaps brilliant as students, lack the aptitude or common sense to be good, practical lawyers. Others have the aptitude to practice law, but do little to improve their skills or keep current in

the law. Others lacking a sense of balance spend disproportionate amounts of time and client money on peripheral issues while neglecting central issues. Some lawyers, often those most uncivil to their brethren and clients, have an attitude problem that severely hampers their effectiveness. Other lawyers, lacking defensive practice skills and ignoring red flags requiring immediate attention to deteriorating relationships, regularly collide with clients and colleagues. Others constantly face crises due to their inattention to client matters. These lawyers are hazards to themselves, their clients and the legal profession.

Lawyers need to learn to anticipate dangers and promptly react to them. The danger may be undertaking a matter in which the lawyer lacks competence, handling a routine matter without due care, taking on too many cases, not supervising adequately the work of nonlawyer staff, neglecting clearly dissatisfied clients, not maintaining or paying attention to case calendars, or neglecting the lawyer's own health or family responsibilities.

#### Starting, Stopping and Turning

A motorcycle is difficult to control and keep balanced when moving very slowly, especially when turning. As speed increases, the cycle becomes more stable, and balance and control become easier. But, as speed increases, the rider's time to react to danger rapidly diminishes.

To turn safely, a rider scans an upcoming turn for possible hazards, adjusts speed before entering the turn, and, while leaning the bike in the direction of the turn, rolls the throttle to constantly and smoothly accelerate through the turn. If the rider enters a turn too slowly or with too much lean, the bike may fall over. If the rider enters too fast, the bike will turn wide into opposing traffic lanes, or miss the turn completely, since the rider cannot safely brake while turning, for doing so counters the cycle's balance. A turn entered too fast can sometimes be rescued by increasing the lean of the bike, while a turn entered too slowly, or with too much lean for the speed, can sometimes be rescued by accelerating through it. Of course, even when a turn is entered with the proper speed and lean, unexpected objects on the road can cause a mishap.

Potential hazards threaten riders even

when they ride or stop in straight-line traffic. Other vehicles often pull into the paths of motorcyclists. A cycle's tires, or the rider's feet, can easily slip and slide on grease, oil, antifreeze, sand, or loose gravel on the pavement. When slowing or stopping, cautious riders brake and downshift and use both stoplights and hand signals to alert others. They also plan a safe escape route ahead or to the side to avoid being rear-ended. If the rider is parking the bike, he turns off the ignition and fuel-tank petcock to assure easy starting later, and carefully lowers the kick-stand so the bike does not fall over.

Our law practices will not stand up on

their own. They need us to keep them going and give them balance. Starting a law practice requires balancing money, time and effort. We may understand the theory of practicing law, but lack practical experience. We are unsure how fast and with how much lean — or how forcefully or gently — we should negotiate or litigate. Once we start, it is difficult to change pace or procedures. Most of us have pushed or leaned too much or too little in negotiations or litigation only to realize our approach was counterproductive. As our practices gain momentum and clients, we feel more competent and in control, but we also have less time to respond to our

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clients' concerns and greater need for defensive practice skills.

Yielding the right of way is difficult for many lawyers. Clients often hire us specifically to enforce their right-of-way, and we cannot yield it without their consent. When appropriate, however, we can talk to them about matters other than their legal rights — such as moral, economic, social and political factors — and tell them they are fools if they do not yield their right-of-way. If they are riders, they will understand when we tell them, "Yes, you have the right-of-way, but if you take it, that truck coming at you will flatten you and you'll never ride again." Sometimes

we have to urge our clients to yield the right-of-way at the intersection, so they can safely pass the offender down the road.

When we decide to slow or stop our practices, we need to clearly signal that intent to others and to bring our practices to a smooth stop. We need to put our kickstands down so that our practices do not fall over and crush us. Once we have resigned from the Bar or gone to inactive status, we need to turn off our legal petcocks, cut off the flow of legal services, and discontinue practice. If we do not do so, we will slip on the ethics requirements; risk a collision with a dissatisfied client; or be rear-ended by a malpractice, discipli-

plinary or unauthorized-practice-of-law complaint.

Most of us continually struggle to balance our personal and professional lives. Sometimes we lean too far and fall on the professional side, with dissatisfied clients or colleagues, or malpractice or disciplinary claims, and sometimes we lean too far and fall on the personal side, with marriage or family problems, substance abuse, or physical or spiritual neglect. With experience we learn that sometimes we need to speed up or slow down, or to lean more one way or the other, as competing needs require of us. And yet, even then, we sometimes still fall down.

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### Caution: Proceed Slowly through Construction Zones

In riding across the country I encountered numerous construction zones. Riders must slow down; sometimes stop and wait; advance single file; perhaps take a detour; and likely go through dirt, dust, mud, loose gravel or fresh oil. If we do not proceed cautiously, we are likely to harm ourselves, our bikes and others. We may even be ticketed. We may become irritated over the delay and inconvenience, the grime sticking to our bikes, and may think that the old road wasn't that bad (especially after we came to know the location of its ruts, bumps and potholes), and we wonder why it had to be repaired *now*, just when we want to pass over it. On emerging from the construction zone we usually speed up and resume our journey.

We lawyers also go through construction zones in our lives when the roads and paths we know well are torn up and replaced and when we feel irritation toward construction workers. Sometimes we ourselves are the construction workers, as when we change our areas of practice, or add or lose clients or colleagues, or change our office location, or when we have to defend ourselves in a malpractice or disciplinary matter. Sometimes the construction workers are Supreme Court justices or the Bar Association, mandating changes in our practices or the court rules, and tearing up the legal procedures and destroying the forms we have struggled to master. And sometimes the construction zone is not in our professional lives, but in our personal lives, where marital, family, health, or other issues may demand our full attention and reduced speed.

## ABOVE AND BEYOND

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When we are in construction zones, whether in our professional or personal lives, we need to slow down and heed the caution signs, and perhaps even take a detour or change our destination. If we do not do so, we may find ourselves being ticketed for malpractice or ethics violations, and harming ourselves, others, and our practices. We may find that by failing to slow down and heed the caution signs, we have become so coated with construction grime that we have lost our way in our professional and personal lives.

### Doing the Locomotion

Motorcyclists and lawyers both spend most of their time sitting. After hours of doing so, however, motorcyclists more obviously than lawyers appear to be getting somewhere, presumably closer to their destination. For many motorcyclists, the ride itself is the destination and the physical location of the end of the journey is only of secondary importance.

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**As experienced travelers know, take half the stuff and twice the money that you planned on.**

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For a lawyer, the ride through particular legal steps may be satisfying and, in effect, the lawyer's personal destination. Clients are not motorcyclists, however, and usually have no interest in the ride. Instead, they want only to get as quickly and cheaply as possible to their destination and completion of the legal services. After spending many hours and client money working on a client matter, lawyers may have difficulty convincing their clients that they have actually moved them closer to a solution unless they have previously explained to their clients what they are doing and why. To a client, a lawyer's billed activities may easily appear analogous to a rider's pleasure ride where the rider, after many twists and turns, after much noise and effort, ends up exactly where he started. Or the client may view the lawyer's efforts as no more than an unsuccessful game of solitaire with the lawyer making a great many motions, each motion perhaps logical in itself, but ultimately producing nothing of value to anyone.

### Checking the Equipment and Packing Lightly

Before motorcycling, I make sure I have oil and fuel and the fuel petcock is turned on; that all lights, signals, instruments, the horn, the throttle, the clutch and gears and brakes operate properly; that tires have adequate tread depth and are properly inflated; and that mirrors are properly adjusted. I always wear a helmet, even where not required by law.

On any trip, some baggage is needed. Before I set out on my journey, I carefully considered what clothing and equipment

to take, since my storage space was limited to two saddle bags (one filled with extra fuel) and a duffle bag. I thought I had packed only what I needed and no more. Once underway, however, finding I had more than needed, I shipped the excess home, lightening my load and cares. As experienced travelers know, take half the stuff and twice the money that you planned on.

Since my motorcycle fuel tank is small, the bike has no fuel gauge, and my planned distances were great, I carried extra fuel in a saddle bag. I used it only once, when

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my main fuel tank ran dry in New Mexico, nearly 30 miles before I expected. I had not adequately taken into account my reduced gas mileage due to very strong headwinds and the very hot air's evaporation of fuel. Like professional malpractice insurance, my saddlebag fuel was a burden to carry, I hoped I would never need it, but it made what would have been a major aggravation (pushing a heavy motorcycle 30 miles under a hot New Mexico sun) into a minor inconvenience (pulling to the side of the road and refueling). Further, it gave me a feeling of security throughout the trip knowing that if and

when I needed it, it was there.

Sometimes on a journey, a rider's equipment fails. The rider then either repairs it or improvises. When my bike hit a misaligned pavement joint in New York, the jolt disabled my combination speedometer, odometer and trip meter (repairable only by the manufacturer over several weeks). Since I used the speedometer to ride within the speed limit and the trip meter as a gas gauge (by knowing how far I had traveled since refueling I could calculate my likely fuel consumption), the loss of the instrument was more than an annoyance. For the rest of the journey, however, I successfully

improvised methods to calculate my speed and distances traveled. Happily, I was not ticketed for speeding nor did I again run out of gasoline.<sup>2</sup>

As lawyers, we sometimes find little guidance in our legal instruments, and sometimes those instruments need overhaul and updating. Washington's current Rules of Professional Conduct, for example, set out standards of ethical conduct for us, but are silent about how advertising and solicitation rules should be interpreted in light of the Internet, e-mail and chatrooms. Until those rules are updated, lawyers must look to other instruments and count legal mileposts to do their best to comply with ethical limits.

As lawyers, we also must regularly examine our practices and lives. We must assure both our own physical, mental and spiritual health, and the professional health of our practices and offices. We must be prepared to handle all reasonably foreseeable opportunities and dangers. We must be ready to weather times when our health or practices are not doing well, when our hearts and souls feel unrewarded and alone, when we have taken on too much, when too many demands are being made on us, and when we crave companionship but must complete our tasks alone. When we start our professional day, we should be ready to devote ourselves to our clients and be assured we have the personal resources to do so.

Sometimes we find we have taken on too much baggage in our practices and lives. We need to lighten our loads by removing some of the irritants and distractions. Sometimes we need to improvise. We may have taken on too many clients, or high-maintenance clients or colleagues, too many cases, or too many professional responsibilities or areas of practice. We may have devoted ourselves so much to social or community needs that we neglect our personal and family needs. We need either to ask others to help us, or to reduce our responsibilities. While relishing the richness of life and others, we need to simplify our practices and lives. We may be so caught up in the motion and complexity of our lives that we no longer live life but become mere caretakers of the objects and cares we have accumulated. ☞

**Next issue: Riding to Live and Living to Ride.**

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- *Dissolution*
- *Elder Law*
- *Landlord/Tenant Rights*
- *Lawyers*
- *Lawyers' Fund for Client Protection*
- *Legal Fees*
- *Marriage*
- *Parenting Act*
- *Probate*
- *Revocable Living Trusts*
- *Signing Documents*
- *Thinking about Law School?*
- *Trusts*
- *Wills*

Pamphlets are priced as follows:

Quantity (per topic)	Cost (per set)	Quantity (per topic)	Cost (per set)
25	\$9	100	\$25
50	\$15	500	\$90
75	\$20		

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](mailto:questions@wsba.org). Prices include shipping and handling, but do not include 8.8% state sales tax. Payment may be made by check, MasterCard or Visa.

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

# Disciplinary Notices

## NOTES

1. For detail enthusiasts, I rode a 2002 Harley Davidson Sportster 883R with added tachometer, clock, thermometer, driving lights, headlight modulator, engine guard, mini sissy bar and luggage rack (for tying the duffle bag), soft saddlebags and reflectors.

I started from Mercer Island, Washington, hugged the Washington, Oregon and California coasts down to the Mexican border, then turned east and fried and roasted through California, Arizona, New Mexico and into El Paso, Texas. I then headed southeast along the Texas-Mexican border through Del Rio, Laredo and Brownsville, and, steaming and broiling, wrapped around the Gulf of Mexico through Corpus Christi, Houston, New Orleans, Mobile and Pensacola. I then dropped down the west coast of Florida, southeast through the Everglades, and down to Key West.

From Key West I rode north up the east coast of Florida, Georgia, South Carolina, and out to North Carolina's outer-banks islands. I continued hugging the coast up through Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire and Maine. Following the eastern border of Maine northward to Matawaska, I entered New Brunswick, Canada. I then rode west through Quebec and Ontario before heading southwest through Michigan, Wisconsin, Minnesota and into South Dakota. I then rode up to North Dakota and back into Minnesota, where mosquito swarms nigh devoured me. Finally, I rode west through northern North Dakota (where morning cold and wind chill nearly froze me), Montana, Idaho, and back through northern Washington, with a brief stop in Blaine before returning to Mercer Island. I did not make it to Alaska or Hawaii.

While my motorcycle trip was ridden on one motorcycle, my law career has involved several different rides. I began practicing law in New York City, but changed rides several years later by moving to Seattle and continuing my mostly transactional private practice. Eleven years later, I mounted a new ride by becoming a civil prosecutor with the Securities & Exchange Commission. Seven years later, I mounted another new ride by becoming the WSBA director of lawyer discipline and chief disciplinary counsel. And another seven years later, I began my current professional ride as part-time WSBA professionalism counsel.

2. I did so by using my tachometer (experience told me, for example, that 2,800 revolutions per minute in fifth gear on flat terrain meant I was going between 55 and 60 miles per hour), or by counting mileposts and time (for example, one milepost in 60 seconds means 60 miles per hour). The most difficult speeds to estimate were slower speeds in towns where there were no mileposts. There, I just made sure I was going slower than most of the traffic.

*These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 11.2(c)(4) of the Washington State Supreme Court Rules for Lawyer Discipline, and pursuant to the February 18, 1995, policy statement of the WSBA Board of Governors. For a complete copy of any disciplinary decision, call the Washington State Disciplinary Board at 206-733-5926, leaving the case name and your address.*

## Suspended

**Gregory E. Grahn** (WSBA No. 20312, admitted 1991), of Lakewood, was suspended for 60 days by order of the Supreme Court dated June 19, 2001, approving a stipulation. This discipline is based on his practicing law while his license was suspended in 1999, and lack of diligence and communication with two clients in 1998.

**Matter 1:** On July 19, 1999, the Supreme Court suspended Mr. Grahn's license to practice law for failing to comply with the Admission to Practice (APR) 11 duty to report continuing legal education credits. Although the Supreme Court notified Mr. Grahn of the suspension, he stated he did not receive this notification. On August 19, an Office of Disciplinary Counsel investigator contacted Mr. Grahn in court, notified him of the suspension, and provided him a copy of the court order.

Mr. Grahn knew of his duties to notify his clients of his suspension, but believed he did not have to comply because he would be reinstated quickly. After completing his CLE requirements and paying the late fee, Mr. Grahn assumed that his license to practice law would be automatically reinstated to active status. Mr. Grahn's license to practice was reinstated by the Supreme Court on September 8, 1999. Mr. Grahn represented clients while his license to practice was suspended from July 19, 1999 through September 8, 1999. He also failed to notify his clients of his suspension and file the required affidavit of compliance.

Mr. Grahn's conduct violated RPCs 8.4(d), prohibiting conduct prejudicial to the administration of justice; and 1.15(a) 1(1), stating that lawyers shall not represent clients if the representation results in a violation of the RPCs; and RLDs 8.2, prohibiting suspended lawyers from continuing to act as lawyers; 8.1, requiring suspended lawyers to notify clients of their

inability to act; and 8.3, requiring lawyers to file an affidavit of compliance regarding the duties in Title 8.

**Matter 2:** In December 1997, Mr. Grahn agreed to represent the mother in an ongoing marriage-dissolution action. The client gave Mr. Grahn her only copy of the scheduling order showing that trial was set for March 4, 1998. Mr. Grahn requested a continuance, but the court denied the request. Mr. Grahn did not meet with the client after mid-February and did not tell her when the trial would begin. Neither Mr. Grahn nor the client appeared for the trial. The client learned from her daughter that the trial had occurred, and retained another lawyer to set aside the default.

Mr. Grahn's conduct violated RPC 1.4(a), requiring lawyers to keep clients reasonably informed about the status of their matters.

**Matter 3:** In November 1997, Mr. Grahn agreed to represent the father in a marriage-dissolution action. The date of the client's deposition was continued to September 9, 1998. On September 8, Mr. Grahn notified opposing counsel that his client would not appear. Opposing counsel noted a motion to compel the client's attendance and impose sanctions. Opposing counsel continued the motion at Mr. Grahn's request, but rescheduled for a date when Mr. Grahn would not be available. The day prior to the motion hearing, Mr. Grahn sent a letter to opposing counsel and the judge indicating he was unavailable for the motion. He did not file a response to the motion or formally request a continuance. The court struck the client's pleadings and imposed \$975 in attorney's fees. Opposing counsel then filed a motion for an order of default. Mr. Grahn appeared, and orally requested that the judge reconsider his earlier order striking the client's pleadings. The court denied the reconsideration request and entered the findings of fact and decree presented by opposing counsel.

Mr. Grahn's conduct violated RPC 1.3, requiring lawyers to diligently represent their clients.

Anne Seidel represented the Bar Association. Clint P. Johnson represented Mr. Grahn.

## Suspended

**Michael J. Pratum** (WSBA No. 16187, admitted 1986), of Federal Way, was sus-

pended for two years by order of the Supreme Court following a hearing, effective May 8, 2002. This discipline is based on his disclosing a client's confidences, failing to avoid conflicts of interest, making misrepresentations to the court, and splitting fees with a nonlawyer from 1992 through 1996. The sanction in this case was affected by significant mitigating factors.

In September 1992, Mr. Pratum agreed to represent a client arrested by the South King County Drug Enforcement Task Force. Prior to contacting Mr. Pratum, the client indicated he was willing to be a confidential informant in exchange for leniency by the police. Mr. Pratum briefly met the client outside the police station prior to a meeting with a detective. During the meeting, the detective provided the client an agreement form setting out the agreement between the client and the police. Mr. Pratum and the detective negotiated changes to the wording of the agreement.

During this meeting, the detective mentioned names of suspected drug dealers who were targets of police investigations. The police asked Mr. Pratum's client to provide information regarding these suspected drug dealers. Coincidentally, Mr. Pratum represented one of the suspected dealers identified by the detective. Mr. Pratum called the suspected dealer and told him of his client's confidential-informant deal and that the police were investigating the dealer. The client testified that almost immediately after leaving the police station, he began receiving threats, in person and by telephone.

In February 1996, Mr. Pratum petitioned for an anti-harassment order against his client. The client's cross-petition stated that Mr. Pratum was his attorney. During the hearing, Mr. Pratum denied that he represented the client.

During this time period, Mr. Pratum agreed to reduce another client's legal fees by \$100 for every new case the client referred, so long as the fee was over a specific dollar amount.

Mr. Pratum's conduct violated RPCs 1.4(b), requiring lawyers to explain matters to the extent reasonably necessary to permit clients to make informed decisions regarding their representation; 1.6, prohibiting lawyers from disclosing clients' secrets and confidences without the client's

consent; 1.7(a) and (b), prohibiting lawyers from representing a client if the representation will be directly adverse to another client or materially limited by the lawyer's own interests, without the client's written consent; 8.4(c), prohibiting lawyers from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and 8.4(d), prohibiting lawyers from engaging in conduct prejudicial to the administration of justice.

Dmitri L. Iglitzin and Sachia Stonefeld Powell represented the Bar Association. Leland Ripley and David Allen represented Mr. Pratum.

### Suspended

Elissa M. Ryan (WSBA No. 23759, admitted 1994), of Portland, OR, was suspended for 18 months by order of the Supreme Court, effective May 3, 2002. This suspension was reciprocal discipline based on RLD 12.6 and a suspension imposed by the Supreme Court of Oregon. This discipline is based on Ms. Ryan's practicing law while her license was suspended in 1997.

In 1997, Ms. Ryan unintentionally missed a payment on her professional liability insurance. ORS 9.080(2)(a) requires all active members of the Oregon State Bar Association to maintain professional liability insurance. Based on this missed payment, the court suspended Ms. Ryan's license, effective April 11, 1997. She learned of the suspension on April 14, but continued to practice law while her license was suspended. She also failed to notify her clients, the court and opposing counsel of her suspension. In her petition for reinstatement, Ms. Ryan stated that she had not practiced law during her suspension.

Ms. Ryan's conduct violated DR 1-102(A)(3), DR 3-101(B), DR 7-102(A)(5), ORS 9.160 and ORS 9.527(4), prohibiting lawyers from practicing law while their license to practice is suspended, and prohibiting misrepresentation.

Felice Congalton represented the Bar Association. Kurt Bulmer represented Ms. Ryan.

# Lawyers' Fund for Client Protection

## 2002 Annual Report

*This is a summary of the Lawyers' Fund for Client Protection annual report as filed with the Supreme Court. This year, the fund committee reviewed 69 applications concerning 30 lawyers. Forty-seven applications were approved. Of the denials, most were deemed to be fee disputes, malpractice claims, or presenting no evidence of a dishonest taking of funds. The following applications were approved:*

**Grosvenor Anshell** (*WSBA No. 9756; Bellevue; suspended*)

Anshell represented an émigré from the Philippines who was seeking asylum status in the United States, and was to file petitions on behalf of the applicant's sons. The applicant paid a total of \$1,200 to Anshell.

After asylum was denied, Anshell stated to both the court and the applicant that he would file an appeal. However, agents from the Immigration and Naturalization Service (INS) arrested the applicant at his place of work and took him to a detention facility. Anshell told him there had been a "big mess-up" and he would try to straighten it out. The applicant then learned that Anshell had not filed an appeal, and that he had done nothing on behalf of the applicant's family members. Subsequently, the applicant hired new counsel. Based on the conclusion that Anshell performed none of the services for which he was hired, the committee approved payment to the applicant of \$1,200.

**John B. Atkinson** (*WSBA No. 14715; Tacoma; disbarred*)

Atkinson represented the applicant in claims against the Department of Labor and Industries (L&I). Atkinson and the applicant entered into a written contingent-fee agreement which provided that Atkinson would represent the applicant in proceedings before L&I for 10 percent of any time-loss recovery and 30 percent of any settlement or verdict. It specifically

provided that there would be no fee charged against current time-loss payments.

Between January 1996 and October 2000, L&I paid a total of \$106,420.21 in disability and time-loss payments to Atkinson on behalf of the applicant. Of those funds, \$37,686 were current time-loss payments which Atkinson properly forwarded to the applicant. The remaining \$68,554 represented lump-sum disability payments to Atkinson, of which Atkinson paid the applicant \$20,140. After his disbarment, Atkinson wrote a letter to the applicant stating: "As you know, there are sums of money recovered from your L&I and personal injury cases for which I, while serving as your attorney, have not accounted to date." He made no accounting. He also wrote that he would "begin making payments of \$100 per week." He made no payments. Based on an analysis of the payments made by L&I on behalf of the applicant, and the fee agreement between the parties, the committee recommended and the trustees approved payment of \$33,548.48.

**Sharon Bartu** (*WSBA No. 17080; Battle Ground; disbarred*)

Bartu was hired by the applicants, who are brothers, to assist them in becoming permanent U.S. residents. One applicant paid \$3,900 to Bartu; the other paid \$3,200.

Bartu filed documents with the INS that would be relevant only if there had been a pending deportation proceeding against the applicants, which there was not. The disciplinary hearing officer concluded that Bartu was incompetent to perform the services for which she was employed and that she charged the applicants "for work that could not have possibly benefited" them, which was an unreasonable fee. The committee approved payments of \$3,900 and \$3,200 to the applicants.

**Clayton C. Cochran** (*WSBA No. 23102; Vancouver; disbarred*)

Last year, the committee approved 14 applications regarding Cochran totaling \$13,120. Cochran abandoned his practice without notice to his clients, and without returning unearned fees, in violation of RPC 1.15(d). As in most of those cases, in these three cases the applicants paid Cochran fees and costs, and then were unable to contact Cochran. Investigation disclosed that in one case, although Cochran filed a motion for custody modification, he never paid the required filing fee and never followed through on the motion. In the others, he performed no services. The committee approved payment to the applicants of \$1,010, \$900 and \$700.

**George W. Cody** (*WSBA No. 6582; Lynnwood; disbarred*)

The applicant was charged with driving under the influence, and paid Cody \$2,500 to represent him. Within a few weeks, the applicant could no longer reach Cody. In April 2001, the applicant was contacted by a lawyer sharing office space with Cody, who advised the applicant that Cody was retired and "in the process of being disbarred," and that he would take over the applicant's case. By June, the new lawyer told the applicant that Cody had not paid him. In his response to the applicant's grievance, Cody wrote that he agreed to pay the new lawyer \$2,000 for his representation of the applicant, but was unable to do so because he had no money. The applicant paid the new lawyer \$2,000. The committee approved payment of \$2,000 to the applicant.

**C. Alan Grider** (*WSBA No. 16927; Clarkston; disbarred*)

The committee and trustees approved four applications concerning Grider totaling \$126,083.

(1) The applicant was the beneficiary of an estate trust drafted by Grider. Grider was co-trustee with the applicant, and was named executor and trustee of the estate. The will provided that the applicant was

to receive a monthly sum of \$1,000, increasing each year by five percent, for life. At the time of death, Grider reported the estate assets as \$110,709.36. A WSBA audit disclosed that the estate's assets actually totaled \$145,890.33. The applicant received monthly checks until September 2000. In November, the applicant learned there were no funds remaining in the estate. The WSBA audit found that approximately \$88,521 was missing from the estate. The committee recommended and the trustees approved payment of the fund maximum of \$50,000.

(2) The applicant hired Grider to represent his minor son in a personal-injury claim from a severe dog bite that was settled for \$60,000. Because the son was a minor, the settlement had to be approved by the court. After all approved amounts were paid or withheld, the balance of the settlement was \$14,272.66, which was to be deposited into a blocked account, not to be disbursed except by court order. The settlement funds were paid to Grider. He never established an account for the son, and the \$14,272.66 is unaccounted for. The committee recommended and the trustees approved payment of \$14,272.66 into a blocked account for the benefit of the minor son.

(3) The applicant hired Grider to probate her husband's estate. They had no fee agreement, but Grider told her: "You'll come out smelling like a rose." Grider received \$45,717.18 from a bank account belonging to the deceased. The applicant was the sole beneficiary. On June 19, 2000, Grider provided the applicant with an accounting for expenses paid by the estate, which showed a remaining balance of \$43,068.05. None of this money was paid to the applicant. The committee recommended and the trustees approved payment of \$42,067.18.

(4) When the applicant's grandfather died, Grider telephoned her, since her grandfather's wife had worked as Grider's secretary for many years. The grandfather left no will. Grider told the applicant that her grandparents "had no real money to speak of, and many bills," and that he would handle the estate. He said that anything left after paying bills would be paid to the applicant and her brother (who subsequently died in 2000). The applicant says she had no reason not to have complete trust in Grider. In May 1998 Grider filed

an application for probate in Nez Perce County, Idaho, where the deceased lived, although Grider was not admitted to practice in Idaho.

The pleadings, showing Grider's mailing address, identify the attorney for the estate as an Idaho lawyer who had applied to work for Grider in May 1998, and whom Grider told that he was not hiring anyone. In letters to the Idaho State Bar, the lawyer said she never worked in Grider's law office and never agreed to associate with him on any case. Other than the initial application for probate, there were no further filings with the court. Grider told the applicant that he had located a checking account from which he sent \$2,015 to the applicant for her and her brother. Grider also told her that her grandfather's house, which was on leased Indian land, had a \$33,000 loan outstanding against it, and that he had sold it for enough to pay off the loan and closing costs. After Grider's disbarment, the applicant reviewed her grandfather's estate file and discovered that Grider misrepresented the assets and value of the estate, and that Grider paid himself fees totaling \$14,304. The committee recommended and the trustees approved payment to the applicant of \$16,743.

**James A. Heard** (*Bar No. 12272; Aberdeen; suspended*)

Heard was the subject of two disciplinary proceedings, one of which was ordered stayed in 1998 pending a hearing into Heard's capacity to defend himself. At the time the stay was ordered, in the other proceeding the Supreme Court remanded to the Disciplinary Board to re-evaluate the restitution ordered. Because of the pending unresolved inquiry into Heard's competency pursuant to RLD 10.2, the Disciplinary Board entered an order on May 13, 2002, that it could not proceed further on the restitution issue. Because Heard's current whereabouts are unknown, it does not appear that the restitution issue will be resolved except by the Lawyers' Fund for Client Protection.

Heard represented the applicant on a one-third contingent-fee basis to recover for injuries sustained in an accident as a motorcycle passenger. Heard settled the case and obtained \$50,000 cash in settlements with two insurance companies. The rest of the settlement was from the mo-

torcycle driver in the form of: (1) a 1987 Mazda RX7, which was claimed to be worth \$15,000, although it was never appraised (at the time, the Kelley Blue Book listed the value of a 1987 Mazda RX7 at \$6,120); (2) a \$35,000 unsecured promissory note; and (3) a quit-claim deed for an alleged \$50,000 interest the defendant held in his sister's house.

Heard took all of the \$50,000 cash from the settlement, claiming it as his one-third contingent fee. The applicant never agreed to this arrangement, and Heard never gave her an accounting of the settlement. The applicant received the Mazda; the \$35,000 promissory note was accepted by the Department of Social and Health Services in full satisfaction of a \$46,890 lien. As to the interest in the defendant's sister's house, the house was never appraised, and there was no recorded security interest. Heard learned that the sister intended to sell the house but did not inform the applicant. The house was sold, and the applicant received nothing.

The committee recommended and the trustees approved accepting the note at its face value (\$35,000); the car at its Kelley Blue Book value (\$6,120); and the quit-claim deed as valueless for purposes of making a gift from the fund. Based on these values, the total recovery would have been \$91,120. Heard's one-third fee would have been \$30,373, leaving \$19,627 owing to the applicant (\$50,000 minus \$30,373).

**John Hess** (*WSBA No. 22308; Seattle; disbarred*)

The committee approved 12 applications concerning Hess totaling \$24,631, ranging from \$700 to \$4,400. In most of these cases, Hess accepted a fee to perform legal services. He did not perform those services, nor did he advise his clients after he was suspended from practice and had abandoned his office. He failed to advise some clients of pending court dates, and he made misrepresentations to clients and others. He returned no unearned fees.

**Zachary A. Kinneman** (*WSBA No. 19443; Seattle; disbarred*)

Kinneman abandoned his practice in early 1999 without notice to his clients and others. The applicant paid Kinneman \$250 for representation in a dispute with a contractor. Kinneman told him that because

the amount in dispute was so small (\$704) he would charge him only \$150, plus costs. Kinneman was generally unresponsive to the applicant, and in a letter, Kinneman apologized for his "lapse in communication," which he attributed to a family medical emergency. He enclosed a summons and complaint that he had prepared, writing: "As soon as we have the case scheduled I will provide you with a copy." The applicant learned that Kinneman had abandoned his practice and that his case had never been filed. The committee approved payment of \$250.

**Robert J. Lincoln** (*WSBA No. 15170; Bellevue; deceased*)

In January 1999, the applicant employed Lincoln to represent her in a marriage-dissolution and child-custody proceeding that had been commenced by her husband, and in a bankruptcy filing. The applicant paid Lincoln \$3,725, including \$500 designated on the check as "retainer for court report." Lincoln did no work on the bankruptcy. He did not tell the applicant that he was the subject of a disciplinary proceeding and that he had signed a stipulation to a one-year suspension one week before the applicant hired him, or that subsequently he was ordered suspended for 12 months. When Lincoln died, his trust account had a \$0 balance, and his estate had no assets. The committee approved payment of \$1,003, representing the \$750 fee paid for a bankruptcy that was never filed; and \$278, which was the balance remaining after the court-reporter fee was paid.

**James R. McLees** (*WSBA No. 2785; Sumner; suspended*)

The applicant hired McLees to represent him in two matters in connection with an on-the-job injury: to seek additional recovery from the Department of Labor and Industries (L&I) on a claim the applicant had previously filed; and to seek recovery on his personal injury against the other party involved in the accident. The applicant signed a one-third contingent-fee agreement. Subsequently, McLees had the applicant sign a new fee agreement in the L&I case which provided that McLees would receive 33 and one-third percent "out of any additional recovery." However, RCW 51.52.120 limits lawyers' fees to 30 percent of an L&I award recovery.

At McLees' request, the applicant di-

rected L&I to make all payments through McLees. L&I determined that the applicant should be awarded \$8,690.49 in partial permanent disability payments, which were sent to McLees. He did not advise the applicant of his receipt of the funds or that he withdrew most of them from his trust account for his own purposes.

McLees filed a personal-injury action, which was settled for \$44,000. The settlement agreement provided that the applicant would receive \$18,500, L&I would receive \$12,000, and McLees would receive \$13,500 for fees and costs; however, McLees paid himself at least \$14,025.44 from these funds.

McLees stipulated to suspension and to make restitution to the applicant or the fund of \$6,611.66 plus interest from May 1992. The committee approved payment of \$6,611.66 to the applicant.

**John O. McLendon** (*WSBA No. 1187; Spokane; disbarred*)

In 1997, the committee approved three applications following McLendon's suspension from practice in which restitution was ordered. McLendon's failure to pay restitution in those matters resulted in a January 2002 Disciplinary Board recommendation that he be suspended for 60 days. In the meantime, in a separate matter, McLendon was disbarred on March 7, 2002.

(1) McLendon was employed on a contingent-fee basis in a wrongful-termination action against a school district. There was no written fee agreement. The applicant paid McLendon \$1,500. The applicant accepted settlement for \$16,000 from the school district and signed a disbursement letter which provided for payment of fees to McLendon of one-third of the settlement (\$5,333.34) and payment to the applicant of \$10,556.66. There is no mention in the disbursement letter or accounting for the \$1,500 previously paid to McLendon. The committee approved payment of that amount to the applicant.

(2) The applicant paid McLendon \$750 for representation in an agreed child-custody modification to transfer custody of the child to the applicant. McLendon prepared a proposed parenting plan and other documents for the signatures of the applicant and his former wife, who signed the documents and returned them to McLendon. McLendon said he would file them,

and that the applicant would receive a copy of the court order in the mail. About six months later, the applicant learned the documents had not been filed and he had not been awarded custody of his daughter. The applicant's former wife moved to Florida, and any further petition to change custody would need to be filed there. The committee approved payment of \$750 to the applicant.

**Sally J. Murray** (*WSBA No. 24851; Edmonds; disbarred*)

In 1999 and 2000, the committee approved three applications concerning Murray, who originally practiced as a sole practitioner. During 1997, she formed a law corporation with another lawyer, LG. Murray was the managing partner, controlled the business and trust accounts, and was responsible for issuing paychecks to LG. On several occasions, LG's paycheck was returned for insufficient funds. In November, Murray advised LG that she would be unable to pay him, and LG terminated his relationship with her.

The applicant paid Murray \$1,800 to file suit against an auto-rebuild company. Murray assigned his case to LG, who met with the applicant one time. Shortly thereafter, the applicant telephoned Murray's office to speak with LG and was told he was no longer there. Murray said she would handle the case. After that, the applicant was unsuccessful in contacting Murray. He contacted the WSBA and learned that Murray was suspended. He then contacted the court clerk and learned that no complaint had been filed. The committee approved payment to the applicant of \$1,300.

**Stephen L. Palmberg** (*WSBA No. 3178; Grand Coulee; disbarred*)

Palmberg was suspended from practice July 25, 2001, for failure to pay his annual license fee. He continued to practice law and accept new clients after his suspension.

(1) The applicant paid Palmberg \$1,350 to represent his 15-year-old son on an assault charge. Palmberg failed to appear at a pretrial hearing, which was continued for two weeks. On the date of the continued hearing, Palmberg called the applicant to say he was "dropping the case." The applicant and his son went to court, and the judge telephoned Palmberg's office, where

a phone message stated that the office was closed for "re-organizing." The judge also learned that Palmberg's secretary had quit, and had called the court about her concerns. A public defender was appointed to represent the son. Palmberg promised to refund \$1,350 to the applicant, but did not do so. The committee approved payment to the applicant of \$1,350.

(2) The applicant paid Palmberg \$1,350 to represent her in a child-custody and guardianship proceeding in the Colville Tribal Court. At a hearing on temporary custody, opposing counsel learned that Palmberg had represented her client in a previous custody proceeding involving the same child. Opposing counsel tried to obtain Palmberg's agreement to withdraw. She was unable to do so, and filed a motion to disqualify Palmberg. Palmberg did not respond until the day of the disqualification hearing. Palmberg, who had been suspended from practice a few days before, did not advise his client, opposing counsel or the court of his suspension. He signed a concurrence with opposing counsel's motion. On that same date, the court granted custody of the child to the opposing client and discharged the applicant as guardian. The committee approved payment of \$1,350 to the applicant.

(3) The applicant paid Palmberg \$1,350 to represent him on various criminal charges. Subsequently, the applicant paid an additional \$1,350 for representation on charges of driving under the influence and disorderly conduct. At that time, Palmberg had been suspended from practice and was not authorized to represent the applicant or to accept fees for new legal matters. A hearing was set on one of the matters and Palmberg told the applicant that he was going to have it continued, but he did not do so. The applicant went to court, but Palmberg did not appear. The applicant learned at that time that Palmberg was suspended. Palmberg did not refund the applicant's fee. The committee approved payment of \$2,700 to the applicant.

(4) The applicant paid Palmberg \$900 for representation in a dissolution of marriage. Palmberg, who was suspended from practice at that time, had no further communication with the applicant, did not tell her he was suspended, and never returned her fee. The committee approved payment of \$900 to the applicant.

**Brad A. Plumb** (*WSBA No. 20337; Spokane; disbarred*)

The committee previously approved two applications concerning Plumb, who was disbarred for misconduct in making unemployment claims.

The applicant paid Plumb \$2,500 for representation in a dispute with a contractor. Plumb wrote one letter to the contractor demanding return of \$10,000. During the next year and one-half, the applicant would call Plumb, who took no action, saying that he was waiting to see if the contractor would be filing bankruptcy. Other than the letter and a phone call, Plumb took no action to seek recovery from the contractor.

In March 2000, Plumb was disbarred; he did not tell the applicant of his disbarment. She learned of it from another lawyer who was representing her son. The applicant contacted Plumb, who refused to refund any money or provide any billing or accounting of her funds, although he sent the applicant her file. It appears that he did check to determine whether the contractor had a valid contractor's bond; there was nothing else of substance in the file. The committee approved payment to the applicant of \$2,500.

**Jeffrey B. Ranes** (*WSBA No. 7732; Montesano; disbarred*)

Ranes was suspended from practice pending the outcome of discipline. He advised the applicants in these cases of his suspension, but failed to complete the services for which he was hired, and failed to return unearned fees after his suspension. The committee approved five applications for \$1,000, \$700, \$500, \$400 and \$120.

**Daniel J. Rodriguez** (*WSBA No. 27321; Tacoma; disbarred*)

Rodriguez was charged with child rape and molestation. He failed to appear for arraignment, and abandoned his practice. Pursuant to rule 8.6 of the Rules for Lawyer Discipline, a custodian was appointed to protect his clients' interests. Rodriguez was disbarred.

The applicant hired Rodriguez to represent him on appeal from a criminal conviction. Rodriguez visited the applicant at the Kitsap County Jail. The applicant says Rodriguez agreed to represent him for a flat fee of \$5,000. The applicant gave Rodriguez a check for \$6,000; \$4,000 was

to be paid to Rodriguez and \$2,000 to another lawyer, which Rodriguez delivered. Rodriguez filed a notice of appeal, but he neither paid the required filing fee nor a motion for an order of indigency. He filed a motion to extend time to pay the filing fee or to move for an order of indigency. The court granted an extension, and on that date Rodriguez wrote to the court stating he would file a motion for an order of indigency. He never filed such a motion nor paid the filing fee. The Court of Appeals remanded the matter to the trial court. The committee approved payment of \$4,000.

**Chul Shirts** (*WSBA No. 24993; Vancouver; disbarred*)

The committee approved two applications regarding Shirts.

(1) The applicant paid Shirts \$800 for representation in a child-custody modification. She also gave Shirts various tax and financial records. Prior to their next appointment, Shirts called to cancel. After that, the applicant was unable to contact Shirts either by phone or at his office. Shirts never performed any services for the applicant, and never returned her documents or the \$800. The committee approved payment in that amount.

(2) The applicant paid Shirts \$630 to seek child-custody modification. The applicant resided in Arizona, but came to Washington to meet with Shirts, who said he would prepare the necessary papers and contact her. When she didn't hear from him, she called and wrote to him but got no response. When she finally reached him, he said he would file the petition for modification. The applicant heard nothing further, and eventually advised Shirts that since her son was now 18, they would no longer need Shirts' help. Shirts said he would return her money, since he had never filed any papers, but never refunded her fee. The committee approved payment of \$630.

**Daniel S. Wilner** (*WSBA No. 21690; Kitsap County; disbarred*)

The committee previously approved 14 applications totaling \$20,279 concerning Wilner during fiscal year 2001.

The applicant paid Wilner \$3,000 for representation in a marriage-dissolution proceeding filed by his wife. He paid Wilner an additional \$1,500 that Wilner

told him he needed to take a deposition of the applicant's wife; however, no deposition was taken. Wilner filed a notice of appearance, prepared documents, and performed some services, then withdrew. The committee approved payment of \$1,500, and denied the remainder of the application as a fee dispute.

**Jonathan T. Zackey** (WSBA No. 21657; Bellevue; disbarred) Last year, the committee approved two applications concerning Zackey totaling \$1,900.

The applicant hired Zackey for representation on a personal-injury claim on a one-third contingent-fee basis. The applicant, who says she had difficulty communicating with Zackey, became concerned about her case and filed a grievance with the WSBA. Zackey responded that he had settled the applicant's claim for \$4,316, with her permission. Zackey endorsed the settlement check "[Applicant] by and through her attorney of record Jonathan T. Zackey per P. of A. and Jonathan T. Zackey her attorney." The applicant says she only learned of his receipt of the funds when he responded to her grievance. Zackey deposited the funds into his IOLTA trust account, and subsequently converted the funds to his own use. Zackey was entitled to one-third of the recovery as his fee (\$1,438.66). He also showed an accounting for \$56.13 in costs. The committee approved payment to the applicant of \$2,821.21.

The lawyers on whose behalf the fund makes payments are obligated to make restitution to the fund. Although the fund has sought other means of recovery, in most cases, recovery only occurs as a condition of criminal sentencing with the cooperation of county prosecuting attorneys, or when a disbarred lawyer seeks reinstatement. During the last fiscal year, the fund received \$11,400 in restitution.

The Washington State Bar Association administers the fund. Most investigations of application claims are conducted by the Office of Disciplinary Counsel in connection with investigation of disciplinary grievances. At the request of the WSBA, the Supreme Court approved an amendment to APR 15 to provide subpoena power to the fund committee for any additional investigation it needs to carry out.

Direct and indirect costs of administering the fund are charged to the fund, and during the last fiscal year totaled \$20,357, or approximately six percent of revenue.

For a copy of the 2002 annual report of the Lawyers' Fund for Client Protection, or for information about the Lawyers' Fund for Client Protection, see the WSBA Web site at [www.wsba.org/client-protection](http://www.wsba.org/client-protection); call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA; or e-mail your request with your mailing address to [questions@wsba.org](mailto:questions@wsba.org).

*The committee chair is Issaquah attorney Richard M. Holt. WSBA General Counsel Robert Welden is staff liaison to the committee.*

### Creditor/Debtor Section Report

*The section report for the Creditor/Debtor Section was inadvertently left out of the November issue. We apologize for the omission.*

Continuing its 15-year tradition, the section cosponsored the Annual Northwest Bankruptcy Institute; this year's seminar brought a record number of attendees. Section members have been active in providing financial and professional support to *pro bono* and community legal-services organizations, including the Debtor-Creditor Resource Project and the Spokane County Bar Volunteer Lawyers Program. Many section members were active in drafting and proposing legislation in areas such as garnishment, exemptions and receiverships.

### Washington Defender Association Board of Directors

**Application deadline:** December 31, 2002

The WSBA Board of Governors is accepting letters of interest from members interested in serving a three-year term on the Washington Defender Association board of directors. The three-year term will commence in January 2003. The board generally meets 10 or 11 times per year. In addition, individual members, particularly the president, assist in meetings with government officials and in advising management of the Washington Defender Association on a wide range of issues. The board has hiring and firing authority over the director; and approves annual budgets, contracts with King County, and bargaining agreements with the union. It also has a mediation and review role in disputes with union members. Please submit a letter of interest and résumé to WSBA Executive Director, 2101 Fourth Ave., Suite 400, Seattle, WA 98121-2330 or e-mail [barleaders@wsba.org](mailto:barleaders@wsba.org).



Photos: J01 (SW) Andrew Garten

**ABOVE:** Military lawyers following swearing-in ceremony.

**LEFT:** Lt. Jonathan Ricketts, JAGC, USNR.

### New Court Rule Benefits Enlisted Military Personnel

E-1 through E-4 enlisted military personnel may now get legal representation from military lawyers in state courts. Washington joined Florida, South Carolina and Illinois in permitting military attorneys licensed in other states to appear in state court on behalf of military clients. Rule 8(g) was approved by the Supreme Court. The swearing-in of the first group of military lawyers occurred at the Temple of Justice in Olympia on October 8, 2002. (See July 2002 *Bar News*, p. 28 for more information.)

**CLE Bookstore Open**

The WSBA CLE bookstore will be open at the WSBA office (2101 Fourth Ave., Ste. 400) from December 2 to December 31. Hours of operation will be 9:00 a.m. to 4:30 p.m., Monday through Friday, with the exception of Wednesday, December 25, when the bookstore will be closed, and Tuesday, December 24, and Tuesday, December 31, when the bookstore will be open from 9:00 a.m. until noon. Available MCLE A/V credit-approved material will include a limited supply of selected taped seminars with coursebooks. Payment may be made by cash, check, MasterCard or Visa. (You may claim up to 15 total A/V credits for the current reporting period. All ethics credits can be acquired using approved A/V self-study.) See "bookstore spotlight" on the WSBA Web site at [www.wsba.org](http://www.wsba.org).

**MCLE Reporting Time***Group 2*

Active WSBA members who are in Reporting Group 2 (active members admitted from 1976 through 1983; or in 1992, 1995, 1998 or 2001\*) will report CLE credits for activities undertaken in 2000, 2001 and 2002.

**\*Newly Admitted Members**

Newly admitted members are exempt from reporting CLE credits during their year of admission and the following calendar year. Thus, if you were admitted in 2001, you will not report this reporting period even though you are in Group 2. You will first report at the end of 2005. (New admittees may earn CLE credits, however, starting from their admission date, and those credits may be applied toward their first reporting period.)

**CLE Compliance**

If you are in Reporting Group 2, please do the following to meet your CLE requirements:

- 1) Complete approved CLE credits totaling at least 39 general and six ethics for the three-year period (2000 through 2002); at least 30 credits must be live;
- 2) Submit these credits and attendance to the WSBA either through the sponsor or directly to the WSBA (or, if you are satisfying your CLE requirements through comity, attach a Certificate of Compliance to your C2);
- 3) Sign the C-2 Compliance Affidavit certifying attendance of the listed courses; and
- 4) Send the C-2 Compliance Affidavit to the WSBA by February 3, 2003.

**Sponsor Attendance Reports**

Remember that although sponsors are now responsible for reporting credits from live seminars, each individual attorney attending live seminars is responsible for informing the sponsor of the amount of credit earned for that seminar. If you do not attend the entire seminar, please inform the sponsor, so that the sponsor can report accurate CLE attendance credit data.

**Reporting Forms**

Your C-2 Compliance Affidavit contains all courses and credits to your record for 2001-2002 CLE activities submitted by sponsors. Please review it carefully and make any necessary changes. Add any live CLE activities you attended that are

not preprinted on your C2 affidavit. If you have CLE credits for activities in 2000-2002 that were earned through A/V courses, you must enter this information. You must then sign, under penalty of perjury, that the credit information you submit is true and correct.

**MCLE Credit-Tracking System**

Through a confidential password you are able to go to your individual record in the MCLE database and make changes to your personal information, add approved CLE activities, apply for course approval, and make corrections to your credit amounts. (For access instructions, see below.) There is online help information to assist you. If you need further assistance, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

**Online MCLE Credit-Tracking System**

Using the online MCLE Credit-Tracking System, you can do the following:

- View your CLE courses and credits on your online attendance roster.
- Make changes to your online attendance roster.
- Search for approved courses.
- Apply for course approval.

To enter the MCLE Credit-Tracking System, go to <http://pro.wsba.org> and click on the Member tab. Select Member Login, and follow the onscreen instructions. If you have questions, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

**License Fee Reminder****Licensing Packets**

Licensing packets, which include your license-fee invoice, trust account and MCLE reporting (C-2 Compliance Affidavit, if applicable) forms, will be mailed in December. If you have not received your licensing packet by the first week in January, please call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail [questions@wsba.org](mailto:questions@wsba.org) to request a duplicate. Please note that it is your responsibility to pay your annual license fee, regardless of whether you receive the licensing packet.

**Address Changes**

Now is the ideal time to check that the WSBA has your correct address in its database. You can check by going to the online lawyer directory on the WSBA Web site at [www.wsba.org/directory](http://www.wsba.org/directory). If your address has changed, please notify the WSBA Service Center as soon as possible by e-mailing [questions@wsba.org](mailto:questions@wsba.org) or faxing the change to 206-727-8319.

**Fees**

In addition to your license fee, per APR 15, the Supreme Court has ordered that all active members must pay a \$13 assessment to the Lawyers' Fund for Client Protection (LFCP). To avoid penalties, we encourage you to pay your mandatory fees promptly. If the annual license fee is not paid by March 3, 2003, a 20 percent late-payment penalty is imposed. After April 1, 2003, a 50 percent late-payment penalty is imposed. If your license fee, penalty assessment or LFCP fee remain unpaid after May 1, 2002, the delinquency will be certified to

the Supreme Court, which will enter an order of suspension from the practice of law. In order to be reinstated to your former status after suspension for nonpayment, you must pay double the amount of the combined fee and penalty (triple the original fee). For active members, nonpayment of the LFCP fee is also cause for suspension.

**More Information**

For more information, please see the WSBA Web site at [www.wsba.org/licensing](http://www.wsba.org/licensing), or contact the WSBA Service Center at 800-945-WSBA, 206-443-WSBA or [questions@wsba.org](mailto:questions@wsba.org).

**17th Annual Goldmark Awards Luncheon**

*Friday, February 28, 2003*

*Noon to 1:30 p.m.*

*Washington State Convention & Trade Center, Seattle*

The Charles A. Goldmark Award for Distinguished Service is given annually to an exceptional individual or organization that, by their vision, leadership and creativity (passionately executed) provided meaningful access to our civil justice system for Washington's most vulnerable residents. The award recognizes outstanding legal assistance, whether it be representation in a court of law, mediation, changes to law or policy favorable to low-income people, public education of our legal rights and responsibilities, or any other manner of law-related work. The Goldmark Award will be presented during the Legal Foundation of Washington's annual luncheon.

**YES**, I would like to honor the work of legal services by attending the luncheon. I will bring \_\_\_\_ additional guests. (\$40/person enclosed).

**YES**, I would like to be a Goldmark donor (\$100 enclosed). Two lunches will be provided and a contribution of \$20 will help cover luncheon expenses.

**NO**, I cannot attend the luncheon, but I would like to support the luncheon with a donation of \$\_\_\_\_\_.

Name(s): \_\_\_\_\_

Indicate if vegetarian meal preferred.

Show your support for access to justice by purchasing an individual ticket to the luncheon or accepting one of the other donation opportunities.

Please clip out and return the above coupon with your check payable to: Legal Foundation of Washington, 500 Union Street, Suite 545, Seattle, WA 98101; phone 206-624-2536, ext. 10; fax 206-382-3396; or visit <http://www.legalfoundation.org>. The Legal Foundation of Washington is a 501(c)(3)-status institution.

**Nominations Open for Devitt Distinguished Service to Justice Award**

The American Judicature Society is accepting nominations for the 2002 Edward J. Devitt Distinguished Service to Justice Award. Nominations are due February 1, 2003, should be submitted in writing, and should explain the nominee's accomplishments and professional activities that have contrib-

uted to the cause of justice. Nomination guidelines are available at <http://www.ajs.org> or by calling 312-357-8811.

**Web Site Links from Lawyer Directory**

A link to your Web site can be added to your directory listing, so current and potential clients can find out more about you and your practice at the click of a button.

The fee is \$75 annually (\$50 if you sign up July 1 or later). If your firm has seven or more lawyers, you'll save through our special pricing structure. Special pricing is also available for those who work for nonprofit or government agencies. For more information and sign-up instructions, see [www.wsba.org/directory/addlink](http://www.wsba.org/directory/addlink).

**ABA Accepting Nominations for Margaret Brent Award**

Nominations for the Margaret Brent Women Lawyers of Achievement Award are being accepted through December 13 by the ABA Commission on Women in the Profession. The award honors outstanding women lawyers who have achieved professional excellence within their area of specialty, and have actively paved the way to success for other women lawyers. For more information or to obtain a nomination form, call 312-988-5668; e-mail [walterj@staff.abanet.org](mailto:walterj@staff.abanet.org); or see <http://www.abanet.org/women/nomform.html>.

**Snohomish County Swearing-In**

On November 6, at a ceremony organized by the Snohomish County Bar Association, more than 30 new members of the Bar were sworn in and welcomed to the profession. Snohomish County Superior Court Judge Joseph Thibodeau administered the Oath of Attorney and shared an inspiring personal anecdote about the beginning of his legal career. In his address to the new lawyers, WSBA Governor Ronald Ward spoke about the nobility of the legal profession.



*ABOVE: New members take the Oath of Attorney.*



*RIGHT: Governor Ward speaks to the newest members of the WSBA.*

**King County District Court Announces Consolidation Plan**

All cases previously filed in the Federal Way and Renton divisions of King County District Court have been transferred to the Aukeen Court in Kent and Southwest Court in Burien, respectively, as part of the King County District Court consolidation plan. For more information about new judicial districts, see <http://www.metrokc.gov/kcdc/changes>.

**Newer Admittees Need Your Lawyering Skills**

The WSBA's Lawyer-to-Lawyer Program matches newer admittees with experienced lawyers. Help new lawyers get a head start on learning those lawyering skills not found in any textbook. The program is not a structured mentoring program and does not supplant any similar programs of local or specialty bars. We connect lawyers with similar practices in the same geographic area for mutual information-sharing and goodwill. For more information, contact Pete Roberts at 206-727-8237 or peter@wsba.org.

**Usury Rate**

The average coupon equivalent yield from the first auction of 26-week treasury bills in November 2002 is 1.424 percent. The maximum allowable interest rate for December is therefore 12 percent. Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills and

past maximum interest rates for June 1988-June 1999 appear on page 53 of the June 1999 *Bar News*. Information from January 1987 to date is on the WSBA Web site at [www.wsba.org/barnews/usuryrate.html](http://www.wsba.org/barnews/usuryrate.html).

**Find Your Court Date Online**

The Washington Administrative Office of the Courts (AOC) has unveiled a newly automated program to find appearance dates for cases in Washington district and municipal courts. Located at <http://www.courts.wa.gov/calendars>, the program enables the public to locate future proceeding dates by entering a valid name or case number. This new program utilizes information from the Judicial Information System, which provides case-management automation to Washington courts. The program includes systems for appellate, superior, limited jurisdiction and juvenile courts.

**Take an Interest in the Return on Your IOLTA Account — the Payoff Is Huge**

Compare your financial institution's interest rate with others handling IOLTA accounts. How does it compare to leaders like Wells Fargo at 3.92 percent or Bank of America at 2 percent? Does it waive fees like US Bank? Give your banker a chance to show how much he or she wants your business. The board of the Legal Foundation

of Washington is responsible for granting IOLTA funds to nonprofit groups that provide critically needed civil legal aid to low-income people. Legal Foundation staff are willing to help you make your case. Call 206-624-2536, ext. 10. *(Note: Institutions shown in bold type are those paying an interest rate of 1.2% or higher, and/or waive fees. Asterisks indicate institutions which do not charge fees on IOLTA accounts.)*

<b>American Marine Bank*</b>	<b>0.25%</b>	Fife Commercial Bank	1.00%	Phoenix Savings Bank	0.50%
AmericanWest Bank	.15% - .50%	First Community Bank	0.35%	<b>Pierce Commercial Bank*</b>	<b>1.00%</b>
Anchor Savings Bank	1.00%	First Federal Savings & Loan	0.25%	<b>Prime Pacific*</b>	<b>0.25%</b>
Asia Europe America's Bank	1.00%	First Heritage Bank	1.00%	<b>Puyallup Valley Bank</b>	<b>1.80%</b>
<b>Baker Boyer Bank</b>	<b>2.40%</b>	First Independent Bank	0.50%	Redmond National Bank	1.00%
<b>Bank of America</b>	<b>2.00%</b>	First Mutual Bank	0.70%	<b>Riverview Community Bank*</b>	<b>0.35%</b>
<b>Bank of Clark County*</b>	<b>0.50%</b>	<b>First Savings Bank of Renton</b>	<b>1.40%</b>	Security State Bank	0.20%
<b>Bank of Fairfield</b>	<b>1.75%</b>	Foundation Bank	0.30%	Skagit State Bank	1.00%
Bank of Grays Harbor	0.74%	Frontier Bank	0.50%	Sound Banking Company	0.25%
Bank of the Northwest	0.25%	<b>GESA Credit Bank</b>	<b>2.00%</b>	SouthSound Bank	0.25%
<b>Bank of the Pacific*</b>	<b>0.75%</b>	<b>Golf Savings Bank*</b>	<b>0.25%</b>	<b>Spokane Teachers' CU*</b>	<b>1.50%</b>
Bank of the West	0.25%	<b>Great Northwest Federal CU*</b>	<b>1.26%</b>	<b>State Bank of Concrete*</b>	<b>1.25%</b>
Bank of Washington	0.50%	Harbor Bank	0.50%	State National Bank of Garfield	0.70%
<b>Bank of Whitman*</b>	<b>0.50%</b>	Harbor Bank	0.50%	<b>Sterling Bank*</b>	<b>0.25%</b>
Banner Bank	0.25%	Harbor Community Bank	0.25%	<b>Twin City Bank*</b>	<b>1.20%</b>
<b>Bay Bank*</b>	<b>0.78%</b>	<b>Heritage Bank*</b>	<b>0.25%</b>	<b>Twin County Credit Union*</b>	<b>2.00%</b>
<b>Cashmere Valley Bank*</b>	<b>0.60%</b>	HomeStreet Bank	0.50%	Twin River National Bank	0.25%
Centennial Bank	0.10%	<b>Horizon Bank*</b>	<b>1.00%</b>	Union Bank of California	1.00%
Central Valley Bank	1.00%	<b>Inland Northwest Bank*</b>	<b>1.00%</b>	<b>US Bank*</b>	<b>1.25%</b>
<b>Charter Bank*</b>	<b>0.10%</b>	<b>Islanders Bank*</b>	<b>1.00%</b>	<b>Valley Bank*</b>	<b>0.25%</b>
CityBank	1.00%	Key Bank	0.90%	Viking Community Bank	1.00%
<b>Coastal Community Bank*</b>	<b>1.00%</b>	Key Bank	.90% - .95%	Washington Mutual Bank	0.25%
<b>Columbia Bank</b>	<b>1.50%</b>	Kitsap Bank	.35% - 1.0%	<b>WSBA Credit Union*</b>	<b>0.50%</b>
<b>Columbia River Bank*</b>	<b>0.25%</b>	Mt. Rainier National Bank	0.50%	<b>Washington Trust Bank</b>	<b>2.00%</b>
<b>Columbia Trust Bank*</b>	<b>1.00%</b>	NCW Community Bank	0.25%	<b>Wells Fargo Bank</b>	<b>3.92%</b>
Commerce Bank of WA	0.50%	North Cascades National Bank	0.10%	West Coast Bank	0.75%
<b>Community First Bank*</b>	<b>1.50%</b>	<b>Northstar Bank*</b>	<b>0.25%</b>	<b>Westside Community Bank*</b>	<b>0.30%</b>
<b>Coulee Dam Federal CU*</b>	<b>1.00%</b>	<b>Olympia Credit Union*</b>	<b>2.00%</b>	Westsound Bank	1.00%
Eastside Commercial Bank	0.50%	<b>Olympia Federal Savings*</b>	<b>0.25%</b>	Wheatland Bank	0.50%
Evergreen Bank	0.25%	Pacific Northwest Bank	0.50%	<b>Whidbey Island Bank*</b>	<b>0.75%</b>
EverTrust Bank	0.35%	<b>Pend Oreille Bank*</b>	<b>2.00%</b>	Yakima National Bank	0.25%
<b>Farmers State Bank</b>	<b>1.25%</b>	Peoples Bank	.10% - 1.5%		

### The WSBA Store Is Open

The WSBA online store is open at [www.wsba.org/store](http://www.wsba.org/store). Purchase Cutter & Buck polo shirts, twill baseball caps, ball-point pens, and brass luggage tags emblazoned with the WSBA logo. The store features secure online credit-card ordering. You may purchase logo merchandise by calling the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

- Polo shirt (pewter or white, size L or XL) – \$56
- Baseball cap (stone) – \$24
- Ballpoint pen – \$12
- Luggage tag – \$7

Prices include shipping and handling. Sales tax (8.8 percent) will be added to orders shipped within Washington.

### Community Justice Center Opens

Residents of Bellevue's Crossroads neighborhood now have access to free legal advice and information through the new Crossroads Community Justice Center, a project of the Access to Justice Institute at Seattle University School of Law. The center is open every Thursday in the Jewish Family Services building at 1811 156th Pl. NE, Ste. 2. Each week, local lawyers provide educational presentations on legal issues. Anyone desiring further assistance is interviewed by a Seattle University law student and is given an appointment to meet with a lawyer the following week. Three more community justice centers are planned for low-income neighborhoods in King and Pierce counties. Contact Eric Walter at 206-296-6114.

### Law Week 2003

Law Week 2003 is an exciting opportunity for lawyers and judges to bring public legal education into the classroom. Each year, Law Week provides an enriching experience to youth through positive interactions with lawyers and judges. Law Week 2003 will take place the week of May 1. To learn more about the program or to participate, visit [www.lawweek.org](http://www.lawweek.org) or contact Lisa Harper at 206-733-5944 or [lisak@wsba.org](mailto:lisak@wsba.org).

### Seattle Municipal Court Has Moved

The Seattle Municipal Court has moved to the new Seattle Justice Center at 600 Fifth Avenue in downtown Seattle.

## Congratulations to Those Who Passed the Summer 2002 Bar Exam!

**Note:** *Individuals listed are from Washington unless otherwise indicated.*

Abele, Kathryn B., Kirkland  
 Abramova, Maria, Newcastle  
 Ackerman, Ethan K., Seattle  
 Alenduff, Rachel N., Bellevue  
 Alessi, Sasha Paul, Seattle  
 Anders, Kristen Lynn, Spokane  
 Anderson, Alisa Ingrid Risse, Seattle  
 Anderson, Christopher L., North Garden, VA  
 Anderson, Leslie J., Long Beach  
 Anderson, Susan H., Vashon  
 Antholz, Shane J., Medford, OR  
 Arai, Ryan Alan, Kirkland  
 Armstrong, Sarah, Seattle  
 Armstrong, Loren G., Seattle  
 Atchison, Jennifer Morgan, Seattle  
 Atkinson, Mary E., Marysville  
 Augustine, Stacy S., Tacoma  
 Ausserer, Jared E., Seattle  
 Azure, Anthony H., Seattle  
 Bagwell, Kenneth W., Poulsbo  
 Bahner, Julia A., Seattle  
 Baldwin, Kandis M., Seattle  
 Ball, Jennifer Redman, Redmond  
 Ballo, Jill Morgan, Shoreline  
 Banahan, Mary Katherine, Seattle  
 Barham, Kristie, Seattle  
 Barretto-Ko, Geraldine N., Las Vegas, NV  
 Battin, Sara Catherine, Seattle  
 Beane, Amanda J., Seattle  
 Bearman, Asher, Seattle  
 Beauregard, Lincoln Charles, Seattle  
 Beavers, Bonne W., Spokane  
 Bell, Christopher Lee, Seattle  
 Bell, Kristin Suzanne, Seattle  
 Bemis, Lori Marie, Spokane  
 Bender, Gayle Lynn, Spokane  
 Benedetto, James J., Seattle  
 Bernhardt, Robert Dirk, Seattle  
 Berretta, Maya P., Bellevue  
 Berris, Elizabeth Jean, Seattle  
 Bettinger, Dawn Marie, Redmond  
 Beyle, Jeffrey L., Seattle  
 Blomquist, Megan Elizabeth, Kirkland  
 Boatright, Rebecca, Seattle  
 Bobb, Brinette Christine, Seattle  
 Bolland, Charles Phillip C., Olympia  
 Bouwens, Jennifer Ann, La Conner  
 Bowman, Michael Brian, Seattle  
 Bradford, Amanda Elizabeth, Seattle  
 Brandt, Cory J., Yakima  
 Branigan, Michelle M., Seattle  
 Branstad, Anne Loucks, Seattle  
 Brennan, Susanna Celeste  
     Mountlake Terrace  
 Britt, Kevin Lee, Seattle  
 Brown, Bryan J., Vancouver  
 Brown, Danielle Havens, Bellevue  
 Brown, Douglass Rex, Bothell  
 Brown, Hilary M., Shoreline  
 Brown, Patricia Lorraine, Spokane  
 Brown, Shari Ann, Seattle  
 Brown, Shelly L., Olympia  
 Bruya, Edward Joseph, Spokane  
 Buck, Jonathan R., Ann Arbor, MI  
 Buckles, Margo L., Spokane  
 Bundy, Chad Russell, Spokane  
 Burchill, Darren T., Moses Lake  
 Burke, Muriel M., Spokane  
 Call, J. Ryan, Issaquah  
 Carl, Carl, Lynnwood  
 Carlsten, Annika Kristin, Seattle  
 Carr, John Newman, Albuquerque, NM  
 Carter, Cameron, Seattle  
 Carter-Eldred, Scott, Washington, D.C.  
 Casavant, Janaya L., Camano Island  
 Caso, Anthony T., Seattle  
 Cavanaugh, Heather K., Vancouver  
 Chan, Andrew Tzuwei, Seattle  
 Chavez, Robert H., Seattle  
 Chen, Ava Lin, Bellevue  
 Cheung, Angela V., Seattle  
 Childers, Meredith E., Alexandria, VA  
 Chinn, Warren M. L., Bellevue  
 Choi, Juliana Un-Kyung, Seattle  
 Christensen, Dana L., Seattle  
 Christiansen, Susan M., Kenmore  
 Christopher, Darcie Lyn, Spokane  
 Chun, Sarah Sung-Hee, Bellevue  
 Claassen, Cory Grant, Kirkland  
 Clark, Patricia D., Issaquah  
 Clarke, William R., Richland  
 Cochran, Loren A., Tacoma  
 Cohen, Jeannette Ann, Shoreline  
 Coles, Jaret R., Edmonds  
 Collins, Flannary Pasioka, Seattle  
 Colombo, Luigi, Seattle  
 Colwell, Linda A., Seattle  
 Connole, Stacy Ann, Seattle  
 Cooney, Lewis Dallas Keikialii, Spokane  
 Corey, Steven Richard, Maple Valley  
 Cornwell, Cheryl, Seattle  
 Countryman, Autumn J., Seattle  
 Croker, Christopher R., Spokane  
 Crowe Jr., Daniel Walston, Olympia  
 Culbert, Kristen Kerry, Seattle  
 Daluria, Theresa Ann, Seattle  
 D'Arcangelo, Diane, Redmond  
 Davidson, Theresa Marie, Seattle  
 Davis, Jerry J., St. Paul, MN  
 Davis, Kazuemon Walter, Renton  
 Davis, Nicole Elizabeth, Veradale  
 Deterling, Sheri L., Portland, OR  
 Devereux, Owen M., Spokane  
 de Ponce, Deborah Swander, Seattle  
 De Spain, Jael Hee Sook, Bellingham  
 DeVet, Pamela Jo, Seattle  
 Dickens, Ishbel M., Seattle  
 Dimke, Mary Katherine, Clarkston  
 Dolan, Justin, Seattle  
 Dolven, Rachel Virginia Hoopes  
     Bremerton  
 Donohue, Alfred E., Seattle  
 Doughten, Robert F., New York, NY  
 Druffel, Bill Joseph, Seattle  
 Durcan, Jennifer Ann, Seattle

- Durell, Nancy L., Spokane  
 Dvorkin, Daniel Louis, Seattle  
 Dykes, Trenton Cordell, Redmond  
 Eakin, Matthew R., Tucson, AZ  
 Eaton, Malaika Marie, Boise, ID  
 Eckhart, Benjamin Paul, Seattle  
 Ein, Michelle Andrea, Seattle  
 Elinski, Karyl, Bainbridge Island  
 Engrav, Rebecca S., Billings, MT  
 Eskenazi, Gregg Israel, Mercer Island  
 Euchner, Jennifer Marie  
 Germantown, MD  
 Evans, Amy Christine, Tacoma  
 Everitt, Laura Kristen, Glade Spring, VA  
 Fairchild, Renn Christan, Shoreline  
 Falkenstein, R. Drew, Seattle  
 Farabee, Adrienne Michelle, Kennewick  
 Farrell, John Joseph, Seattle  
 Favaron, Audranne, Poulsbo  
 Fazilat, Neda, Mercer Island  
 Featheringill, Scott Marshall, Seattle  
 Fehr, Jeffrey T., Wenatchee  
 Felice, Jodi Marie Zeller, Spokane  
 Feller, Thomas F., Lakewood  
 Ferencz, Garrett R., Bellevue  
 Ferrell, Wendy C., Bremerton  
 Finger, Davida, Seattle  
 Fisher, Michael John, Buriem  
 Fitzpatrick, Charlick Stoddard, Seattle  
 Ford, Jeremy M., Spokane  
 Fox, Katherine M., Seattle  
 Foy, Clinton M. Q., Seattle  
 Frey, Natalie Elaine Gutterman  
 Silverdale  
 Frost, Shelby Ray, Seattle  
 Funke, Mark K., Seattle  
 Funkhouser Jr., Glen L., Kenmore  
 Gaffaney, Jennifer D., Elk  
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 Gardiner, Christine E., Seattle  
 Garvin, Amy E. Shugart, Spokane  
 Gearin, Catherine Joann, Federal Way  
 Geier, Christopher James, Spokane  
 Gerlach, Marcus S., Danville, CA  
 Gerst, Brian K., Spokane  
 Gibbons, Daniel J., Spokane  
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 Giordano, Cheri Lee, Sacramento, CA  
 Girma, Hirut, Redmond  
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 Glenn, Sharon M., Seattle  
 Goorian, Bradley Jon, Auburn  
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 Gove, Gail, Federal Way  
 Grabicki, Jillian Ann, Spokane  
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 Green, Rebecca Denise, Seattle  
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 Johnson, Peter S., Bellevue  
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 Bellingham  
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 Silver, Sabina Lynn, Seattle  
 Silvey, Gregory G., Anchorage, AK  
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 Singla, Sumeer, Seattle  
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 Skinner, Jill Renee, Seattle  
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 Smith, Mary Bridget, Seattle  
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 Smith-Casem, Veronica F., Bellevue  
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 Spencer, Susan Eleanor, Bremerton  
 Spierling, Sarah E., Everett  
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 Stiglitz, Siobhan Frederica, Seattle  
 Stiller, Chantale, Seattle  
 Stockfish, Devin Wayne, New York, NY  
 Stoll, Eric W., Seattle  
 Stutesman, Amy Lynn, Seattle  
 Sullivan, Sheehan H., Seattle  
 Swanson, Scot Saar, Seattle  
 Sydow, Ronlon W., Vancouver  
 Tao, Betsy P., Seattle  
 Tassi, Katherine M., Seattle  
 Taylor, Brooke A. M., Seattle  
 Taylor, Robert Wesley, Dallas, TX  
 Terlaje, Dominic S., Chicago, IL  
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Thornton, Travis S., Winthrop  
Thorp, Rondi, Spokane  
Thorp, Tanya L., Seattle  
Thuesen, Steven L., Grand Forks, ND  
Tichy, Joseph Benjamin, Seattle  
Timmerman, Melissa Ann, SeaTac  
Tinglum, Kirsten, Bremerton  
Toews, Debra J., Walla Walla  
Tolbert, Angelia J., Little Rock, AR  
Torgerson, Rebecca Jill, Monroe  
Toumanova, Tatiana V., Seattle  
Trumble, Jay William, Anchorage, AK  
Turplesmith, David E., Spokane  
Tweedy, Ann Elizabeth, Mount Vernon  
Ungerman, Kathy K., Seattle  
Urban, Bree, Seattle  
Utgaard, Laura Gentry, Newman Lake  
Utigard-Borg, Andrea L., Spokane  
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Vanden-Bosch Jr., Theodore W., Tacoma  
Varas, Christopher Theodore, Pontage, MI  
Vaughney, John R., Lakewood, CO  
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Wagonfeld, Ariela Lirite, Seattle  
Wahi, Pallavi Mehta, Seattle  
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Walker, Aprille Y., Shoreline  
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Warner, Jennifer K. T., Seattle  
Warren, Erin M., Seattle  
Warren-Mayhle, Veronica S., Brier  
Weaver, Theresa R., Renton  
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Weigand, Stefanie Jean, Yakima  
Weiss, Jason Rex, Shoreline  
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West, Carli M., Gig Harbor  
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Williams, Courtney Arin, Seattle  
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Winkelhake, Aaron J., Seattle  
Wion, Christopher Thomas, Seattle  
Wong, Michele Alicia, Seattle  
Woolsey, Timothy W., Seattle  
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Woynarowski, Mick, Seattle  
Wright, Gordon Lyle, Seattle  
Yang, Gina, Seattle  
Yeh, Jonathan, Seattle  
York, Matthew E., Seattle  
Young, Karin M., Edmonds  
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## CREDITOR/DEBTOR

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## ELDER LAW

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## ETHICS

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### Tele-CLE: Ethics for Family Law

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### Tele-CLE: Ethics for Litigators

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### Tele-CLE: Negotiation Strategies

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### CLE Boot Camp

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### Best of CLE: Encore of Excellence

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December 11 – Seattle. 5 CLE credits, including 1 ethics. By UW-CLE; 800-CLE-UNIV.

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The  
**DONCHEZ LAW FIRM**

is pleased to announce that

**Ian S. Birk**

has joined the firm as an associate.

Mr. Birk is a 1997 Phi Beta Kappa graduate of the University of Washington and a 2001 graduate of the University of Washington School of Law. Mr. Birk joins the firm after serving as law clerk for the Honorable Susan J. Owens, justice of the Washington State Supreme Court. The firm's practice emphasizes plaintiffs' tort litigation in the areas of medical malpractice, construction-site negligence, major traffic accidents, defective products, maritime negligence and insurance-related issues.

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**REINISCH, WEIER &  
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is pleased to announce that

**Renee M. Bliss**

has joined us as an associate in our  
Seattle office, practicing with **Michael H. Weier**  
and **Sherry L. Davies** in the  
representation of employers in workers'  
compensation litigation.

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520 Pike Street, Suite 2210  
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**SOHA & LANG, PS**

is pleased to announce that

**Gary A. Sparling**

**Brian K. Keeley**

and

**Genevieve K. Kalthoff**

have joined our firm as associates.

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## STELLA L. PITTS & ASSOCIATES, PLLC

Lawyers

is pleased to announce that

### Laura L. Hoskins

has been admitted to the  
Washington State Bar Association.  
We welcome her as an associate of our  
firm, with practice emphasis in family law.

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The firm also announces its move to  
a new office in the same building:

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is pleased to announce that

### Terry J. Price

has joined the firm as an associate.

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## YAZBECK, CLORAN & HANSON, LLC

proudly announces that

### William F. Cloran

Col. USAF, Retired (JAG),

former Attorney-In-Charge,  
Commercial and Environmental Litigation  
Section, Oregon Department of Justice,  
has joined the firm as a Member.

The firm name has changed to

## YAZBECK, CLORAN & HANSON, LLC

We are also pleased to announce that

### David H. Bowser

former Assistant Attorney General,  
Honor Attorney Program,  
Commercial and Environmental Litigation  
Section, Oregon Department of Justice,  
has also joined the firm as an Associate.

Mr. Cloran will continue to practice  
government law with emphasis in the areas  
of public contracts, environmental law and  
natural resources law.

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## YAZBECK, CLORAN & HANSON, LLC

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## **APPEALS**

### **James E. Lobsenz**

handles both civil and criminal  
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courts. He has argued over 25  
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Supreme Court, including  
*Washington State v. Stein*, 144  
Wn.2d 236, 27 P.3d 184 (2001).

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