

Washington State

# BarNews

The Official Publication of the Washington State Bar ■ DECEMBER 2003

Representing  
the Most Vulnerable



Bar News Member Survey P. 40  
Summer Bar Exam Pass List P. 52

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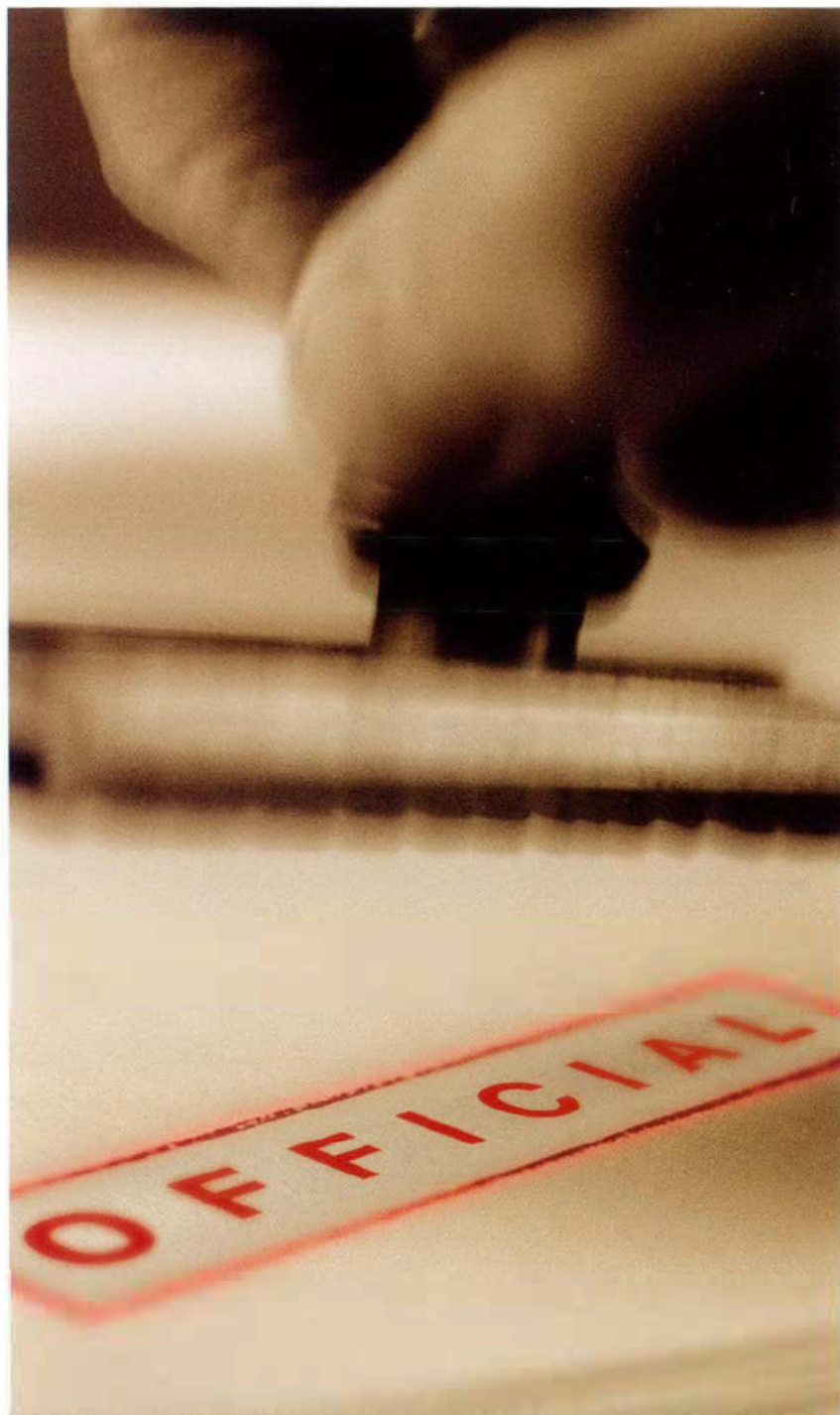
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# Contents

## Articles

- 14 Representing the Most Vulnerable**  
*by Bob Free and Penny Fields*
- 22 The 9th Circuit *Pro Bono* Program: Public Service and Personal Satisfaction**  
*by Leonard J. Feldman*
- 25 What Washington Jurors Really Think**  
*by Chris Dominic and Craig C. New, Ph.D.*
- 31 Make the Most of Seasonal Mingling**  
*by Debra Fine*

## Columns

- 13 Executive's Report: The Mission and Business of CLE**  
*by Mark Sideman*
- 64 Editor's Page: Deck the Halls With Bah and Humbug**  
*by Lindsay Thompson*

## Feature

- 40 Bar News Member Survey**

## Departments

- 7 Letters to the Editor**
- 33 The Board's Work**  
*by Lindsay Thompson*
- 35 Around the State**
- 39 Lawyer Services: Law Office Management Assistance Program (LOMAP)**  
Offers "Law Office in a Box™"  
*by Peter Roberts*
- 43 Disciplinary Notices**
- 47 FYI**

## Listings

- 52 Summer Bar Exam Pass List**
- 56 Announcements**
- 57 Calendar**
- 59 Professionals**
- 60 Classifieds**



P. 25



P. 31

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## Letters to the Editor

### Does the Client Protection Fund do so?

I am writing this letter to call attention to a bad decision of the Client Protection Committee that, in my opinion, hurts the reputation of all lawyers.

A client came to me for help after she had been ripped off by her previous attorney in 1999. She was a "little person" with serious health problems who was working as a self-employed housekeeper. She spoke little English. She had come to this country from Central America where she had suffered through horrible events.

The prior attorney repeatedly charged clients for utterly useless immigration applications of a particular type called an "application for cancellation of removal." In this case, the prior attorney prepared the exact same type of useless application. The utter futility of this application would have been apparent to anyone who read the standard instructions on the application form. In 2001, the WSBA disbarred the attorney for this conduct.

The annual report of the Client Protection Committee states that "where it appears there is a pattern of conduct which establishes that a lawyer knew or should have known at the time the lawyer accepted fees from a client that the lawyer would be unable to perform the service for which he or she was employed, the Committee has concluded that such conduct is dishonest and will consider such applications."

Here, the attorney had actually been disbarred for engaging in *identical conduct* on at least two prior occasions. With full knowledge of all these facts, the Committee nevertheless chose to consider this "malpractice" and deny the claim.

This was a bad decision. It's wrong to call this "malpractice." To the public, it looks like the Bar is condoning dishonest behavior.

In this case, the fee that was stolen was only a few hundred dollars. I don't care. A few hundred dollars means more when you have to earn it on your knees scrubbing other people's floors and toilets. Given the particular vulnerability of the victim here, the very name "Client Protection Committee" is starting to sound like a bad joke.

Michael T. Purcell  
Portland

### WSBA General Counsel Robert Welden responds:

Michael T. Purcell writes a thoughtful letter concerning an application to the Lawyers' Fund for Client Protection by one of his clients. His letter points out the difficulty the Lawyers' Fund for Client Protection Committee faces in attempting to determine whether applications qualify for gifts from the fund.

To qualify for payment, an applicant must have suffered a pecuniary loss "by reason of the dishonesty of, or failure to account for money or property entrusted

to, any member of the WSBA in connection with the member's practice of law or while acting as a fiduciary in a matter related to the member's practice of law." APR 15. Unfortunately for persons such as Mr. Purcell's client, incompetence and negligence do not constitute dishonesty under this rule.

The fact is that most of the claims that the Lawyers' Fund for Client Protection Committee denies are fee disputes or malpractice claims. Generally, this leaves the client with no remedy because the lawyer is uninsured, and the client's loss is so rela-



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## Free Report Shows Lawyers How To Get More Clients

Rancho Santa Margarita, CA.— Why do some lawyers get rich while others struggle to pay their bills?

The answer, according to California lawyer David M. Ward, has nothing to do with talent, education, hard work, or even luck.

"The lawyers who make the big money are not necessarily better lawyers," Ward says. "They have simply learned how to market their services."

A successful sole practitioner who once struggled to attract clients, Ward credits his turnaround to a referral

marketing system he developed six years ago.

"I went from dead broke and drowning in debt to earning \$300,000 a year, practically overnight."

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>

tively small that it is impractical to seek a remedy in the courts.

For more than 40 years, the Bar has provided, through the Lawyers' Fund for Client Protection, a protection for clients who are victims of dishonest lawyers. It may be time to consider how we can act to protect vulnerable clients from irresponsible and incompetent lawyers as well.

#### **Parking hell (cont.)**

I read Tom Stahl's letter, detailing his views regarding the irregularities of traffic court

as compared to other courts of record, with interest. In situations where a prosecutor fails to appear in a traffic case, Mr. Stahl notes: "When prosecutors fail to appear in traffic court, which they do most of the time with parking tickets, the judges often take it upon themselves to try the prosecutor's case for him. They read the police report into the record to make out a *prima facie* case for the government, or they put the police officer on the witness stand and then perform direct examination of him to establish the required ele-

ments of the government's case."

Although Mr. Stahl does a good job of pointing out several reasons that this practice is questionable, I believe he missed the most important point—it would appear to be unlawful. RCW 2.48.200 clearly states, in part: "No person shall practice law who holds a commission as judge in any court of record." Is a judge who performs direct examination of a witness or who otherwise tries an absent prosecutor's case in the manner described by Mr. Stahl actually engaged in the practice of law? If you are in doubt, ask yourself one question: If an unlicensed citizen were to try the case on behalf of the government in the place of the absent prosecutor, would this constitute the unauthorized practice of law? Most certainly it would.

The reason for RCW 2.48.200, I believe, is to maintain the integrity of the proceedings and to avoid exactly the kind of conflict of interest outlined by Mr. Stahl. Judges should not act in the place of prosecutors, not only because it is improper and skews the balance of power in our legal system, but because the law of this state, as I read it, prohibits such activity. By logical extension, if the activity described is prohibited by law, this should merit the close attention and scrutiny of our Bar in terms of the RPC.

*Christopher J.K. Porter  
Olympia*

My most recent brush with traffic court consisted of a judge making a face at me when I maintained that a parking meter was mismarked. When I took the matter to another traffic judge, the second mentioned what promise the first was showing, increased the fine, and acted as if he was granting me a huge favor.

*A. Stevens Quigley  
Seattle*

#### **Cumbow on language, pro and con**

Thank you for the exhilarating article on the annoying little oddities of the English language ("Pet Peeves," September 2003) ... no, really. I clip these articles and save them so that I (hopefully) will write with more clarity and precision.

I would like to know if Mr. Cumbow would be willing to explain to me how to correctly use the phrase, "begging the ques-

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*Clockwise from left: Vernon Smith,  
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tion." I know that it does not literally mean to cause one to ask the question, but other than that I am lost.

Thank you very much. I hope to see more such articles in the future.

Michael DeWitt  
Olympia

*Webster's New International Dictionary* (1930 Revision), p. 498, defines "Copyright" as "v.t. To secure a copyright on." Accord: *Oxford English Dictionary, C*, p. 980 (1933); *2 Century Dictionary and Cyclopaedia, C*, (1913), p. 1258.

Jorgen Bader  
Seattle

*Bar News* readers have expressed remarkable interest in Robert Cumbow's columns, which will continue to appear quarterly. —Editor

#### Public BOG members: The idea does too much and too little

I often hear lawyer jokes and am struck by the irony that, as we increase public input to the Bar Association, we still fall short of convincing the public as to our competence and honesty as professionals. We are, as Dick Manning says, a quasi-public entity, yet the funds for the Bar come from our professional dues. We pay to police ourselves, to aid clients who have been betrayed by dishonest lawyers, to fund CLEs, and to counsel troubled attorneys. We do little to benefit ourselves directly and much so that we can do a better job for others and we pay for it all ourselves. Is it too much, then, that when we seek in so many ways to include the public interest, we have one group that understands our own needs from that special perspective that legal training provides? Or shall we assume that simply being a lawyer confers some taint of self-contemplation that blinds us to the wider view? I suggest that we have barely scratched the true diversity and strength within the Bar Association members ourselves, and that to turn outside for a corrective is to abandon that very honesty and expertise which is our claim as professionals.

To include members of the public is to assume that they, simply by being the public, share a uniform set of insights and a fairness that we cannot muster from

within our ranks. This shows a self-doubt which cannot help but undercut our continual efforts to advance the reputation of the profession and its members. Having a token member, or members, on the Board of Governors does too little to represent the public as a whole and dilutes the much-needed impact of a true diversity of opinions from the membership itself. It often seems to me that lawyers feel little sense of input and control in the institutions that affect their lives. This adds to lawyer stress and alienation. The many inroads and even impositions into lawyer's self-respon-

sibility and self-governance have done little to enhance our collective reputations and leave many attorneys wondering why, if we are all that we claim that we are as officers of the court and members of a noble profession, we will descend into "navel-watching" and betrayal of the public trust at the nearest opportunity. Leave the Board of Governors alone. If more diversity is needed, add a few members from the many underrepresented groups within the Bar itself.

Thomas Mengert  
Keyport

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### Some thoughts on *pro bono* by lawyers

The changes to RPC 6.1, which require 30 hours of *pro bono* service per year, do not go far enough. The article in your October issue, "Ethics Rule Change Encourage *Pro Bono* Work on Behalf of Indigents," explains that there is no enforcement mechanism for this rule. In an apparent oversight, the rule only provides for voluntary reporting on annual *pro bono* services provided. This rule should be corrected to require mandatory annual reporting of *pro*

*bono* services provided. This would force every attorney in this state to comply with the rule. And, any attorney who does not provide 30 hours per year of *pro bono* services to authorized recipients should have her/his license suspended.

Of course, there should be another option for attorneys who do not have skills which readily lend themselves to *pro bono* services, such as those who practice tax or securities law. The obvious option would be for such attorneys to "donate" their hourly rate to a newly created "Money for

Justice" fund operated by the WSBA. In recognition of the fact that attorneys do not take home a good portion of their hourly billing, we should cap this voluntary contribution at \$100 per hour, or \$3,000 annually. If only 1,000 attorneys choose this option, that would raise \$300,000 annually. If 5,000 attorneys choose this course that would raise \$1,500,000. I am sure you get the idea here, "Money for Justice."

Now, there is going to be a certain amount of resistance to this kind of progress, as there are always those among us without any vision. If the WSBA encounters serious resistance to this idea, Money for Justice, they could compromise by initiating the voluntary contributions at an introductory rate of \$500 per year per attorney. Once initial resistance to the idea runs its course, the amount can be steadily increased until there is sufficient Money for Justice to purchase justice for everyone.

*James Rigby  
Seattle*

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# Creed of Professionalism

The WSBA's aspirational Creed of Professionalism was developed by the Professionalism Committee with input from many members around the state, and approved by the Board of Governors. The creed's purpose is to "inspire and guide lawyers in the practice of law." The full text of the creed can be found on the WSBA website at [www.wsba.org/creed](http://www.wsba.org/creed).



Printed copies of the creed are available for purchase (we have made every effort to keep the cost as low as possible). Printing is in black and gold on heavy creamcolored paper. The creed is available unframed, or mounted on a mahogany finish wooden plaque. It is our hope that Washington lawyers will display the creed proudly in their offices.

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## The Mission and Business of CLE

by Mark Sideman  
WSBA CLE Director

I have been just over a year since I began my position as Continuing Legal Education (CLE) director of the Washington State Bar Association. During this time, I have had the opportunity to hear much about what WSBA members think about CLE in general, and WSBA CLE in particular—both the good and the not-so-good. I have appreciated the input, and the dialogue I have had with many of you. I thought, after a year, it might be of interest to you to learn how WSBA CLE has responded to member input, and the direction in which we are heading.

I want to talk first about CLE operating costs, with the hope of clearing up some possible confusion. It

surprises many people to learn that WSBA CLE is completely self-supporting. We receive absolutely no fiscal support from member licensing fees or any other WSBA sources—honestly. The Board of Governors has made that policy. On the other hand, we are still a part (and I trust an important part) of the WSBA. As a WSBA department, CLE shares the WSBA's goals and objectives and, yes, we pay our fair share of the overall WSBA operating expenses. Each year, the WSBA's finance department calculates CLE's "administrative charge" (another name for our share of the operating expenses). That "administrative charge" is then spread over all our programs. Our operating costs, just like those of all businesses, do not include our direct expenses (facility rentals, printing, etc.). We strive to be as efficient as possible and hold the line while continually working to reduce costs.

In my view, the principal challenge of the WSBA CLE Department is to provide WSBA members the very best product possible in a very competitive market *and* support the mission and goals of the WSBA. In other words, to serve our members and stay out of the red. Perhaps it goes without saying that we are constantly working to increase the quality of our programming and our publications. But what may not be known is the role the CLE Department plays in directly supporting the mission of the WSBA, including:


- \* Developing more online CLE programs and more live CLE programs throughout the state, leading to greater program accessibility for all members regardless of their geographic location; and
- \* Working collaboratively with WSBA sections to develop better programming and help them meet their education goals.

**Perhaps it goes without saying that we are constantly working to increase the quality of our programming and our publications.**

One very tangible result of working to support members and be fiscally responsible was this summer's first online "Membership Appreciation Sale" on selected WSBA CLE deskbooks, course books, and recorded seminars. Record numbers of members visited the CLE online

store (<http://store.yahoo.com/wsbastore>), purchased CLE products at significant savings, and told us they appreciated the event.

One of our major efforts for the upcoming year is to do more live programs around the state. In an e-mail survey we conducted earlier this year (with more than 300 respondents in three days), members' number-one request was for more statewide programming. Statewide programming is challenging in several ways, not the least of which is putting together the program's faculties. In 2003 we more than doubled the number of programs we are delivering outside the greater Puget Sound area compared to 2002. A special thank you goes to the faculties helping us. We are always looking for members, especially those outside the Puget Sound area, to assist with programming. If you are interested, I would like to hear from you—please contact me at [marks@wsba.org](mailto:marks@wsba.org). And, if you have questions, comments, or suggestions, I would also like to hear from you.

One final point. We know that you expect us to provide the highest-quality CLE programs, deskbooks, coursebooks, CDs, and tapes, and we hold that expectation as a core part of our mission. We are committed to giving the highest quality of service to WSBA members. 

\* Supporting Past-President Dick Manning's Professional Development Initiative for more effective and relevant low-cost training for new attorneys;

Mark Sideman is WSBA CLE director. He can be reached at [marks@wsba.org](mailto:marks@wsba.org).

# Representing the Most Vulnerable

by Bob Free and Penny Fields

Perhaps the most vulnerable and marginalized of all people in America are the immigrant women who experience domestic violence (DV). They are vulnerable not only because they are controlled and abused by their husbands, but also because they face possible loss of their children, may have no place to live, and can be deported from the United States if their husbands refuse to sponsor them for legal status. Unfortunately, abused immigrant women have great difficulty accessing legal help. Two cases from King County illustrate the danger and depredation faced by some immigrant wives.

Susana Remerata originally met Timothy Blackwell after Blackwell saw her picture in a catalogue called *Asian Encounters*. The two wrote to each other for a year, then met in the Philippines and got married. Soon after their wedding, Blackwell became abusive and tried to choke Susana more than once. They separated not long after she came to the United

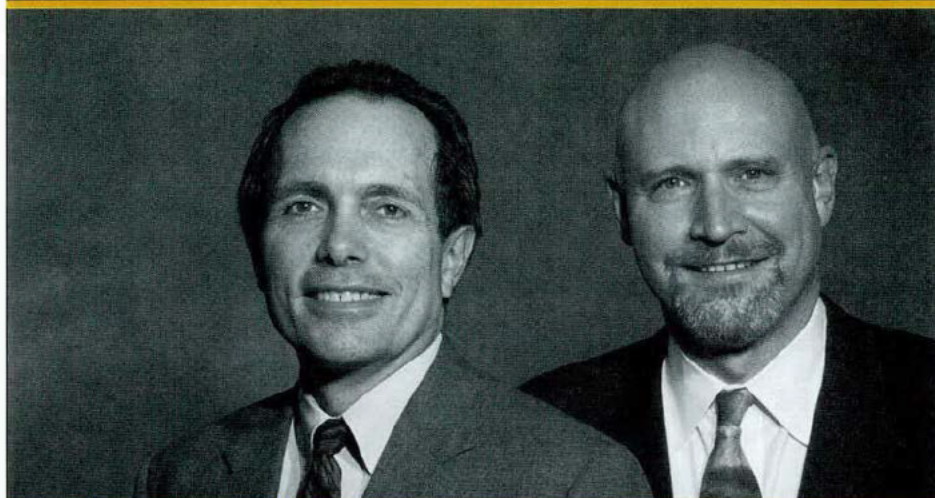
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States. Blackwell, 47, claimed his 25-year-old wife had duped him into the marriage, in part so she could live in America. She contended he beat her, forcing her to move out in fear. He filed for annulment; she filed for divorce. In March 1995, shortly before their divorce proceedings were to begin, Blackwell opened fire with a semi-automatic handgun in the King County Courthouse and killed his wife, her seven-month-old fetus, and two friends who had accompanied her to court.<sup>1</sup>

A similar fate met Anastasia King, a 20-year-old "mail order bride" from Kyrgyzstan who came to this country after meeting her husband, Inkle King Jr., through an Internet matchmaking service. Once they were married and in the United States, King reportedly withheld his wife's school money, tightly controlled whom she could see, sexually assaulted her, and threatened to have her deported or to kill her if she tried to leave him. In September 2000, convinced she was about to divorce him, King strangled Anastasia and dumped her body in a shallow grave in a Tulalip Indian Reservation garbage dump.<sup>2</sup>

According to a 2002 interview with Charles De More, acting district director for the Bureau of Citizenship and Immigration Services (Immigration) in Portland, Oregon, U.S. men sometimes marry young women, use them for sex, and then try to have them deported just before the women can receive their green cards, claiming the women came into the marriage fraudulently. "We see guys who are abusive but the women don't report it for fear of being deported for not being a good wife."<sup>3</sup>

#### Domestic Violence Against Immigrant Women

Although national figures on abuse in immigrant marriages do not exist, there is reason to believe that the incidence of abuse is high. One study conducted among undocumented and recently documented Latina immigrants in the Washington, D.C., area found that nearly 60 percent of the married women had experienced physical and/or sexual abuse from their partners.<sup>4</sup> Among the battered women in the survey, nearly one-third cited fear of immigration consequences as a significant barrier to seeking social and legal services.<sup>5</sup> When abused women in the study did seek help, the most sought-after



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ter service was immigration assistance.<sup>6</sup>

Both U.S. citizens and lawful permanent residents can sponsor their foreign spouses and children for permanent residence status, giving the U.S. spouses considerable power over the dependents. Immigration sponsorship takes approximately three years before full, unconditional, permanent residence is granted to an immigrant spouse of a U.S. citizen. Withdrawal of sponsorship can lead to deportation. A batterer may refuse to sponsor his<sup>7</sup> spouse at all, threatening to report her to Immigration if she is undocumented.<sup>8</sup> Fear of being reported to Immigration and fear of deportation were listed in the Washington, D.C., study as the first and second most-intimidating factors that kept battered immigrants with their abusive spouses.<sup>9</sup>

An abuser may also deny his immigrant wife the opportunity to learn English or pursue job training and other education that would allow her to achieve social and economic independence. Immigrant women frequently do not know their legal rights in the face of violence by their husbands, and the husbands may convince them that there is nowhere to turn for help. Fear of police, and fear of the law and lawyers, may prevent immigrant women from seeking help. Finally, a spouse may threaten children or other family members, informing the victim that if she seeks help from the police or courts, he will automatically gain custody of the children, which may in fact be true in her home country.

### The Violence Against Women Act and the Self-Petition Process

Help for these particularly vulnerable women came in 1994 when Congress passed the Violence Against Women Act (VAWA). VAWA permits an abused immigrant to file a visa petition on her own behalf if she or her children have been abused by her U.S. citizen (USC) or lawful permanent resident (LPR) spouse.<sup>8</sup> USC § 1154(a); Sec. 204(a) of the Immigration and Nationality Act. In addition to the self-petitioning process, immigrants can use VAWA defensively in deportation proceedings, requesting a suspension of proceedings if they or their children can produce credible evidence of battering or extreme cruelty by a USC or LPR spouse or parent. Amendments to VAWA in 2000

expanded eligibility for relief.<sup>10</sup> For example, an abused immigrant may now self-petition for up to two years after divorcing her abusive spouse, or after the spouse has been deported or loses immigration status. Moreover, victims are no longer required to show that deportation would result in extreme hardship to them or even that the abuse occurred in the United States.

An immigrant self-petitioning pursuant to VAWA must show that she or her children have been physically battered or subjected to extreme mental cruelty by her USC or LPR spouse and that she has re-

sided with the abuser, at least for a short time. If the spouse is not a USC or LPR, then no relief is available under VAWA.<sup>11</sup> In addition, the self-petitioner must present evidence of her good moral character, and show the marriage was entered into in good faith and not simply for immigration purposes. Any credible evidence must be considered by Immigration.<sup>12</sup> Nonetheless, gathering evidence can be the most difficult part of the self-petitioning process, especially in situations where the victim still lives with her abuser and is carrying out the self-petitioning process in secret. In some situations, the abuser

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will withhold documents such as the marriage certificate or identification papers from the battered spouse. Potential witnesses to the abuse may also be afraid of the abuser.

Once sufficient documentation has been gathered, an I-360 "self-petition" is filed with the Immigration Service Center in St. Albans, Vermont. Proof of filing makes the immigrant woman eligible for public benefits in Washington state, which may enable her and her children to escape the abusive relationship. Adjudicators in Vermont who are trained in DV issues and are generally more sympathetic than many Immigration officials issue either an

approval or denial notice. An approval results in a grant of "deferred action"—an administrative decision to forgo deportation proceedings against someone who is otherwise removable—and eligibility for a temporary work permit. A denial is kept confidential and does not result in deportation. This process takes approximately six months from initial filing.

The final step, if the woman is otherwise eligible, is to file an application for lawful permanent residence with her local Immigration office. How long the woman must wait from receiving a VAWA approval until applying for permanent residence depends on the status of her

spouse. If the abused woman is married to a permanent resident, the VAWA approval goes on the second-preference waiting list for spouses of permanent residents. A second-preference petition requires a wait of between five and seven years before she can actually apply for permanent residence. If the client was born in Mexico, the wait is a few years longer. The woman is granted deferred action for 15 months at a time, and can regularly get renewals of this status and of her employment authorization until her place comes up on the waiting list. If the woman is married to a U.S. citizen, she can apply for permanent resident status as soon as the VAWA petition is approved.

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### **Assistance for Immigrant Domestic Violence Victims in Washington**

Faced with literacy, language, economic, and cultural barriers, nearly all abused immigrant women require assistance with the VAWA self-petitioning process. Fortunately, there are a few organizations that serve this population in Washington state.

*Northwest Immigrant Rights Project (NWIRP)*. NWIRP, founded in 1984, is a nonprofit legal-services office that provides legal representation and community education to low-income refugees and immigrants in Washington state. Originally set up to file political-asylum petitions for Salvadorans and Guatemalans fleeing war in their home country, the organization has expanded over the years to serve immigrants from every continent except Antarctica. NWIRP is the only organization of its kind in the region, and last year provided assistance to more than 17,000 women, children, and men throughout the state. NWIRP currently provides assistance with a variety of immigration matters, including representation in deportation proceedings, naturalization, family visas, applications for replacement green cards, and VAWA petitions. NWIRP has an office in Seattle, with 21 staff members serving clients from over four dozen language backgrounds. A second office in Granger, Washington, has a staff of seven, and serves primarily Spanish-speaking farm workers of Mexican heritage.

Financial support for NWIRP's operations comes from a variety of sources. In 2002, contributions from foundations, such as the Legal Foundation of Washing-

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ton, accounted for nearly 60 percent of the organization's funding. Another 15 percent came from state and federal sources, while individual donors contributed nearly 10 percent.

NWIRP began handling DV cases in 1990. A separate Domestic Violence Unit (DV Unit), which now handles all of NWIRP's VAWA cases, began operating

**Priority is given to women facing immediate danger of serious physical harm . . . and to those facing immediate deportation.**

in 1995. Currently the DV Unit is staffed by one attorney, Andrea Parra, and a volunteer assistant. Plans to hire much-needed paralegal help were cancelled this year when NWIRP lost Department of Social and Health Services funding, resulting in a loss of more than half the DV Unit's annual budget.

In Seattle, the DV Unit receives, on average, 20 new calls each week from immigrant DV victims. Often clients are referred to NWIRP by advocates from organizations such as the Refugee Women's Alliance (ReWA), Asian Pacific Islander (APIA) Women & Family Safety Center, the Chinese Information and Service Center (CISC), Consejo Counseling and Referral Services, the Domestic Abuse Women's Network (DAWN), and other local nongovernmental organizations with which NWIRP works closely. A detailed screening is carried out, usually over the phone, followed by a lengthy in-person interview. All callers are given information on local and statewide DV resources.

If a potential NWIRP client exceeds the maximum income requirement (125 percent of federal poverty guidelines), he or she is referred to a private attorney. More financially eligible clients seek NWIRP assistance than the organization has the capacity to help. Inevitably, the organization is forced to perform a balancing act among eligible clients, taking into account each applicant's individual situation. Priority is given to women facing immediate danger of serious physical harm from their spouse

or a situation of economic crisis, and to those facing immediate deportation. Still others are placed on an ever-lengthening waiting list.

According to Neha Chandola, NWIRP's legal director, in spite of funding setbacks, the organization remains firmly committed to working with immigrant DV victims. "It's a critical area," she says, noting that "volume is so high that need will always outstrip our capacity. Immigration is growing more and more restrictive, and DV in the family is increasing, not decreasing."

Support from *pro bono* attorneys in the community has been essential to NWIRP's success to date. Currently, the DV Unit has 250 active cases, and is continually adding to that number. Approximately 20 private attorneys took cases in 2003. NWIRP would like to see twice that number take cases in 2004.

*Immigrant Families Advocacy Project (IFAP)*. IFAP was founded at the University of Washington School of Law in 1996 by Professor Anita Ramasastry. During the school year, IFAP recruits from 50 to 70 UW student volunteers to work in pairs under the supervision of *pro bono* attorneys handling VAWA cases. Formed in partnership with NWIRP's DV Unit, the organization was run without a budget for its first four years, wholly dependent on personal financial contributions from both Ramasastry and involved UW student volunteers.

Finally, in 2000, the organization received a \$25,000 grant from alumnus Bruce Garrison and his wife, Aphrodite. The grant of \$5,000 per year for five years has permitted IFAP to fund student fellows throughout the school year and during the summer. These fellows provide administrative support to the program, organize CLEs, prepare grant applications, plan fundraisers, and work closely with NWIRP to develop better systems for tracking statistics on the clients served by the program.

In spite of its shoestring budget, IFAP has had broad impact, which Ramasastry credits to "a lot of volunteer time from students and attorneys." In its first six years of operation, IFAP has served more than 150 clients, most of whom were women with children. The clients, all indigent applicants referred from NWIRP, come from

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The collaboration between UW students and supervising attorneys presents an excellent mentoring opportunity for the students. Many students bring with them language skills that are invaluable in dealing with IFAP's diverse clientele. In addition, the students are largely responsible for obtaining police and medical reports, interviewing witnesses, preparing a written declaration of the client, and preparing other information for the self-petition.

*Seattle University (SU) School of Law Immigration Clinic.* For the past four years, the SU School of Law has sponsored an Immigration Clinic in which law students represent abused women in immigration cases. Immigration lawyers at the Seattle law firm of MacDonal Hoague & Bayless have collaborated with SU law students to file VAWA cases at the Vermont Service Center. To date, the clinic has assisted 20 immigrant women in obtaining legal status and work permission. The students receive course credit for their work, and SU pays the costs if the women are unable to pay.

## Conclusion

The rewards of working on a VAWA DV case are great. Not only are the clients among the neediest in the community, but the vast majority of the petitions are approved. However, available attorney assistance falls far short of local need. NWIRP and IFAP hope to recruit 40 to 50 attorneys to take *pro bono* cases in 2004.

**NWIRP and IFAP  
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NWIRP, IFAP, and the American Immigration Lawyers Association (AILA) regularly offer CLE presentations on how to do a VAWA case. For details on volunteer opportunities through IFAP, contact Beth Kinne, IFAP's president, at [bkinne@u.washington.edu](mailto:bkinne@u.washington.edu), or Lynette Meachum, IFAP Garrison fellow, at [meachum@u.washington.edu](mailto:meachum@u.washington.edu).

Another crucial way to help is to join NWIRP's Vision 20/20 Campaign, a fundraising effort in which new and increased individual donations are matched dollar for dollar. Given recent state budget cuts, NWIRP has become more reliant than ever on unrestricted funds from the Legal Foundation of Washington and particularly from individual donors. Donations and questions about volunteering can be directed to the Northwest Immigrant Rights Project, 909 Eighth Ave., Seattle, WA 98104; 206-587-4009, ext. 104 (Development Office). ✉

*Bob Free is a partner at MacDonal Hoague & Bayless and an adjunct professor of law at Seattle University School of Law, teaching the VAWA Immigration Clinic. Penny Fields is a 3L at the University of Washington School of Law and a member of IFAP.*

## NOTES

1. *OCV Advocate*, Office of Crime Victims Advocacy Quarterly Newsletter, Vol. 10, No. 1 (Spring 2002) <<http://www.ocva.wa.gov/newsletter/Spring2002V10N1Web.pdf>>.

2. "King Gets 28 Year Prison Sentence," David Fisher, *Seattle Post-Intelligencer*, Mar. 29, 2002. In response to stories like these, Senator Maria Cantwell and Representative Rick Larson re-

cently proposed legislation cracking down on the "booming, but largely unregulated" mail-order-bride industry, which arranges as many as 6,000 marriages a year. The International Marriage Broker Regulation Act of 2003 would limit U.S. citizens to sponsoring only one fiancée for a visa each year; require those sponsors to undergo a criminal-background check; and require marriage brokers to inform prospective brides of their legal rights, should they become victims of DV. According to Senator Cantwell, "Foreign spouses already submit to criminal background checks as part of the immigration process, and it seems only right that someone seeking to marry an American have equal access to important personal information." Washington state already has such a law, RCW 19.220, which requires disclosure of such information about Washington residents who seek brides through international matchmaking services. Additionally, Washington has taken steps to address the larger problem of trafficking in person, through enactment of RCW 7.68.350, which, in 2002, created a task force to deal with issues of human trafficking, the victims of which are mostly women and children.

3. "Mail Order Mates Play Romance Roulette," Lisa Baker, *BrainstormNW* magazine (Feb. 2001).

4. Mary Ann Dutton, Leslye E. Orloff, and Giselle Aguilar Hess, *Symposium Briefing Paper: Characteristics of Help Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 *Geo. J. Poverty Law and Pol'y* 245, 258 (Summer 2000).

5. *Id.* at 287.

6. *Id.*

7. In spite of its name, relief under VAWA is available equally to women and to men. Similarly, the organizations mentioned in this article serve male as well as female clients. However, given that the vast majority of VAWA self-petitioners, like the vast majority of DV victims, are women, this article uses male pronouns to refer to the perpetrators, and female pronouns to refer to the victims, of DV.

8. In the Washington, D.C., study, 72 percent of the physically and/or sexually abused married women reported that their spouse had never filed immigration papers on their behalf. *Id.* at 259.

9. *Id.* at 293.

10. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386; 114 Stat. 1464, Oct. 28, 2000.

11. A limited number of "U" visas, created by Congress in 2000, are granted to immigrants who are victims of crimes in the United States. The visa was created primarily to aid victims of violent crimes such as sexual assault, DV, trafficking, and genital mutilation, who are willing and able to assist in the prosecution of their abusers.

12. 8 CFR § 204.2(c)(2)(i).

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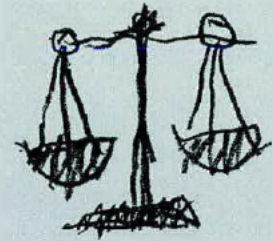
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# The 9th Circuit *Pro Bono* Program: Public Service and Personal Satisfaction

by Leonard J. Feldman

For over seven years now, I have been serving as a district coordinator for the 9th Circuit *Pro Bono* Program. About three years ago, I wrote an article (published locally) in which I described the program and asked that other attorneys get involved as well. Although the response to that article was extremely positive, the time has come to repeat the process and ask—once more—that readers become involved in this extremely rewarding program by filling out the 9th Circuit *Pro Bono* Program Sign-up Form that is reproduced on p. 23.

## The 9th Circuit *Pro Bono* Program

Most lawyers who have not had judicial clerkships are surprised to learn that one of three appeals in the 9th Circuit involves a *pro se* litigant—someone who is not represented by counsel. Many (although certainly not all) of these litigants produce incomplete, inarticulate, and sometimes unintelligible briefs.

The 9th Circuit addressed this problem in 1993 by creating the 9th Circuit *Pro Bono* Program. Today, all *pro se* appeals are reviewed at the outset by court staff. If an appeal is considered complex, it is reviewed to determine whether *pro bono* counsel should be appointed. This typically occurs in appeals that involve complex issues of fact or law, or important questions of first impression.

The 9th Circuit's commitment to the program is substantial. In addition to the screening process described above, the 9th Circuit has agreed to hear oral argument in all appeals handled by *pro bono* counsel. The program also reimburses various

expenses, enters an order scheduling briefing and oral argument at counsel's convenience (within reason of course), and provides a complete copy of the district court and 9th Circuit record.

**The 9th Circuit's  
commitment to the  
program is substantial.**

## 9th Circuit *Pro Bono* Appeals—Two Examples

Over the years, I have participated personally in nine *pro bono* appeals. One of those cases settled on appeal. In the other eight, the 9th Circuit reversed the district court's ruling—a success rate of 100 percent! In the paragraphs that follow, I provide a brief summary of two of those cases.

### *Agyeman v. INS*, 296 F.3d 871 (9th Cir. 2002)

Emmanuel Senyo Agyeman was a detainee in an Immigration and Naturalization Service (INS) detention facility in Florence, Arizona, who alleged that the INS had violated his due process rights in the manner in which it handled his deportation proceeding. Specifically, Mr. Agyeman claimed that the immigration judge (a) prevented Mr. Agyeman from gathering and presenting evidence and testimony; (b) erred in his instructions to Mr. Agyeman about applying for adjustment of status during deportation hearings; (c) erroneously imposed a heightened evidentiary

burden on Mr. Agyeman; and (d) unlawfully required Mr. Agyeman to produce evidence that he knew could not possibly be produced. The Board of Immigration Appeals sided with the immigration judge, after which Mr. Agyeman filed a petition for review in the 9th Circuit.

The 9th Circuit reversed in a published opinion. The court recognized, at the outset, that "[t]he Fifth Amendment guarantees individuals who are subject to deportation due process in INS proceedings." The court then noted that the immigration judge had instructed Mr. Agyeman that his wife must appear and testify at the hearing in support of Mr. Agyeman's request to remain in the United States. The court described that demand as "fundamentally unfair" because both the immigration judge and the Board of Immigration Appeals should have recognized that Mr. Agyeman's wife suffered from bipolar disorder and therefore could not attend the hearing. The court therefore granted Mr. Agyeman's petition and remanded the matter for a new hearing. Besides being favorable to Mr. Agyeman, the court's opinion is often cited in cases involving important due-process principles.

### *Woods v. Noelle*, 2003 WL 21378589 (9th Cir. June 10, 2003)

Laurence Woods is a Muslim inmate at the Multnomah County Inverness Jail in Portland, Oregon, who filed suit against various jail officials who, he alleged, had violated his rights under the First and Fourteenth Amendments to the Constitution by limiting his ability to exercise and practice his religion. Mr. Woods claimed, among

other things, that the defendants had violated federal law by (a) desecrating copies of the holy Qur'an; (b) preventing him from performing his early morning and evening prayers; (c) preventing him from eating until sunrise during the Ramadan fast; and (d) denying him the Feast of Eid al-Fitr to celebrate the end of Ramadan. The district court held that none of these claims had merit and granted summary judgment in favor of the defendants.

The 9th Circuit disagreed with the district court's ruling and reversed. It held in relevant part as follows:

The District Court did not give adequate consideration to the factors that the Supreme Court applied in *O'Lone v. Estate of Shabazz*, 482 U.S. 342, 107 S. Ct. 2400 (1987). Its analysis of many of Woods' claims was very limited or non-existent. Furthermore, the District Court made no reference whatsoever to Woods' claim under the Religious Freedom Restoration Act in its order. In addition, the District Court accepted as uncontradicted a number of facts which were, in fact, controverted by Woods' deposition testimony. Thus, the District Court erroneously granted summary judgment in favor of defendants.

The 9th Circuit therefore reversed the district court's grant of summary judgment in favor of the defendants and remanded the case for reconsideration of Woods' claims and, in addition, directed the district court to appoint counsel for Woods.

Although unpublished, the *Woods* case is significant because it shows what the 9th Circuit *Pro Bono* Program and *pro bono* counsel can accomplish. Shortly after the 9th Circuit had remanded the matter for additional proceedings, we contacted the defendants' counsel and asked if they were interested in pursuing settlement. They agreed to do so, and the case settled shortly thereafter on the following terms:

- \* Prayer would be permitted in a designated area of the prison dorms after time for bunking-in (rather than requiring Muslims to pray in their bunks);
- \* A dinner feast would be created to celebrate the end of Ramadan (referred to as the Feast of Eid al-Fitr);

- \* Dietary rules would be modified to allow inmates to resume religious diet after changing their diet for medical reasons;
- \* Authorized personnel would be appointed to inspect the preparation of Halal meals;
- \* A Muslim chaplain would be permitted to provide Kufi caps to be worn during congregational prayer;
- \* Muslim inmates would be permitted to bring their personal prayer rugs into jail;
- \* \$15,000 would be paid to Mr. Woods; and
- \* \$7,000 would be paid to Heller, Ehrman, White & McAuliffe (which we agreed to contribute to charity).

As one would expect, Mr. Woods was extremely happy with the result of the case and—like many other previously *pro se* litigants—wrote a letter expressing his gratitude. In that letter, he described how his rights had been violated, how he felt when the district court dismissed his claims on summary judgment, and how the 9th Circuit *Pro Bono* Program had made a difference:

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During all of Ramadan, jail officials violated our rights from worshipping God to praying by our bunks. I documented everything they did to us, including denying us a simple sack lunch that was to be our feast at the conclusion of Ramadan. . . . But when I filed the case Judge Hogan, dismissed my case. I felt as if I had been socked in the stomach. I felt no one cared what happen to us in jail. I felt a feeling of hopelessness. I appealed to the 9th Circuit Court. . . . They appointed a lawyer by the name of Leonard Feldman, three college students by the names of K.M., Cecily, and

Devin, and Professor Schnapper. They read my case and understood my rights had been violated. They saw where Judge Hogan had made a mistake. They worked with me and filed the briefs. We won, I can't believe it! There are people out there that really do care. Thank God for the 9th Circuit.

—Laurence Woods, 7-20 03

Results like these are why I continue to accept cases (nine and counting) from the 9th Circuit *Pro Bono* Program and continue to act as a district coordinator. It's

also why you should participate as well, which is the subject addressed below.

#### Take a *Pro Bono* Appeal—Please

The 9th Circuit *Pro Bono* Program presents numerous opportunities, including:

- (a) *Pro bono publico* service, as required by Washington Rule of Professional Conduct 6.1;
- (b) A chance to enhance the lives of those in need, as described above;
- (c) Substantive briefing and oral argument *without* much, if any, supervision (especially attractive for newer attorneys at large law firms); and
- (d) A chance to become known and respected by 9th Circuit judges and staff.

Perhaps for these reasons, the Seattle area has been blessed with a large group of attorneys who are willing to accept *pro bono* appeals from the 9th Circuit. As a district coordinator, I am responsible for letting attorneys know when an appeal is available and then persuading someone to accept the appeal. I have never had to twist anyone's arm—someone is always willing and able to help.

The procedure for getting involved is easy and does not require a firm commitment. If you are interested, the first step is to fill out the 9th Circuit *Pro Bono* Program Sign-up Form on page 23. You need only provide your name, e-mail address (or physical address), and telephone number, and indicate what types of appeals you would find most interesting. When a *pro bono* appeal becomes available, I circulate a memorandum describing the appeal and asking for volunteers. Appeals are assigned on a first come, first served basis.

Scores of attorneys have participated in the 9th Circuit *Pro Bono* Program in the Seattle area. The overall success record, as best I can tell, is approximately 50 percent, and I have received favorable comments from several attorneys, many of whom—like me—continue to accept new appeals year after year. If you take a moment to fill out the form, you can be one of those attorneys as well. ✍

Mr. Feldman is a shareholder in the Seattle office of Heller, Ehrman, White & McAuliffe LLP. His practice focuses on commercial litigation, appellate practice, and *pro bono* service.

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# What Washington Jurors Really Think

by Chris Dominic and Craig C. New, Ph.D.

One Friday afternoon, we received an update on the settlement proceedings of a large, complex case on which we had been retained. The settlement conference had begun on Thursday, but after a promising start, the talks had broken down. Midway through the negotiations, one of the attorneys had proclaimed, "If this case goes to trial, the jury will *hate* your client." Not to be outdone, opposing counsel had retorted, "The jury will find *my* client sympathetic. However, they will *hate your* client." The mediator had made attempts to unite these radically divergent perspectives, but to no avail. We were going to trial.

One of the strongest areas of competitive advantage when evaluating, arbitrating, medi-

ating, or trying a case is having an accurate and informed sense of what attitudes Washington jurors have toward issues that are related to your case. This is because an individual's attitudes are the most accurate predictors of the way jurors will reason through various case issues. Attitudes affect virtually all stages of information processing, from attention to retrieval.

This is not to say that knowledge of juror attitudes allows one to predetermine case outcome. A persuasive story supported by strong, clear evidence can, and often does, overcome the various biases jurors may hold. However, when jurors are not persuaded by your case or your defense, or are in some way confused

by the facts and/or story presented to them, they often retreat to their biases. This is a possibility that cannot be ignored, and for which the attorney should be prepared. Knowledge of local juror attitudes can aid tremendously in this preparation.

**The Study**

So does the fact pattern of your case put you in a place of competitive advantage, or are you already at a competitive disadvantage when you walk into court? We have been able to answer this question qualitatively for years, as we have been conducting qualitative jury research (mock trials and focus groups) in Washington

since 1978. However, no one, including us, had ever undertaken a *quantitative* study (e.g., community-attitude survey) of sufficient size and scope to achieve an acceptable level of accuracy in the northwestern states.

In light of this void, we designed our study to target jury eligible citizens in the Northwest. We asked attorneys throughout the region what questions they needed answered, and incorporated this feedback into the study's design. After a few iterations, we eventually settled on a survey spanning five categories of juror attitudes: general litigation, employment issues, corporations, medical malpractice, and insur-

ance. After extensive pretesting, our survey was ready to field.

More than 1,000 jury-eligible respondents ultimately participated in the study. This large sample size results in a very low overall error rate of plus or minus three percent. In addition, a sufficient number of survey respondents were from Washington to allow us an error rate of only plus or minus five percent when examining the "Evergreen State" alone. Data collection on this study was completed in January 2003.

**The Findings**

What *do* Washington jurors think? We may not have *all* the answers, or even the space in this article to discuss all the findings from our study. However, the discussion that follows will reveal some of the most interesting and relevant findings from our in-depth study of Washington jurors' attitudes.

**1. Attitudes Toward General Litigation**

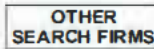
One of the most *general* questions that can be asked of a potential juror is one that is often asked by an attorney or judge during *voir dire*: "Can you be fair and impartial?" When asked in open court, the vast majority of potential jurors quickly answer affirmatively. This is fortunate, for it is the "right" answer—the even playing field on which we all hope our case is heard. However, when we asked survey respondents, "If you were a juror, do you think you would favor the plaintiff or the defendant at the start of the trial?" less than half (45 percent) of Washingtonians declined to choose a side. In fact, 31 percent indicated they would favor the plaintiff, and 24 percent indicated a bias toward the defendant. This is not the "right" answer.

How can there be such a disparity between what happens in court and what happened in a study? It can be explained by the phenomenon of the "good subject." That is, when asked a question in a public setting, people tend to answer with what they believe to be the "socially correct" response. After all, to most people, denying that they can be impartial would be equivalent to saying, "I am incapable of performing my constitutional duty as a citizen." In reality, to the degree it is possible to know one's own biases, it takes a great deal of introspection to truly have a good understanding of the "mental filters" through

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which one views the world. The concept of the "tabula rasa" individual is more a function of tradition than anything legitimated by social science.

A second important finding in the area of general litigation attitudes relates to jurors' views of pain and suffering. Respondents were asked, "In cases where people want money for their emotional pain and suffering, what percentage of the time do you believe those claims are legitimate?" Fifty-three percent of Washington respondents indicated their skepticism of such claims, believing that less than half of such claims are legitimate. The remainder of Washingtonians were evenly split on this issue, with 23 percent believing that exactly half of the claims for emotional pain and suffering are legitimate, leaving only 24 percent believing that more than half are legitimate claims.

### 2. Attitudes Toward Employment Issues

Employment cases often pose challenges in jury selection because virtually all jurors have had jobs, and as a result have well defined opinions about how things are supposed to work in the workplace. They become, in essence, the nontestifying experts the attorney never gets to cross-examine.

To get a general sense of how Washingtonians initially stand in an employment case, we asked, "If you were a juror in a case where an employee was suing his or her employer, which side would you tend to lean toward at the start of the trial?" The results confirm what many employment-litigation attorneys have suspected: Only 26 percent of respondents expressed no bias for either party when faced with such a case. Another 26 percent indicated that their initial leaning would be in favor of the defendant employer, leaving the greatest percentage (48 percent) leaning toward the plaintiff employee.

The most lopsided result in the employment section of our study was revealed when we asked, "How common do you think age discrimination is in the workplace?" One-third of survey respondents believed age discrimination to be "very common." This finding is particularly important because participants offering the most extreme responses to any question (e.g., "very common" or "strongly agree") are indicating that they have a strong attitude. Jurors holding stronger attitudes will

be less open to persuasion on the topic, both in the jury box and jury room. Further, taking the additional 43 percent of respondents who believe age discrimination is "somewhat common," we find that over three-fourths of Washington jurors (76 percent) see age discrimination as a common occurrence. Once again, this finding does not necessarily mean that any ageism case is automatically a winner. However, it does mean that a defense strategy assuming jurors can be persuaded that the plaintiff's case is "absurd" because of the rarity of age discrimination is clearly putting the defendant at a significant competitive disadvantage.

### 3. Attitudes Toward Corporations

Many would probably speculate that with the numerous scandals over the last couple of years (e.g., Enron, WorldCom), jurors' general opinions of corporations have become more negative. Our study contained several items to determine to what extent this speculation was true.

When survey respondents were asked about their initial leanings in a case where an individual was suing a corporation, we saw an increased number of respondents siding with the plaintiff. When asked, "If you were a juror on a case where someone is suing a corporation, which side do you think you would lean toward at the



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start of the trial?" a majority (54 percent) of Washingtonians indicated their favoritism toward the plaintiff. Slightly over a quarter (27 percent) of respondents expressed no leaning, leaving only 19 percent in favor of the corporate defendant.

To get right to the central issue, we asked respondents how their opinions of corporations had changed in the past five years. A slight majority (51 percent) answered that their opinion had "gotten worse," with another 42 percent stating their opinion had "stayed the same." Not surprisingly, only seven percent responded that their opinion of corporations had "gotten better."

Responses to these last two questions may seem to be enough to indicate that Washingtonians have a generally unfavorable opinion of corporations. However, when we directly asked respondents about their overall opinions of corporations, only 33 percent of Washingtonians expressed an unfavorable opinion, compared to 67 percent expressing a favorable opinion. How do we reconcile these seemingly contradictory opinions?

First, as mentioned earlier, many Washingtonians work for businesses or are in business themselves, and familiarity often breeds fondness. Also, we commonly observe people in focus groups and mock

trials who are quick to defend capitalism and the "American Dream." The synopsis of this attitude is essentially, "It is okay to go out and make money, and that's what corporations do." In fact, a common trap into which corporate defendants fall is defensiveness about their being a business, instead of explaining their personal story. A few quotes from participants in our mock trials illustrate the point of trying to draw the line between acceptable and unacceptable behavior.

+ "That's just business. That's capitalism. And that's this country."

+ "Even if [defendants] were worth a hundred billion dollars, why should they give [plaintiffs] a single dollar, when all they did was use the American system?"

Even today, corporations get the benefit of the doubt in a vacuum. However, a corporation that crosses an ethical line is likely to be perceived as a "cheater," and thus subject to severe punishments. When we asked respondents to estimate the frequency with which corporations cover up their wrongdoing, we found that almost two-thirds (61 percent) believe this occurs "often," with another 35 percent responding this occurred "sometimes." This leaves a mere three percent viewing corporate coverups as a "rare" occurs, and a microscopic one percent stating "never." In fact, it is not uncommon, when observing mock-jury deliberations, to see mock jurors discuss "hurting, but not killing" corporations, even when the plaintiff's attorney has not overtly argued that the jury should "send a message."

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#### 4. Attitudes Toward Medical Malpractice

Medical malpractice has been one of the most contentious areas of civil litigation for the past 25 years. In part, this is because healthcare touches all jurors and their families. We find that mock jurors and focus-group participants nearly always bring personal or familial examples into deliberations in medical-malpractice cases. Nationally, medical-malpractice cases are the hardest to win, but can also result in the largest damages. So how do these facts relate to the way Washingtonians perceive medical-malpractice cases?

It is unlikely a coincidence that when we asked, "If you were a juror in a medical malpractice trial, which side would you lean toward at the start of the trial?" that

**Considering that the United States is the only remaining superpower, we still have 44 percent of Washingtonians believing the quality of healthcare has declined, and another 33 percent believing it has remained the same.**

the percentage of Washingtonians siding with the plaintiff was the lowest of any similar questions in the study (40 percent). Those expressing no leanings, and those favoring the defendant, were each 30 percent. This is even in light of an unfavorable response to the question, "How has the quality of our nation's healthcare system changed in the past five years?" Considering that the United States is the only remaining superpower, we still have 44 percent of Washingtonians believing the quality of healthcare has declined, and another 33 percent believing it has remained the same. Only 23 percent believe healthcare has increased in quality. Clearly, Washingtonians compare healthcare to what they know—what they are used to. Since the cost of healthcare has increased significantly at a national level in the last five years, this reaction is not surprising. Typifying this sentiment, a participant in a recent mock trial reported, "I was in the hospital for one week and racked up a bill for \$80,000. This damage award won't even pay for [my] prescriptions." Another participant stated, while discussing damages in a separate case, "Four million dollars isn't even enough to cover the cost of a nursing home for 30 years."

**5. Attitudes Toward Insurance**

Finally, we come to the most lopsided category in regard to initial leanings—insurance. When asked to which side they would lean in a case where a person was suing his or her insurance company, 63 percent of Washington respondents claimed they would lean toward the plaintiff. Only 11 percent said they would favor the insurance company, leaving 26 percent truly impartial. Perhaps this is due to many respondents having had negative experiences with their insurance company. However, only 21 percent of our Washington sample reported ever having a serious dispute with their insurer.

To dig deeper into this issue we asked, "How often do you think insurance companies look for excuses to deny claims?"

A significant majority (61 percent) believed this happens "often," with another 34 percent believing it occurs "sometimes." This leaves a very small percentage (six percent) with the belief that insurance companies try to deny claims "rarely" or "never." It is a remarkable finding that 95

percent of Washingtonians have the opinion that insurance companies at some level intentionally deny claims. An initial reaction to this would leave one feeling there is no good ground to capture when defending an insurance company. However, our qualitative experience informs us that this is simply one side of a system perceived as adversarial to the public.

To look into the other side of this issue we asked, "How often do you think people try to take advantage of their insurance company?" The response revealed some of the defense's best ground to capture. Thirty six percent of Washingtonians be-

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lieve this occurs "often," accompanied by almost half (49 percent) reporting a belief that this occurs "sometimes."

### The Point

Now that you are armed with information, what should you do with it? The key is to consider the perceptions of your audience as early as possible in the litigation process. By doing so, you can capture a substantial competitive advantage at the earliest possible juncture, while also influencing the value and ultimate outcome of the case. There are many opportunities to utilize knowledge of juror attitudes to ben-

efit your position. The following list highlights some of those opportunities and how this knowledge can be used.

- Evaluating cases
- Estimating potential jury outcomes
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- Helping clients confront reality
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- Developing a credible persuasive story
- Avoiding obvious pitfalls
- Promoting winning themes and issues
- Developing negotiation strategy
- Putting your own case forward
- Evaluating the other side's case
- Responding to mediators, arbitrators,

- and the other side
- Preparing for trial
- Preparing to take and defend deposition
- Evaluating evidence in discovery
- Selecting the jury
- Identifying potential juror bias
- Identifying case-relevant attitudes and opinions
- Designing *voir dire*
- Targeting supplemental juror questionnaires
- Identifying sensitive areas for jurors
- Case presentation problems
- Preparing witness testimony for trial
- Using trial graphics to address harmful attitudes
- Explaining complexities

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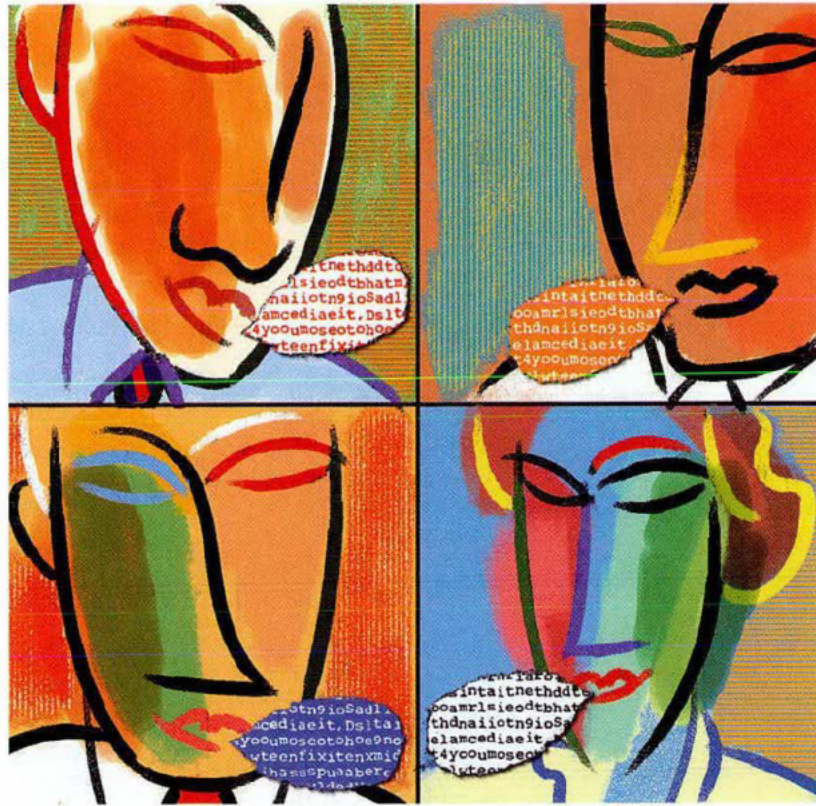
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### Conclusion

We all know that jurors bring a wide range of attitudes to trial. These attitudes are heavily influenced by the personal experiences of jurors, and these attitudes are not left at the courthouse door. The major findings of our juror-attitude survey show that, in general, jurors tend to favor plaintiffs, regardless and in the absence of case facts. The strongest bias of this type was found in favor of plaintiffs in insurance cases, with the weakest bias in favor of plaintiffs in medical-malpractice cases. The data also indicate that jurors come to trial with a reasonably high awareness of discrimination in the workplace. Jurors appear to have favorable opinions of corporations, but at the same time distrust them and are predisposed to punish wrongful conduct. Finally, our data show an increase in unfavorable opinions toward corporations and healthcare.

Forewarned is forearmed. A working knowledge of how area jurors view various topics of litigation can go a long way in giving the attorney a competitive advantage in all aspects of litigation. The attitudes discussed in this article span a wide range of case types, and should be applicable in many cases. ♪

Chris Dominic is president and Craig C. New, Ph.D., is the director of research of Tsongas Litigation Consulting, a Northwest trial consulting firm with offices in Seattle and Portland, serving clients in 40 states. The authors can be contacted at [chris@tsongas.com](mailto:chris@tsongas.com) and [craig@tsongas.com](mailto:craig@tsongas.com).



# Make the Most of Seasonal Mingling

by Debra Fine

**D**o you dread law firm or other holiday parties? Does attending another open house make you want to run inside your own and lock the door? You're not alone. Many of us feel apprehensive about these situations because most of us hate entering rooms when we don't know anyone in them. Keeping a conversation going during social occasions can be an ordeal.

But these occasions represent opportunities to develop friendships and broaden our networks. Whether you realize it or not, networking happens all the time.

Some people view small talk as inconsequential, but I contend that it's the appetizer for every relationship. Small talk can turn a challenging situation during an awkward social gathering into a success.

Small talk connects us, whether the setting is business or social.

Everyone learns the technical skills required of their jobs, but not everyone places importance on conversational skills. The ability to talk easily with anyone is a learned skill, not a personality trait. Learning this will help you develop rapport with people and leave an impression that lasts longer than exchanging business cards.

Here are a few tips to improve your small-talk skills:

- + Be the first to say "Hello!"
- + Introduce yourself. Act as if you're the host and introduce new arrivals to your conversational partner or partners.
- + Smile first and always shake hands when you meet someone.

- + Take your time during introductions. Make an extra effort to remember names, and use the names frequently in the conversation.
- + Maintain eye contact in any conversation. People don't feel listened to if you're not looking at them.
- + Get somebody to talk about why they're attending the event, and you're on your way to engaging them in conversation.
- + Show an interest in every person. The more interest you show, the more wise and attractive you become to others.
- + Listen carefully for information that can keep the conversation going.
- + Remember: People want to be with people who make them *feel* special, not people who *are* special. Take responsibility to help people you talk to feel as

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- if they're the only person in the room.
- Play the conversation "game." When someone asks, "What's going on?" answer with more than "Not much." Tell more about yourself so that others can learn more about you.
- But be careful with business acquaintances. You wouldn't want to open a conversation with, "How's your job at (fill in the blank)?" What if that person just got fired or laid off? Be careful when you're asking about an acquaintance's spouse or special friend: You could regret it.
- Don't act like you're an FBI agent. Questions like "What do you do?" "Are you married?" "Do you have children?" and "Where are you from?" lead to dead-end conversations.
- Be aware of body language. Nervous or ill-at-ease people make others uncomfortable. Act confident and comfortable, even when you're not.
- Be prepared. Spend a few minutes before an anticipated event preparing to talk easily about three topics. They will come in handy when you find yourself in the middle of an awkward moment or seated at a table where people are playing with their food.
- Show an interest in your conversational partner's opinion, too. You're not the only person who has opinions about the stock market, weather patterns, or what's wrong with kids today!
- Stop conversation monopolists immediately. If possible, wait for the person to take a breath, then break in with a comment about the topic. Then immediately lead the conversation in the direction you want it to go.
- Be prepared with exit lines. You do need to move around and meet others.
- Don't melt from conversations. Make a positive impression by shaking hands and saying goodbye as you leave.

Every encounter involves risk. As long as you keep looking for new people to meet, and you show an interest in other people, you can make friends and enjoy lively conversations. ♣

*Debra Fine lives in Denver and works nationwide as a speaker and trainer. She is a former engineer who lurked in corners (especially those with buffet tables) when she wasn't avoiding social functions altogether.*

## The Board's Work

by Lindsay Thompson (well, sort of)

Portland, Oregon, October 17-18, 2003

Thucydides cheerfully admitted in his *Histories* that he hadn't actually been at all the great orations he recorded in his works. But, he said, he asked around, and consulted records, and if he didn't get down precisely what they did say, he reported what they should have said in the circumstances.

This *Board's Work* is like that. I missed the entire meeting, tied to my desk in Salmon Bay by a client emergency. So I've consulted around about what happened, and I don't intend quoting any orations at all. I checked among those who were there, and here are the highlights.

October is when The New Folks come on board. Being a new governor is a long time coming. You file in January, you don't get election results till June, you start getting invited to meetings in July, but you can't vote on anything till October. So let's see what the new president, Dave Savage (who, by the way, won't be 60 till next year—my apologies for the error in his September profile) and the new kids on the BOG—Randy Gordon, Mark Johnson, Kristin Olson, Katie O'Sullivan, and Mike Pontarolo—got done in their first at-bat.

**Minutes:** September's got approved unanimously. Good start.

**Consent calendar:** nothing removed from that. Bylaws amended to adjust deadline dates for license-fee payments; additional committee appointments approved; changes to the Awards Committee signed off on; reappointment of nonlawyer members to Fee-Arbitration Panel okayed; Northwest Justice Project board appointments inked; appointment to Office of Public Defense Advisory Committee made; new WSBA treasurer appointed; and the resolution passed at the September annual meeting (see the October *Board's Work*) approved. Done, and done.

**Potential issues review:** The gobs did a waterfront tour of things they are likely to have to address during the coming year. Among the problems: civil legal funding for the poor (a 20 percent cut hits this year), and the civil legal needs assessment by the Supreme Court (more on that next month) says the problem is going from bad to

worse. Criminal defense, juvenile representation, and the death penalty all hover in a menacing pose. Tort reform never dies. With the Legislature come more daft ideas from all sides, eager to hold their thumb on the scale, but always, of course, in the public interest. State and local funding problems for the courts will persist. District court judges are liable to come under the legislative eye in '04 as the budget crunch tightens. WSBA ethics rules are likely to change in light of the ABA's 2000 revision of the model rules (see Scott Miller's article, November *Bar News*, p. 15).

New real estate for the WSBA: a water pipe broke just as everyone decamped to Portland, flooding part of the offices. That, plus the air-quality problems afflicting the space earlier this year, is moving the BOG toward trying to get a new space lined up for action next month. The WSBA's sponsored liability-insurance program is up for renewal in Ought Four; look for its being put out to bid. CLE issues: there's always tinkering going on there. Meanwhile, the Council for Public Legal Education continues as WSBA's pushmi-pullyu, neither one thing nor the other, and it will have to become something other in the coming year. President Savage has his holiday list as well: increasing committee membership diversity; doing something about the insider's game the election of presidents has become; GR 12 guidelines for WSBA

sections; looking at the Rule 9 Intern Program; providing cheap online legal research to members; and auditing limited practice officers. Looks like a year of either rollercoaster thrills or one tired hamster in the treadmill.

CLE Director Mark Sideman brought forth his Three-Year Plan. He sees things like webcasting CLEs on the net, special sales, and other marketing and service innovations.

Tom Kelly won a unanimous nod to serve on the Supreme Court Ethics Advisory Committee, which advises judges on ethical conundra.

Lee Ripley, one of y'r ob'd't s'v't's favorite legal ethics mavens, and Ellen Dial talked about possible changes to the attorney-client privilege rules as part of the larger ethics overhaul. It's a work in progress. More to come.

Governor Joni Kerr moved and passed—unanimously—a motion to create a group to study how title officers subject to IOLTA operate outside any kind of Supreme Court regulation or ethical rules. Governor Bryce Dille, the new treasurer, reported on some technical stuff.

The Board also met, during its visit, with y'r ob'd't s'v't's two favorite bar associations, Clark and Cowlitz-Wahkiakum, from whom they doubtless learned much. Next meeting: December 5-6 in Leavenworth. Ciao, bella, happy holidays!



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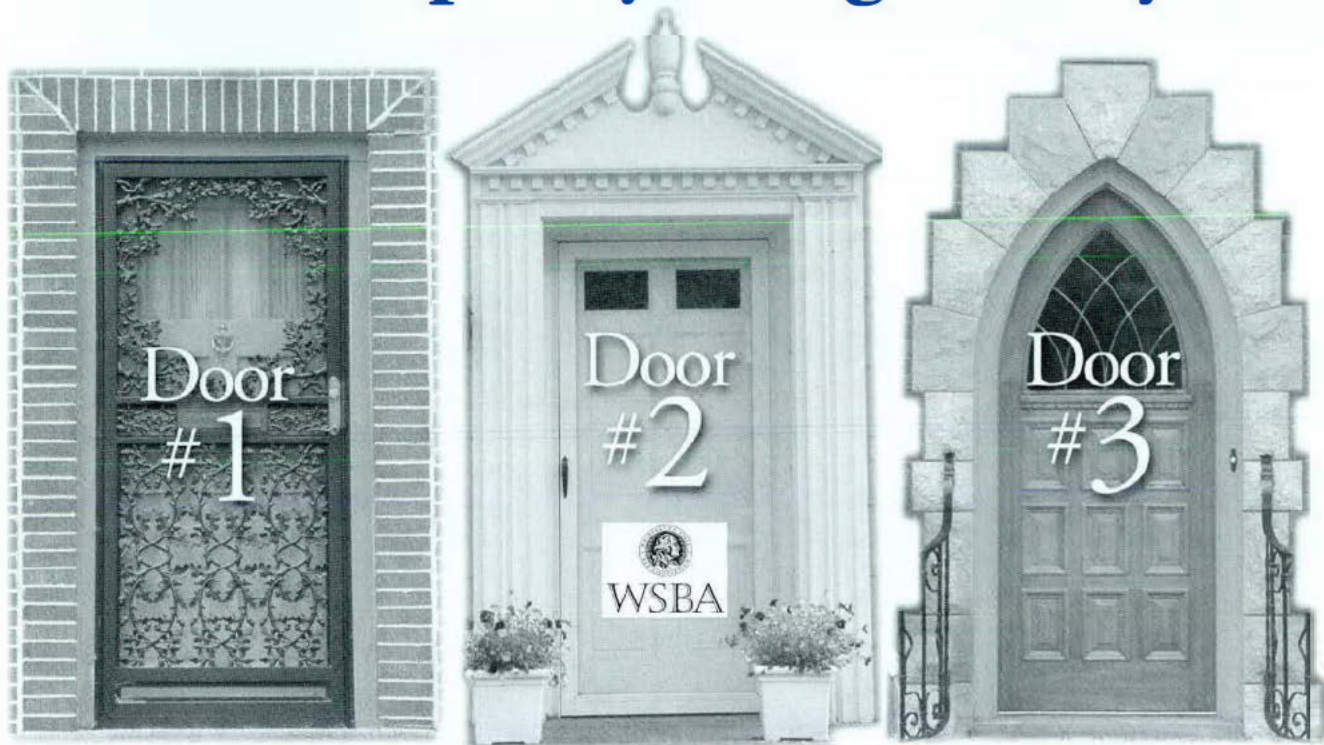
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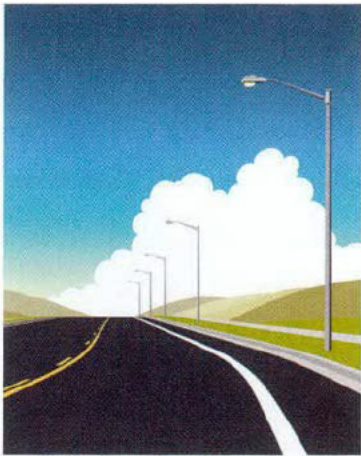
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## Around the State



Around the State reports are welcome from county and specialty bar associations. There are no rules for writing them, except to mention lots of your members. We leave it up to each organization to decide who does it, and to the correspondent to decide how often. Many counties are still available. Contact the editor at [tradelaw@thompson-law.com](mailto:tradelaw@thompson-law.com) for more information.

### Clark County

After a long time with Another Firm, former Family Law Section Chair **Howard Marshack** has opened the Howard Marshack Law Firm at 900 Washington Street, Suite 980, Vancouver, WA 98660, tel. 360-699-0500, e-mail [lawyer@marshack.us](mailto:lawyer@marshack.us).

### Cowlitz County Report

by Our Local Correspondent

Congratulations to **Dustin Richardson**, who passed the July bar exam. Dustin will continue his work at the Cowlitz County Prosecuting Attorney's Office.

**Patricia Anderson** has been hired as a Rule 9 intern. Patricia is a graduate of Marquette Law School and a Wisconsin Bar member.

Congratulations to the 2004 CWBA board members: President **Kurt Anagnostou**, Vice President **Darrel Ammons**, Secretary **Frank Randolph**, Treasurer **Vince Penta**, At-Large No. 1 **Dennis Maher**, At-Large No. 2 **Noelle McLean**, and Large and In-Charge **Heiko Coppola**.

**Wes Johnson** is serving as vice president and board member of the Ethnic Support Council, which provides interpretation and assimilation services to immigrants and others with language barriers. **Megan Ellavsky** was featured in an issue

of *The (Longview) Daily News* for her Martha Stewart-esque renovation of her family's home. Next month: "Soufflés to Die For!"

Information for the February issue must be received by December 15 at [CWBAnews@hotmail.com](mailto:CWBAnews@hotmail.com).

### East King County

**Blake Barnes** has joined T-Mobile USA in Bellevue as a senior corporate counsel for employment and labor. She was previously an attorney with Littler Mendelson, PC, in Seattle.



Barnes

### Hells Canyon Circuit Report

by Bill Acey

Asotin, Garfield, and Columbia counties, southeastern Washington counties all, have been a judicial district circuit ridden by one judge since territorial days. However, for reasons unknown, the local bar association consisted of only Asotin and Garfield counties. At this year's annual bar meeting, Columbia County was invited to join, and graciously accepted. Also, tired of our geographical reference point being Lewiston, Idaho, we gave ourselves a name, Hells Canyon Circuit, which I have adopted for use in our district.

The legal department of the Administrative Office of the Courts was not sure we could name ourselves, and tactfully suggested the matter be submitted to the trustees of the Superior Court Judges' Association. However, the name was being included on the cover of our new local court rules (highly recommended reading in smaller counties) and time did not permit an official request. I informally ran it by Chief Justice **Gerry Alexander**, a few justices, and some Board of Governors members at this fall's Judicial Conference, and the general consensus was "great idea!" What do you say, Ferry, Pend Orielle, Stevens, and other multicounty districts? After all, we ride circuit, not district.

### South King County Report

by Tom Campbell

The South King County Bar held its an-

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Gourmet said "we loved our time at the Edgewater"

nual golf tournament in Kent for the first time. The renamed tournament, the Phil Biege Open, featured a new format at Riverbend Golf Course. The tournament may have come down the road from Enumclaw, but the kielbasa was still there. Judges Ishikawa, Quinn, and Shellan participated, but the big stick among the judges was Brian Gain. Scott Saeda couldn't compete on the big course and relinquished his title. The new South King County champ is John Crowley.

The South King County Bar Association's ambitious year with Tim Edwards at the helm kicked off in September with

Judge Anne Ellington reintroducing herself to the members. Tim's idea to feature a judge at each meeting is designed to give us a "getting to know your judge as a person" point of view. Judge Ellington told about her upbringing with a military father who toured around the world and of being the sole inhabitant of Colorado who failed to ski.

The room was filled with members—new and old—who enjoyed the relaxed meeting traditionally provided by the South County. For instance, Bill Murphy introduced the newest member of his firm, son Dan. The Buckley power brokers,

Duncan Wilson and Tom Hargan, put down their chainsaws long enough to join us for dinner, too.

In November, the South King County Bar showed off the Regional Justice Center, with the first swearing in ceremony conducted at the Kent Courthouse. Superior Court Judges Eadie, Lum, Gain, and Fleck, along with SeaTac prosecutor Mark Johnsen, were instrumental in making the first year of the event a success.

#### Spokane County

Julia Pelc has become a partner in what is now known as Taft, Makiu, Pelc, Henault & Hancock. She continues to practice in the areas of family law, guardianship, and probate. She joined the firm in 1999.

#### Walla Walla County

Jim Moore has been elected to a four-year term on the Whitman College Board of Overseers. A 1996 Whitman graduate, Moore is chief environmental counsel and vice president of Huntsman LLC, and deputy general counsel of Huntsman International, the largest privately held chemical company in the world. From 1987 to 1998, Moore was a partner in Perkins Coie, based in Seattle.

#### In Memoriam

*Remembering our colleagues and friends*

#### Arthur Barnett

*Opponent of WWII internments practiced law as lawyers should*

Glaswegian by birth, Arthur Barnett was "one of the finest humanitarians ever to walk in the Northwest," Bainbridge Island historian Gerald Elfendahl told *The Seattle Times*. Though he made his name defending Gordon Hirabayashi against convictions for defying curfews and for refusing to register for internment during World War II, Barnett handled civil-rights cases of every stripe during a career that spanned more than half a century. He sought greater access to courts for the poor; worked to provide more programs for Seattle kids to take part in and stay out of trouble; and argued for equal employment rights for African Americans. He was also active in the arts: as famed painter Mark Tobey's friend and attorney, he negotiated the acquisition of Tobey's estate by the Seattle Art Museum.

Barnett moved to Seattle with his fam-

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ily when he was 12. He attended the UW, where he met his wife, Virginia. Barnett took his law degree at the UW in 1932. As his career lengthened, so did the list of honors he received. High among them were the ACLU's 1983 William O. Douglas Award, and the WSTLA Courage Award—shared with Hirabayashi—in 1993. His papers have been given to the Allen Library at UW.

Survivors include his wife of 67 years, Virginia; three sons; nine grandchildren; and seven great-grandchildren.

Arthur Barnett was born in Glasgow, Scotland, April 30, 1907, and died on Bainbridge Island October 23, 2003, aged 96.

#### Charles T. Cole

*Longtime Stanwood lawyer*

Charles T. Cole died September 22, 2003. A memorial service was held in his honor September 27, his 77th birthday.

#### William Heylman

*Sportsman, sailor, Eagle Scout*

Bill Heylman was a graduate of Notre Dame and Willamette Law School, and spent most of his career handling medical liability cases. He was variously associated with McGilvray/Jones in Spokane; Williams, Kastner & Gibbs in Seattle; and his own firm.

Survivors include his wife, parents, and sister.

William Warren Heylman was born November 24, 1953, and died September 25, 2003, aged 49.

#### John F. Kelley

*One of three lawyer brothers*

John F. Kelley of Spokane died September 10, 2003. He was one of three brothers who were lawyers all at the same time in the Washington State Bar Association. *Bar News* ran a photograph of the three Kelley brothers several years ago.

Kelley was an assistant U.S. attorney for a term, and practiced with various partners in the Paulsen Building until the year before he died.

The second Kelley brother, who died a year ago in August, was William V. Kelley of Witherspoon, Kelley, Davenport & Toole in Spokane.

John Kelley is survived by his brother, Thomas D. Kelley, 95, of Bainbridge Island, who retired with honors in 1999; his wife, Lucille; and his daughter, Susan Elizabeth

Kelley, a prominent criminal-defense attorney in Cleveland, Ohio.

*This remembrance of his brother was provided by Thomas D. Kelley.*

#### Judge Daniel T. Kershner


*Longtime Snohomish County judge and family man*

Daniel Kershner was born July 3, 1930, in Concordia, Kansas. As part of a military family he attended local schools where they were stationed, and graduated from Broadway High School in Seattle. After graduating from the University of Washington in 1951 he met Gene Simons; they were married later that year. He contin-


ued his education at the UW and graduated with his law degree in 1954. He was drafted by the Army immediately and served for two years before starting his law practice. He gave up that practice and position as part-time Lynnwood Municipal Court judge and justice of the peace when, in 1971, Governor Dan Evans appointed him to the Snohomish County Superior Court in Everett. He retired from the bench in December 1991.


Judge Kershner earned a reputation for being as fair as possible to victim and perpetrator. He tried hard to ensure that the punishment he meted out fit the crime. He was active in Kiwanis and other civic

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organizations and projects. One of his greatest joys was spending time with his wife and children. They camped and, later, used a recreational vehicle, mostly in the Pacific Northwest, and up and down the West Coast. For nearly 30 years they spent vacation time on Maui and Kauai.

Survivors include his wife, Gene; two siblings; five sons; 16 grandchildren; and seven great-grandchildren.

Daniel Theodore Kershner was born in Concordia, Kansas, July 3, 1930, and died in Everett July 20, 2002, aged 72.

**Norm Turay**

*Soldier, lawyer, singer, athlete*

Born in Wallingford to Scandinavian-born parents, Norm Turay graduated from Seattle's Lincoln High in 1932 and worked for two years before entering the UW at 18. A junior-varsity rower in the heyday of Al Ulbrickson, he entered UW Law School in 1940 and graduated two years later. Entering the Army Air Force, he became a weather forecaster in North Africa, flying solo reconnaissance missions to see the weather before bombing raids. He received the Air Service Medal with oak leaf cluster for valor, and three Bronze Stars.

Turay met his wife, Phyllis, in church in January 1946. They married in June and bought a home in Renton. Uncharacteristically for the times, they took nine months off a few years later for a bicycle tour of Europe.

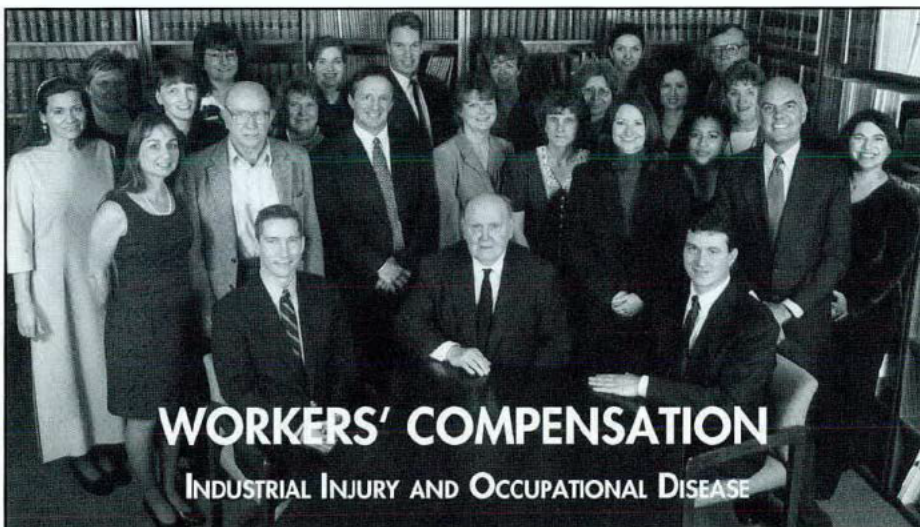
Returning to Seattle, Turay joined the Department of Veterans Affairs and settled into a West Seattle home overlooking Elliott Bay that he occupied for the rest of his life.

Turay spent some time in private practice, but the bulk of his career was with the IRS. He retired in 1975 and returned to private practice.

An accomplished pianist, Turay was also a member of a barbershop quartet and one of the founders of the Seabeck Family Camp on Hood Canal, where the family summered for four decades.

Survivors include his wife, Phyllis; two siblings; two daughters; and five grandchildren.

Norman Turay was born March 24, 1916, in Seattle and died in Seattle September 27, 2003, aged 87. ☚



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by Peter Roberts

*The mission of LOMAP is to assist solo and small firm practitioners in the delivery of the highest-quality legal services.*

Since 1998, LOMAP has expanded its services as we've learned of the practice-management needs of our members. In 2001, we began to offer use of a computer in the LOMAP office, the purpose of which is to demonstrate popular practice-management software. This "lab" enables members to compare software, and to discuss their particular needs and preferences with LOMAP staff.

LOMAP now offers "Law Office in a Box" (LOB). This moniker describes the combining of preselected software, hardware (if necessary), and initial services from LOMAP to members who are practicing as solos and want a fast way to set up the technical side of their practices. We hope members find this offering attractive because of its simplicity of choice, its discounts, and the law practice training and coaching provided by LOMAP as part of the package. Dealers offer the software and technical training to *any* member because that is their business. LOB is limited to solo practitioners.

Practice-management software programs are mature products that lawyers say are essential to help them stay on top of their calendars and the many details of their matters. The programs provide organizational tools for better managing calendars, documents, telephone conversations, etc., so that lawyers can find, at a moment's notice, the information they need.

### What Is the Rationale for LOB?

A solo practitioner often lacks the staff to assist with tracking details. The rationale of LOB is that practice-management soft-

ware is a very important part of a solo's ability to manage the details and the calendar, particularly when staff help is not available. These software aids potentially reduce grievances and malpractice risks, and clients can receive prompt service.

**We hope members find this offering attractive because of its simplicity of choice, its discounts, and the law-practice training and coaching provided . . . as part of the package.**

### What Happens with LOB?

The LOMAP advisor orders the software, loads it onto the computer, and provides the initial law practice training and coaching in the LOMAP office. A commercial consultant provides subsequent support. Members pay the WSBA for the software and service in one price.

### What Software Are We Talking About, and Why?

The software programs are Amicus Attorney ([www.amicusattorney.com](http://www.amicusattorney.com)) and PCLaw ([www.pclaw.com](http://www.pclaw.com)). Amicus Attorney handles calendaring and matter details, including timekeeping. PCLaw handles billing, trust accounting, and general ledger for the business side of the practice. There are many practice-management software choices for lawyers. The products offered are low cost, intuitive, and easy to learn; have good technical support; link very well; and are used by many lawyers in the United States and Canada.

### What LOMAP Does Not Do

The WSBA is not a commercial dealer with "certified" technicians. Such dealers are available to members for subsequent service and support. LOMAP does not re-

ceive any financial incentive from software vendors. The 10 percent discount that the vendors offer a bar association is passed on to members. LOMAP offers LOB to solo practitioners only. For larger, networked offices, we recommend members use a dealer. The vendor or dealer, not LOMAP, will assist with any data migration into the programs.

### What Is the Cost?

The cost is \$710, and includes Amicus Attorney (advanced version), PCLaw (single-user version), installation/linking of the

software, and three hours of consulting time to help members understand the basics of the programs and the most important practice aids. The cost does not include service agreements or data migration.

### What Happens After the Sale?

LOMAP is available to answer questions about features of the software until a member has used the three hours of consulting time included with the purchase. After this time, the vendor and dealers are available to provide support.

For ordering information, contact Pete Roberts, LOMAP practice management advisor, at 206-727-8237 or [peter@wsba.org](mailto:peter@wsba.org). The WSBA accepts checks, Visa, and MasterCard. ☞

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*LOMAP is part of the WSBA Lawyer Services Department, which offers members the Ethics Line (206-727-8284); Fee Arbitration and General Mediation programs (206-733-5923); the Lawyer-to-Lawyer mentorship program (206-733-5914); and the long-established Lawyers' Assistance Program (206-727-8268), which provides counseling, therapy, and substance-abuse help.*

# Bar News Survey

**W**hat do you think of *Bar News*? What do you especially like? What don't you like? How would you like to see it improved? We'd like to hear from you!

Last month, a random sampling of WSBA members were contacted by telephone to participate in a survey about *Bar News*. We'd like to give all readers a chance to participate, so if you were not contacted previously by phone, we invite you to let us know what you think.

Please mail or fax completed surveys no later than **January 31, 2004**, to:

WSBA *Bar News* Survey  
2101 Fourth Ave., Ste. 400  
Seattle, WA 98121  
Fax: 206-727-8319

Full confidentiality is assured, and individual responses will not be used alone. We appreciate your participation.

1. How often do you read *Bar News*?

- Always
- Usually
- Rarely
- Never (*skip to question 3*)

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. How much of *Bar News* do you usually read?

- Entire issue (*skip to question 4*)
- More than half (*skip to question 4*)
- About half (*skip to question 4*)
- Less than half (*skip to question 4*)

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. If you don't read *Bar News*, why not?

- Contains little of interest or value to me
- Is just not relevant
- Not enough time
- Other: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. What other legal publications do you read?

- De Novo*
- County bar publication(s): \_\_\_\_\_

- Trial News*
- Washington Law & Politics*
- Oregon Bar Bulletin*
- The Advocate* (Idaho State Bar)
- Other state bar publication(s): \_\_\_\_\_
- ABA Journal*
- Other: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Thinking about the magazine overall, how would you rate it?

- Excellent
- Very good
- Good
- Fair
- Poor

6. Please rate your overall satisfaction with *Bar News* by circling a number on the scale below for each item. 1 is very dissatisfied and 5 is very satisfied.

	Very dissatisfied	Dissatisfied	Neutral	Satisfied	Very satisfied
Overall content	1	2	3	4	5
Interest	1	2	3	4	5
Readability	1	2	3	4	5
Usefulness	1	2	3	4	5
Appearance/design	1	2	3	4	5

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Which sections of *Bar News* do you like best? (Check all that apply.)

- Feature articles
- Letters to the Editor
- President's Corner
- Executive Director's Report
- Editor's Page
- The Board's Work
- Around the State
- Disciplinary Notices
- FYI
- Other: \_\_\_\_\_

8. Which sections of *Bar News* do you like least? (Check all that apply.)

- Feature articles
- Letters to the Editor
- President's Corner
- Executive's Report
- Editor's Page
- The Board's Work

- Around the State
- Disciplinary Notices
- FYI
- Other: \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

9. Which types of articles do you especially like? (Check all that apply.)

- Substantive areas of the law
- New developments in the law
- Profiles of Washington lawyers
- Local practice news
- Access to justice
- Ethics
- Lawyer assistance programs
- Technology
- Practice tips
- Book reviews
- Other: \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

10. What would you like to see in *Bar News* that is **not** there now (i.e., what's missing)?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

11. *Bar News* is published monthly. Please comment on the frequency of publication.

- Should continue to publish 12 times a year
- Should publish \_\_\_\_\_ times a year
- Have no opinion

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

12. How would you prefer to receive *Bar News*?

- Paper magazine only
- Online only
- Both paper magazine and online
- Paper magazine with expanded information online

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

13. How do you prefer to get information from the WSBA? (Check all that apply for each category.)

	<i>Bar News</i>	Other WSBA publications	WSBA website	E mail from the WSBA	Mailings from the WSBA	Other (please specify)
General WSBA news						
CLE seminar information						
Disciplinary notices						
Practice information						
Governance information						
Committee information						
Other (please specify)						

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

14. What do you do with *Bar News*? (Check all that apply.)

- Clip or copy articles of interest
- Keep for personal reference
- Place in firm library
- Used to file, but now rely on *Bar News* online archives
- Route to others
- Place in public area
- Discard without reading
- Discard after reading
- Other: \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

15. How often do you refer to *Bar News* online (www.wsba.org/barnews)?

- Often
- Occasionally
- Never
- Don't have Internet access
- Didn't know it was online

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

16. What do you find valuable about *Bar News* online? (Check all that apply.)

- Archive of back issues
- Instant access
- Ability to easily search by subject

- No need to save my printed copy
- Have never accessed *Bar News* online
- Other: \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

17. How does *Bar News* compare to other bar associations' publications?
- Better than others
  - About the same as others
  - Not as good as others
  - Don't read other bar associations' publications

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

18. How would you improve *Bar News*?

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*The following optional demographic information will help us better understand Bar News readers.*

19. Are you:
- male
  - female
20. Is your age:
- 21-30
  - 31-40
  - 41-50
  - 51-60
  - over 60

21. How long have you practiced law?
- 5 years or less
  - 6-10 years
  - 11-15 years
  - 16-20 years
  - more than 20 years

22. Where is your office?  
 county \_\_\_\_\_ state \_\_\_\_\_

23. Please check the setting that most accurately describes your practice (check only one).
- Federal agency
  - In house counsel
  - Law firm associate
  - Law firm partner
  - Municipality or other local government
  - Nonprofit or public service

- Sole practice
- State agency
- Judicial
- Not practicing
- Other: \_\_\_\_\_

24. What are your primary areas of practice? Please select no more than five of the following areas on which you spend at least 10 percent of your time.

- Administrative
- ADR
- Agricultural
- Antitrust
- Banking
- Business/commercial
- Civil litigation
- Civil rights
- Communications
- Constitutional
- Construction
- Consumer
- Contracts
- Corporate
- Criminal
- Debtor-creditor
- Elder
- Employment
- Entertainment
- Environmental
- Family
- Government/administrative
- Health
- Immigration
- Indian
- Insurance
- Intellectual property
- International
- Juvenile
- Labor
- Military
- Municipal
- Personal injury
- Probate/wills/estate planning
- Real property
- Securities
- Sports
- Tax
- Torts
- Workers' compensation
- Other: \_\_\_\_\_

Other comments:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Thank you for participating in this survey. ☺

# Disciplinary Notices

*These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) of the Washington State Supreme Court Rules for Enforcement of Lawyer Conduct, 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 name and address.*

## Disbarred

**Matthew J. Dever** (WSBA No. 24193, admitted 1994), of Puyallup, was disbarred by order of the Supreme Court, effective March 26, 2003, following a hearing. This discipline was based on his conduct in 2000 and 2001 involving lack of diligence and communication with several clients, failure to preserve client funds, and failure to cooperate with the disciplinary process.

**Matter 1:** Mr. Dever represented the Washington collection clients of a California law firm. In December 2000, the firm terminated Mr. Dever's employment and he agreed to complete his pending cases. In April 2001, the firm discovered a judgment entered against one of the clients Mr. Dever was responsible for handling. Mr. Dever could have obtained a default judgment, but delayed, allowing defendant's counsel to file a notice of appearance, answer, and counterclaims. Mr. Dever failed to respond to defendant's discovery requests. Mr. Dever also failed to appear for defendant's motion for summary judgment, during which the court entered a \$15,600 judgment against the client. After several unsuccessful attempts to contact Mr. Dever, the firm retained new counsel, who filed a motion to set aside the judgment. The court denied the motion. The firm discovered that Mr. Dever had not filed complaints and other pleadings in other client matters assigned to him.

**Matter 2:** In 2000, Mr. Dever agreed to represent a landlord in an eviction. Mr. Dever filed the unlawful detainer action, and the defendant filed a counterclaim. The court ordered the tenant to make \$1,000 monthly payments to the landlord, pending resolution of the counterclaim. Opposing counsel sent Mr. Dever the payments for March through July 2001. Ini-

tially, Mr. Dever did not forward any of these payments to his client. After the client retained new counsel, Mr. Dever sent him one monthly payment. The client's new counsel subpoenaed Mr. Dever to testify at a hearing regarding the four missing checks. Mr. Dever failed to appear, and the court ordered him to appear at a continued hearing. Mr. Dever failed to appear at the continued hearing.

**Matter 3:** In July 2001, a client retained Mr. Dever to collect a judgment. The client paid Mr. Dever \$70. Mr. Dever took no action on the client's case and moved out of his office without leaving a forwarding address or telephone number. Mr. Dever failed to cooperate with the disciplinary investigation in all three of these matters. Mr. Dever's conduct violated RPCs 1.3, requiring lawyers to diligently represent their clients; 1.4, requiring lawyers to keep clients reasonably informed about the status of their matters; and 1.14, requiring lawyers to keep complete records of client funds and disburse them promptly upon request; and ELCs 1.5 and 5.3(e), requiring lawyers to cooperate with the disciplinary process.

Jonathan Burke represented the Bar Association. Mr. Dever represented himself. The hearing officer was Ronald A. Roberts.

## Disbarred

**Robert H. Lewis** (WSBA No. 23635, admitted 1994), of Tacoma, was disbarred by order of the Supreme Court, effective March 26, 2003, following a hearing. This discipline was based on his conduct in 2001, involving abandoning his practice without notice to his clients, failing to disburse client funds upon request, lack of diligence, and failure to cooperate with the disciplinary process.

**Matter 1:** In May 2001, Mr. Lewis received a \$4,152 settlement check for an incarcerated client. He gave the client \$100, disbursed \$150 to himself, and deposited the rest in his trust account. In June and July 2001, Mr. Lewis used client funds from his trust account for his personal expenses, writing checks to Safeway, Top Foods, and Walmart, among others. Mr. Lewis was not able to pay the client her settlement funds and gave her a promissory note. Mr. Lewis did not pay the cli-

ent the promised funds. Mr. Lewis failed to cooperate with the disciplinary process, including the trust-account audit.

**Matter 2:** In March 2001, Mr. Lewis agreed to represent a client in a marriage-dissolution action. In March, the client asked Mr. Lewis to prepare temporary orders. Mr. Lewis prepared the pleadings in May and set a hearing for June. Mr. Lewis later cancelled the hearing due to his own "medical emergency." Mr. Lewis took no further action on the client's case and filed a notice of withdrawal in September 2001.

Mr. Lewis's conduct violated RPCs 1.3, requiring lawyers to diligently represent their clients; 1.4, requiring lawyers to keep their clients reasonably informed about the status of their matters; 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; and 1.14, requiring lawyers to keep complete records of client funds and to promptly disburse funds to clients upon request; and RLDs 2.8, requiring lawyers to promptly comply with requests for information during the disciplinary process; and 4.10(g), requiring lawyers to attend disciplinary hearings if given a notice to attend.

Anthony Butler represented the Bar Association. Mr. Lewis represented himself. The hearing officer was Lish Whitson.

## Disbarred

**Steven C. Miller** (WSBA No. 6234, admitted 1975), of Cheney, was disbarred by order of the Supreme Court, effective April 24, 2003, following a hearing. For additional information, please see *In re Miller*, 149 Wn.2d 262 (2003). This discipline was based on conduct during 1992 through 1994, involving drafting a will naming himself as beneficiary, entering a business transaction with a client, and dishonesty. (*Mr. Miller is to be distinguished from Steven A. Miller and Steven S. Miller, both of Seattle, Steven J. Miller of Tamarac, FL, Stephen R. Miller of Lake Oswego, OR, and Stephen W. Miller of Golden, CO.*)

In 1982, Mr. Miller began representing a 74-year-old client. He drafted a will and power of attorney for the client, and assisted her when she wanted to leave a nursing home. By the summer of 1991, Mr. Miller was stopping by the client's home frequently to bring food, fill her insulin syringes, and provide companion-

ship. In September 1991, the client asked Mr. Miller to draft a new will for her, naming himself as residual beneficiary. Mr. Miller and his secretary prepared the will. Mr. Miller arranged for the client to meet with two other lawyers, who reviewed the will with her and witnessed her signature. In May 1992 and February 1993, the client requested changes to her will. Mr. Miller and another lawyer drafted these changes, and the other lawyer witnessed the client's signature.

In March 1993, Mr. Miller arranged for the client to add his name to her \$192,000 certificate of deposit (CD). Mr. Miller used the client's CD as collateral to obtain a loan. Mr. Miller prepared a 30-year note and mortgage for the \$192,000, agreeing to repay the amount at below market-rate interest, but did not record the mortgage. In July 1993, Mr. Miller cashed out the client's CD, paid off his line of credit, and deposited the remaining funds in his personal bank account. Mr. Miller did not discuss the conflicts of interest with his client or obtain a written waiver.

In March 1994, Mr. Miller applied for a credit union loan. On the application, Mr. Miller did not list the mortgage to his client. He also signed a deed of trust, which, when recorded, took a superior position to the client's unrecorded mortgage. Mr. Miller claims that, at this time, the client forgave the \$189,477 remaining on the loan from the CD funds. Also at this time, the client became ill. In June 1994, Mr. Miller obtained a doctor's certificate of disability, but did not notify the client's family. The client died on or about October 18, 1994. Mr. Miller began probating her estate that day, obtaining letters testamentary, and transferring assets to his personal accounts.

In October 1994, family members filed a will contest. In October 1995, the court set aside the client's will, due to undue influence by Mr. Miller, and ordered him to return \$195,891 to the estate. During the will contest appeal, Mr. Miller filed a Chapter 13 bankruptcy petition. Mr. Miller paid the estate \$181,770 prior to the petition. He had not made any additional payments at the time of the court's decision.

Mr. Miller's conduct violated RPCs 1.8(a), prohibiting entering a business transaction with a client, unless the terms

are fair and reasonable, and the client consents in writing after a full disclosure; 1.8(c), prohibiting lawyers from drafting instruments giving the lawyer substantial gifts, including testamentary gifts; and 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation.

Jeffrey Tilden, Franklin Cordell, and Linda Eide represented the Bar Association. Clinton J. Henderson represented Mr. Miller. The hearing officer was William E. Fitzharris Jr.

### **Suspended**

**Brian T. Butler** (WSBA No. 15529, admitted 1985), of Spokane, was suspended for 18 months by order of the Supreme Court, effective December 5, 2002, following a stipulation. This discipline is based on his conduct between 1999 and 2001, involving failure to supervise a nonlawyer assistant, failure to comply with the trust-account requirements, lack of diligence and communication, and misrepresentation.

**Matter 1:** In early April 2001, Mr. Butler represented a client in a criminal matter. The client told Mr. Butler that her pre-trial hearing was set for May 1. Mr. Butler did not file a notice of appearance, contact the prosecutor, or answer his client's phone calls. On April 18, 2001, the client retained substitute counsel and asked that Mr. Butler refund her \$1,500 nonrefundable retainer. Mr. Butler did not refund her payment.

**Matter 2:** In November 2000, Mr. Butler agreed to represent a client in a child-support modification action. In November, the client paid a \$1,000 advance fee deposit, which Mr. Butler directed his staff to deposit into his general account. At this time, the client had paid all amounts previously billed. Mr. Butler withdrew from the client's case in January 2001, billing the client 1.5 hours at \$225 per hour for preparing the notice of intent to withdraw. Mr. Butler's nonlawyer assistant prepared the notice. Mr. Butler did not refund any fees to the client.

**Matter 3:** In April 2001, Mr. Butler represented the landlord in an eviction proceeding. On the morning of the show-cause hearing, Mr. Butler told the client he had an emergency hearing and could not appear with her. When the client

picked up the file for court, Mr. Butler's legal assistant noticed the affidavit of service had not been filed. The assistant signed the process server's name and then added Mr. Butler's name as the notary public. The judge cancelled the hearing due to Mr. Butler's absence. The forged affidavit was filed on May 2, 2001, and a second affidavit, actually signed by the process server, was filed the next day. Mr. Butler did not provide any formal training for the legal assistant regarding her ethical obligations.

**Matter 4:** In 1999, clients retained Mr. Butler to file a lawsuit in Nevada alleging that a corporation had violated a shareholders' agreement. Mr. Butler agreed to a contingent fee, but did not reduce the agreement to writing. Mr. Butler agreed to associate local counsel. Over the next year and a half, Mr. Butler did not associate with local counsel or file the lawsuit. In November 2001, the clients terminated Mr. Butler's representation and asked for a refund of \$2,000 they had paid for expenses. Mr. Butler did not provide an accounting or a refund. Mr. Butler did not cooperate with the disciplinary investigation of this matter.

**Matter 5:** In March 2000, Mr. Butler represented a client in a child-support-modification action. At the July hearing on the client's case, the judge made an oral ruling and directed Mr. Butler to provide documentation of his client's other child-support obligations. Mr. Butler sent the client opposing counsel's proposed orders, but did not explain that the orders reflected the court's decision. In September 2001, the client disputed the proposed order. Mr. Butler did not tell opposing counsel or the court that his client disagreed with the orders. In October 2001, the court signed opposing counsel's draft order. In December 2001, the Department of Child Support notified the client that he owed back child support and that a wage garnishment was in process. Mr. Butler told the client that the court had signed the order without his knowledge and without sending him a copy. Mr. Butler did not respond to the client's request that he file a motion to vacate the order and stop the garnishment.

Mr. Butler's conduct violated RPCs 1.3, requiring lawyers to diligently represent

their clients; 1.4, requiring lawyers to keep clients reasonably informed about the status of their matters; 1.5 (a) and (c), requiring lawyers' fees to be reasonable and contingent-fee agreements to be in writing; 1.14(a) and (b)(2), requiring lawyers to deposit client funds into a trust account, and to keep complete records and provide accountings of all client funds; 1.15(d), requiring lawyers to protect clients' interests upon withdrawal; 5.3(a), (b), and (c), requiring partners and supervising lawyers to make reasonable efforts to ensure that nonlawyer assistants' conduct is compatible with the lawyers' professional responsibilities; and 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; and RLD 2.8, requiring lawyers to cooperate with the disciplinary process.

Marsha Matsumoto represented the Bar Association. Frank Conklin represented Mr. Butler.

### **Suspended**

**R. Keith Partlow** (WSBA No. 9538, admitted 1979), of Boston, MA, was suspended for 30 months by order of the Supreme Court, effective February 25, 2003, imposing reciprocal discipline based on a suspension order from the Supreme Judicial Court for the Commonwealth of Massachusetts. This discipline is based on his conduct during 1992 through 2000 involving lack of diligence and misrepresentation in seven client matters.

**Matter 1:** Mr. Partlow was retained in 1992 to represent a client in a third-party workers' compensation matter. Mr. Partlow filed his notice of appearance, but took no further action. The case was dismissed in June 1993 when no one appeared for the pretrial conference. Between 1993 and 1999, Mr. Partlow told the client the matter was still pending.

**Matter 2:** In 1993, Mr. Partlow represented a client in a personal-injury matter. Mr. Partlow filed a lawsuit, and a portion of the case settled in 1995 for policy limits. The remainder of the case was dismissed in 1995 due to Mr. Partlow's failure to provide answers to the defendant's interrogatories. Between 1995 and 2000, Mr. Partlow told the client the action was still pending.

**Matter 3:** Mr. Partlow agreed to repre-

sent a client in a medical-malpractice matter. Mr. Partlow filed the complaint, but did not obtain an expert witness or prepare the required offer of proof. The court dismissed the client's case in 1998. Between 1998 and 2000, Mr. Partlow told the client the case was still pending. He also failed to refile the case.

**Matter 4:** Mr. Partlow agreed to represent a client in a personal-injury matter. Mr. Partlow filed the complaint, but failed to respond to the defendant's summary judgment motion. The court dismissed the case in 1998. During 1999 and 2000, Mr. Partlow misrepresented the status of the case.

**Matter 5:** Mr. Partlow represented a client in a personal-injury matter. He filed the complaint, but failed to file a request for trial. The court dismissed the case in 1999. Mr. Partlow told the client the case was still pending.

**Matter 6:** Mr. Partlow represented a client in a third-party workers' compensation matter. Mr. Partlow filed the complaint, but failed to ensure his client's attendance at trial. The court dismissed the case when the client failed to appear. Mr. Partlow told the client the matter was still pending.

**Matter 7:** Mr. Partlow represented a couple in a third-party workers' compensation action. He filed the complaint, but failed to answer the defendant's interrogatories. The court dismissed the case in 1998. Between 1998 and 2000, he told the clients the case was still pending.

Mr. Partlow's conduct violated Mass. R. Prof. C. 1.2.(a), requiring lawyers to abide by their clients' decisions regarding the objectives of the representation; 1.3, requiring lawyers to diligently represent their clients; 1.4, requiring lawyers to keep clients reasonably informed about the status of their matters; 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; 8.4(d), prohibiting conduct prejudicial to the administration of justice; and 8.4(h), prohibiting any other conduct that adversely reflects on lawyers' fitness to practice law.

Felice Congalton represented the Bar Association. Mr. Partlow represented himself.

### **Reprimanded**

**Cathy L. Guthrie** (WSBA No. 21774, ad-

mitted 1992), of Everett, received a reprimand on October 18, 2002, following a stipulation approved by the Disciplinary Board in May 2002. This discipline is based on her removing disputed funds from her trust account in one matter in 2001. Ms. Guthrie agreed to resolve the fee dispute by WSBA fee arbitration or other means.

Ms. Guthrie represented a client in a dissolution action. In November 2000, the client terminated the representation and Ms. Guthrie asked the client to make payments on her bill. In December 2000, when the client did not make payments, Ms. Guthrie filed an attorney's lien. Pursuant to the dissolution decree, opposing counsel forwarded a \$2,500 spousal maintenance check to Ms. Guthrie to cover the lien. The check was made out to both the client and Ms. Guthrie. The client disputed some of the billed amounts. Ms. Guthrie and the client disagreed about the amount of the check Ms. Guthrie should receive.

In May 2001, Ms. Guthrie deposited the check into her trust account without the client's endorsement. Later that month, without the client's authorization, Ms. Guthrie disbursed \$2,418 to herself and the remaining \$82 to the client. After the client filed a grievance, and at disciplinary counsel's suggestion, Ms. Guthrie returned the disputed funds to her trust account.

Ms. Guthrie's conduct violated RPC 1.14(a), prohibiting lawyers from withdrawing disputed funds from the trust account without establishing entitlement to the funds.

Randy Beitel represented the Bar Association. Kurt Bulmer represented Ms. Guthrie.

### **Reprimanded**

**Donald B. Lundahl** (WSBA No. 21424, admitted 1992), of Tacoma, received a reprimand on January 17, 2003, following a hearing. This discipline is based on his conduct prejudicial to the administration of justice in 2001.

In January 2001, Mr. Lundahl represented a criminal defendant. During the trial, the prosecutor interviewed a defense witness in the hallway. After the interview, the prosecutor told the judge that he noticed an odor of intoxicants around the witness. The court then ordered a short re-

cess so the prosecutor could arrange for a deputy sheriff to interview the witness and provide an independent opinion about the odor of intoxicants. While the judge was off the bench, the court reporter offered breath mints. Mr. Lundahl took two breath mints and joked that his witness could probably use them. Mr. Lundahl gave the breath mints to the witness prior to the sheriff's interview. The sheriff's deputies were unable to determine whether the odor was from alcohol or a mouthwash. The court reporter advised the judge about Mr. Lundahl's comment regarding the breath mints. After the recess, the judge asked if either lawyer had provided breath mints to the witness. Mr. Lundahl admitted that he had provided the mints and apologized to the court. The judge found Mr. Lundahl to be in contempt of court and fined him \$300. The witness testified the next day.

Mr. Lundahl's conduct violated RPC 8.4(d), prohibiting conduct prejudicial to the administration of justice.

Leslie Allen represented the Bar Association. Mr. Lundahl represented himself. The hearing officer was Steven W. Hale.

### Reprimanded

**Mark A. Patlan** (WSBA No. 24003, admitted 1994), of Fort Lauderdale, FL, received a reprimand on December 6, 2002, following a stipulation. This discipline is based on his lack of diligence and communication in two client matters in 2000.

*Matter 1:* In July 1999, Mr. Patlan agreed to represent a client in an employment-discrimination case. Mr. Patlan filed a complaint against five corporations and two individuals. In January 2000, four defendants filed a summary judgment motion to dismiss. Mr. Patlan filed a response, but did not include any evidence to rebut the defendant's declarations. In March, the court dismissed the client's claims against the four defendants. Mr. Patlan did not work on the case after this point. In July, after trying to contact Mr. Patlan for months, the client learned he had left the country. In August, the client terminated Mr. Patlan's representation. He responded by e-mail that he was in Mexico and forwarded her file to another lawyer. Mr. Patlan told the new lawyer and the client that he would refund her retainer, but he

did not. In December 2000, Mr. Patlan received interrogatory requests from the remaining defendants. He forwarded them to the client after the response deadline had passed.

*Matter 2:* In 2000, Mr. Patlan agreed to represent a client in an action to dissolve a meretricious relationship. In September, the client agreed that certain debts could be paid from a joint account. In October, Mr. Patlan signed an order agreeing to use the joint account to pay the opposing party's personal credit-card debt. When the client confronted Mr. Patlan, he told her he would get back to her. The client did not hear anything further from Mr. Patlan. Mr. Patlan told the client he would contact her landlord, provide certain documents, and subpoena other documents, but he did not complete any of these tasks. In February 2001, Mr. Patlan filed his client's witness list, naming her as the only witness, and withdrew from the case. Mr. Patlan did not cooperate with the investigation of this matter.

Mr. Patlan's conduct violated RPCs 1.3, requiring lawyers to diligently represent their clients; 1.4, requiring lawyers to keep their clients reasonably informed about the status of their matters; and 1.15, requiring lawyers to take reasonable steps to protect clients' interests upon termination of representation; and RLD 2.8, requiring lawyers to promptly cooperate with the disciplinary process.

Sachia Stonefeld Powell represented the Bar Association. Mr. Patlan represented himself.

### Reprimanded

**Stephen R. Thomas** (WSBA No. 2388, admitted 1968), of Burien, received a reprimand on January 17, 2003, following a stipulation. The stipulation also required Mr. Thomas to submit his resignation to the WSBA within 60 days of the reprimand. Mr. Thomas resigned effective March 25, 2003. This discipline is based on his failure to diligently represent and communicate with a client in 2000. (*Mr. Thomas is to be distinguished from Steven J. Thomas of Enumclaw and J. Steven Thomas of Snohomish.*)

In August 2000, Mr. Thomas agreed to represent the husband in a marriage dissolution action. Mr. Thomas filed the dis-

solution petition on August 23, 2000. On that same day, acting on his own behalf, the client obtained a temporary order of protection granting him exclusive use of the family residence. The wife retained counsel, who set a temporary restraining order hearing for August 20. Mr. Thomas told opposing counsel that he had to appear in a criminal case that day and asked for a continuance. Opposing counsel notified the judge of Mr. Thomas's continuance request, but the judge entered an order allowing the wife to live in the house and requiring the client to vacate the home. Opposing counsel faxed the order to Mr. Thomas the next day, but Mr. Thomas did not notify his client. On October 3, 2000, the client's wife, accompanied by police officers, presented the order to the client, who left the house. The client talked to Mr. Thomas and believed that Mr. Thomas was going to attempt to vacate the order. Mr. Thomas took no further action. The client retained substitute counsel, who moved to vacate the order. Mr. Thomas refunded \$777 to the client.

Mr. Thomas's conduct violated RPCs 1.3, requiring lawyers to diligently represent their clients; and 1.4, requiring lawyers to keep clients reasonably informed about the status of their matters.

Douglas J. Ende represented the Bar Association. Mr. Thomas represented himself.

### Censured

**Mark A. Carter** (WSBA No. 24016, admitted 1994), of Vancouver, received a censure on January 17, 2003, following a stipulation approved by the Disciplinary Board. This discipline is based on his conduct in 2000 involving improper advice and lack of communication with a client in a bankruptcy matter.

On November 1, 1999, a home was transferred from a trust to Mr. F. On this same day, Mr. F quitclaimed the home to his brother. Mr. F and his wife continued to live in the house and made rental payments to the brother. In January 2000, Mr. Carter agreed to represent Mr. and Mrs. F in a Chapter 7 bankruptcy petition. The petition required the clients to list all property they transferred in the last year and all property owned by another, but controlled by them. Mr. Carter marked "none"

in response to these questions, believing that the transfer did not have to be disclosed. When Mr. Carter learned that the clients should have disclosed the transfer, he planned to convert the Chapter 7 filing to a Chapter 13 filing so the clients could voluntarily dismiss the petition and refile a new petition, including the transfer. Mr. Carter did not tell the clients about the conversion to a Chapter 13 filing. Even though the clients did not meet the Chapter 13 eligibility requirements, the court allowed the conversion. Mr. Carter filed a motion to dismiss the Chapter 13 filing, without the required notice to the trustee. The court dismissed the filing. The Chapter 7 filing was later reinstated at the request of a creditor.

Mr. Carter's conduct violated RPCs 1.1, requiring lawyers to provide competent representation; and 1.4, requiring lawyers to keep clients reasonably informed about the status of their matters.

Sachia Stonefeld Powell represented the Bar Association. Mr. Carter represented himself.

[REDACTED]

### Washington State ATJ Board Announces Vacancies

**Application deadline:** December 31, 2003

The Washington State Access to Justice (ATJ) Board announces two vacancies, effective May 2004: (1) for a lay member, and (2) for a representative from the statewide staffed legal-services programs.

The Washington State Supreme Court established the ATJ Board in 1994 to ensure access for low and moderate income Washington residents to the civil justice system through high-quality legal services. In November 2000, the Supreme Court issued an order making the ATJ Board permanent, and providing that beginning with the next vacancy(ies), "not less than one nor more than two members of the Board shall be a non-attorney."

The ATJ Board consists of nine members, including four at-large members selected on the basis of a demonstrated commitment to, and familiarity with, access-to-justice issues. Board members may serve up to two three-year terms. The ATJ Board has full-day meetings approximately seven times per year, usually in Seattle. Expenses are reimbursed.

The ATJ Board has become a nationally recognized model as a result of its effectiveness in developing, coordinating, and implementing statewide initiatives to improve access to civil legal services for the unrepresented and underrepresented populations in Washington state. Examples of these initiatives include: implementing a comprehensive Plan for the Delivery of Civil Legal Services to Low-Income People in Washington State, which utilizes innovative technology for program support and client services; convening of annual ATJ conferences; supporting strategies to increase funding for civil equal justice; and removing systemic barriers for low- and moderate-income people to the justice system.

The ATJ Board strives to have a membership that reflects ethnic, gender, geographic, and other diversity. Interested individuals may apply by sending a letter and summary of qualifications to Executive Director, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330. For more detailed information about the ATJ Board, please contact Joan Fairbanks, WSBA justice programs manager, at 206-727-8282 or joanf@wsba.org; or visit the ATJ Board website at [www.wsba.org/atj](http://www.wsba.org/atj).

### Notice of Hearing on Petition for Reinstatement of John C. Huddleston, WSBA No. 18942

A petition for reinstatement after disbarment has been filed on behalf of John C. Huddleston, who was disbarred on April 8, 1999. He had previously been suspended from practice on February 25, 1998. At the time of his suspension and disbarment, Huddleston practiced in King County, Washington.

A hearing on Huddleston's petition will be conducted before the Character & Fitness Board on Saturday, January 10, 2004. Not later than January 5, 2004, anyone wishing to do so may file with the Character & Fitness Board a written statement for or against reinstatement, setting forth factual matters showing that

the petitioner does or does not meet the requirements of Admission to Practice Rule (APR) 2.1.5(a). Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard orally by the Character & Fitness Board.

Communications to the Character & Fitness Board should be sent to Robert D. Welden, general counsel, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330. This notice is published pursuant to APR 2.1.4(a).

### 2004 Licensing Packets

Licensing packets will be mailed in early December. The packet includes your license-fee invoice, trust account declaration form, and, if applicable, MCLE certification form. 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.

**Fees.** We encourage you to pay your mandatory fees promptly to avoid penalties. A 20 percent late-payment penalty is imposed if the annual license fee remains unpaid on March 2, 2004. After April 2, 2004, a 50 percent late-payment penalty is imposed. If your license fee, penalty assessment, or Lawyers' Fund for Client Protection (LFCP) assessment (required by APR 15) remains unpaid after May 2004, 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 \$13 LFCP assessment is also cause for suspension.

**Resources.** The 2004 *Resources* directory will print the contact information that is in the WSBA membership database on February 2, 2004. Now is the ideal time to check that the WSBA has your correct contact information in its database. You can check your contact information at <http://pro.wsba.org>.

If your contact information has changed, please complete and return the Contact Information Change form included in the license packet to the address shown on the form or by fax to 206-727-8319, or e-mail the changes to [questions@wsba.org](mailto:questions@wsba.org). Please update your information as soon as possible, but no later than January 31, 2004, for inclusion in *Resources*.

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

### MCLE Certification for Group 3 (2001-2003) Due February 2, 2004

Active WSBA members in MCLE Reporting Group 3 (2001-2003) will be receiving Continuing Legal Education Certification (C2) forms in their licensing packets this month. The

deadline for returning the C2 forms to the WSBA is February 2, 2004. Members in Group 3 include those who were admitted to the WSBA in 1984 through 1990, or in 1993, 1996, or 1999. Members admitted in 2002 are also in Group 3 but are not due to report until 2006.

If you are in Group 3 and did not receive a licensing packet or a C2 form, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or [questions@wsba.org](mailto:questions@wsba.org). It is your responsibility to ensure that you receive your licensing packet and C2 form.

If you are a Group 3 member, you will need to complete the following by December 31, 2003, to meet the MCLE credit requirements for 2001-2003:

- \* At least 45 total credits of WSBA approved CLE activities, which must include:
  - \* A minimum of 30 live credits and
  - A minimum of six ethics credits.

If you are unable to complete the credit requirements by December 31, 2003, you will be given an automatic extension until May 1, 2004. You do not need to apply for this extension.

If you do not meet the MCLE credit requirement by December 31, 2003, and/or return your C2 form by March 1, 2004 (the end of the grace period allowed after the February 2 due date), you will be assessed a late fee. The assessed fee will be \$150 for the first reporting period in which you have not met the MCLE credit/C2 requirements. The late fee increases by \$300 for each consecutive reporting period in which MCLE requirements are not met.

To make reporting easy, all courses listed in your online roster at <http://pro.wsba.org> as of November 1 are preprinted on the back of the C2 form. You will need to list any additional WSBA-approved courses you have taken. (Course pre-approval for WSBA continuing legal education certification is an APR 11 regulation.)

To verify WSBA approval of a course or to apply for course approval, you can use the MCLE system at <http://pro.wsba.org>. After logging into the MCLE system site, click on the "Member" tab and then select "Member Login." The online instructions will lead you through the process of creating a confidential password and beginning to use the system. Online help is available. If you have questions, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or [questions@wsba.org](mailto:questions@wsba.org).

### Extended Hours at Annual CLE Bookstore in December!

For Group 3 members who must complete their CLE credits before December 31, 2003, the annual CLE December Bookstore in Seattle will be open at the WSBA office, 2101 Fourth Ave., Ste. 400, December 1-31. Shop from 9 a.m. to 4:30 p.m., Monday through Friday, with these exceptions: December 25, when the bookstore will be closed; and December 24 and

31, when hours will be 9 a.m. to noon only. *And new this year, for added convenience, the bookstore will stay open on Thursday evenings, December 4, 11, and 18, until 6 p.m.* Approved CLE A/V material will include a limited supply of selected taped seminars with coursebooks. Pay with cash, check, MasterCard, or Visa; take your purchases with you, and pay no shipping and handling charges! 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.

*Note:* Orders made through the WSBA Online Store ([store.yahoo.com/wsba-store](http://store.yahoo.com/wsba-store)), or by phone, fax, or mail must be received by December 12 in order to guarantee delivery by December 31. Visit [www.wsba.org/store03.htm](http://www.wsba.org/store03.htm) to see a list of titles available at the bookstore.

### Washington Juvenile Justice Assessment Project

A recently released study provides insight into Washington's juvenile indigent-defense system. Among the findings:

- Defenders often do not have the time or training to effectively ensure that their juvenile clients understand or are informed about their cases.
- In some counties, juveniles regularly proceed without the assistance of counsel in important hearings.
- Defenders working full-time reported an average of close to 400 cases annually, roughly 62 percent more than the standards endorsed by the WSBA.
- Most counties provide juvenile defenders with little or no training on court procedure or in dealing with troubled youth.
- Juveniles with mental-health problems often receive punishment instead of treatment.

You can view the complete study online at [www.wsba.org/jjstudy.pdf](http://www.wsba.org/jjstudy.pdf), a summary at [www.wsba.org/jjsummary.pdf](http://www.wsba.org/jjsummary.pdf), and frequently asked questions at [www.wsba.org/jjfaqs.pdf](http://www.wsba.org/jjfaqs.pdf).

### Keep in Touch

The WSBA uses e-mail to communicate with members quickly, efficiently, and inexpensively, and increasingly it is becoming the preferred method of communication among committees and sections. If you haven't already, please consider providing us with your e-mail address. Contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or [questions@wsba.org](mailto:questions@wsba.org). Representatives are available Monday through Friday, 8 a.m. to 5 p.m.

### Washington State Supreme Court Task Force on Civil Equal Justice Funding Releases Study

An astonishing 87 percent of Washington's low-income households experience a civil legal problem each year, and only 12 percent of these households are able to obtain assistance from a lawyer, according to a study recently released by the Washington State Supreme Court Task Force on Civil Equal Justice Funding. You can read the news release online at

### Fundraiser Established for Bremerton Attorney Fighting for His Life

Bremerton attorney De'Wayne Taylor (WSBA No. 30160) is in the fourth and final stage of non-alcoholism-induced cirrhosis of the liver and needs an organ transplant to save his life. He has been assigned an organ donor, but does not have medical insurance and cannot afford the \$60,000-\$100,000 transplant. A fundraiser with Bank of America, which will be overseen by Emmanuel Apostolic Church in Bremerton, has been established in Mr. Taylor's name. To donate funds, please call Theresa Steves at 360-478-6000.

### Legal Foundation of Washington 18th Annual Goldmark Awards Luncheon

Friday, February 20, 2004  
Noon to 1:30 p.m.  
Red Lion Hotel, 1415 Fifth Ave., Seattle

The Charles A. Goldmark Award for Distinguished Service will be presented to David J. Burman, partner, Perkins Coie LLP.

The Honorable M. Margaret McKeown, 9th Circuit Court of Appeals, will give the keynote speech.

\_\_\_ 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 this coupon with your check payable to:

Legal Foundation of Washington  
500 Union St., Suite 545, Seattle, WA 98101  
206-624-2536, ext. 10; fax: 206-382-3396

For more information, visit [www.legalfoundation.org](http://www.legalfoundation.org).

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

[www.wsba.org/media/releases/2003/WA\\_Courts\\_Study.htm](http://www.wsba.org/media/releases/2003/WA_Courts_Study.htm). The release has a link to the report.

### **LOMAP . . . On the Road™ in December**

The WSBA Law Office Management Assistance Program presents "LOMAP . . . On the Road: Smart Strategies for Improving Efficiency." The cost is \$69, and the course offers two general plus two ethics credits. It will be held from 8 a.m. to noon, on December 15 in Montesano and on December 16 in Tacoma. The Centralia/Chehalis area is also to be included, with date and time to be decided. For more information, see [www.lomap.org](http://www.lomap.org), or contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or [questions@wsba.org](mailto:questions@wsba.org).

### **Third-Party Liability Information**

If your client is involved in a personal-injury case and has received or is receiving medical assistance payments for medical care, you are required to contact the Department of Social and Health Services (DSHS). RCW 43.20B.060 places a lien against any settlement or judgment your client receives from a third party who is responsible for your client's injuries in order to reimburse the medical bills that have been paid by medical assistance. Before settling your client's claim with the third party and/or the third-party insurance company, please contact the COB Casualty Unit of DSHS, by phone at 800-562-6136 or by mail at PO Box 45561, Olympia, WA 98504-5561, to supply the information that DSHS requires; or visit <http://fortress.wa.gov/dshs/maa/ltp>. Pursuant to RCW 43.20B.070, failure to pay any lien imposed by DSHS on any settlement or judgment obtained by your client can subject you to personal liability for any funds improperly distributed.

### **Establishment of New Armed Forces Section Awaiting Board of Governors Approval**

This notice is posted pursuant to the WSBA Bylaws, Article IX, "Sections," regarding prior notification of intent to establish a new section. There is a current effort to form an Armed Forces Section. If approved by the Board of Governors, the WSBA Legal Services to the Armed Forces Committee would be discontinued in lieu of the new section. For additional information, please contact Ken Luce, chair, Legal Services to the Armed Forces Committee, at 253-922-8724 or [kenyon.luca@ilrwa.com](mailto:kenyon.luca@ilrwa.com).

### **Lawyer-to-Lawyer Program: Mentors Needed for Newer Admittees**

The WSBA's Lawyer-to-Lawyer Program matches newer admittees with experienced lawyers. 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. We need experienced attorneys to serve as informal mentors, especially in King County. Help new lawyers get a head start on learning

those lawyering skills not found in any textbook. Interested members may contact Pete Roberts (206-727-8237; [peter@wsba.org](mailto:peter@wsba.org)) or Allison Durazzi (206-733-5914; [allisond@wsba.org](mailto:allisond@wsba.org)) in the Law Office Management Assistance Program. Program guidelines and sign-up forms are online at [www.wsba.org/lawyers/services/lawyertolawyer.htm](http://www.wsba.org/lawyers/services/lawyertolawyer.htm).

### **Upcoming Board of Governors Meetings**

December 5-6—Leavenworth

January 8—Olympia

February 27-28—Seattle

With the exception of a one-hour executive session the morning of the first day, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Please contact Donna Sato at 206-727-8244 or [donnas@wsba.org](mailto:donnas@wsba.org). The complete Board of Governors meeting schedule is available on the WSBA website at [www.wsba.org/info/bog/schedule.htm](http://www.wsba.org/info/bog/schedule.htm).

### **Ethics 2003 Committee Meetings**

The WSBA Committee for the Evaluation of the Rules of Professional Conduct (Ethics 2003 Committee) was convened to review the revised ABA Model Rules of Professional Conduct; undertake a comprehensive study and evaluation of the ABA "Ethics 2000" revisions; consider the suitability of adopting the ABA revisions and commentary in Washington; and consider other appropriate changes to Washington's Rules of Professional Conduct. Ethics 2003 Committee meetings are open to the public, and interested WSBA members are encouraged to attend and/or provide input about the committee's work. Information about the committee is on the WSBA website at [www.wsba.org/lawyers/groups/ethics2003](http://www.wsba.org/lawyers/groups/ethics2003). Please direct questions or comments to Committee Reporter Douglas Ende at 206-733-5917 or [ethics2003committee@wsba.org](mailto:ethics2003committee@wsba.org).

### *Upcoming Ethics 2003 Committee meetings:*

December 10—WSBA office

January 14—WSBA office

February 11—WSBA office

### **Usury Rate**

The average coupon equivalent yield from the first auction of 26-week treasury bills in November 2003 was 1.047 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 website at [www.wsba.org/media/publications/barnews/usury.htm](http://www.wsba.org/media/publications/barnews/usury.htm).

### **Consumer-Information Pamphlets Available**

Provide a valuable service to your clients by offering them

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

For a complete list of pamphlets and pricing information, contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or go to [www.wsba.org/consumer-information](http://www.wsba.org/consumer-information).

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

### Website Links from Lawyer Directory

A link to your website can be added to your directory listing, so that 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 for the first year 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/lawyers/addlink.htm](http://www.wsba.org/lawyers/addlink.htm).

### The WSBA Store Is Open

The WSBA online store is open. Go to [www.wsba.org](http://www.wsba.org) and click "WSBA Store" in the left navigation bar. Purchase Cutter & Buck polo shirts, twill baseball caps, ballpoint pens, and brass luggage tags emblazoned with the WSBA logo. The store features secure online credit card ordering. You may also 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.

### Learn More about Case-Management Software

The WSBA Law Office Management Assistance Program (LOMAP) office maintains a computer for members to review software tools designed to maximize office efficiency. LOMAP staff are available to provide materials, answer questions, and recommend options. To make an appointment, contact Pete Roberts at 206-727-8237 or [peter@wsba.org](mailto:peter@wsba.org).

### Law Week 2004

Law Week 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 2004 will take place the week of April 26. 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).

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

**A**

Abram-Profeta, Lisa M., Seattle  
 Adams, Jared Eben, Kirkland  
 Adkins, Alissa Anne, Liberty Lake  
 Aebersold, Sarah A., Redmond  
 Afzali, Aneelah, Yakima  
 Allison, Amy Choyce, Seattle  
 Alvarez, Kevin, Redmond  
 Alyn, Chloe, Seattle  
 Amamilo, Sharonda Dequis Thompson, DuPont  
 Amasaki, Stacie L., Seattle  
 Anderson, Courtney M., Seattle  
 Anderson, Elizabeth Eileen, Seattle  
 Anderson, Justin S., Seattle  
 Anderson, Nathan, Shoreline  
 Anderson, Steven O., Spokane  
 Annet, Janna Jill, Mercer Island  
 Armstrong, Rickie Wayne, Pacific Beach  
 Arthur, Shawn, Orting  
 Attell, Diane George, Seattle  
 Aultman, Geoffrey John, Spokane

**B**

Badicke, Ludmilla M., Spokane  
 Baier, John L., Seattle  
 Baker, Brian J., Seattle  
 Ban, Joel M., Salt Lake City, UT  
 Bankson, Nathan John, Snohomish  
 Barnhart, Simon, Port Angeles  
 Baron, Adam, Seattle  
 Barrett, David Kennedy, Costa Mesa, CA  
 Bassler, Ilene Carrie, Spokane  
 Baumgartner, Kimber, Tigard, OR  
 Beck, James Walter, Olympia  
 Beckendorf, Eric S., Bellevue  
 Beckwith, Peter Bruce, Tracyton  
 Belanger, William Mark, Vancouver, BC  
 Bell, Christopher Douglas, Seattle  
 Bender, Amanda Alexis, Seattle  
 Bennett, Brian Clifford, Renton  
 Benson, Jeremy D., Seattle  
 Berger, Joshua A., Seattle  
 Bergman, Marnie Hillary, Seattle  
 Bible, James, Seattle  
 Bivens, Jeffrey Randall, Vancouver  
 Bochsler, Nathan Joseph, Seattle  
 Boutz, Sean Patrick, Spokane  
 Brady, Shane P., Bellevue  
 Bragg, David R., Bothell

Braun, Thomas James, Seattle  
 Brayton, Monique A., Bellevue  
 Breen, Thomas James, Austin, TX  
 Brester, Christopher J., Monroe  
 Brewster, Jennifer Lynn, Spokane  
 Brewster, Natalie Renee, Seattle  
 Briscoe, Theresa A., Sequim  
 Bronski, Daniel M., Seattle  
 Brooks, Bryan W., Seattle  
 Brown, John Huynh, Richmond, VA  
 Bull, Samuel T., Fairfield, CT  
 Burrus, Eugene A., Snoqualmie  
 Burton, Stephen Lee, Beaverton, OR  
 Busey, Joshua James, Salem, OR  
 Butcher, Emily M., Silverdale  
 Byers, Teresa R., Seattle

**C**

Cahillane, Edward Patrick, Seattle  
 Callahan, Mei-Mui Hayley, Seattle  
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## Deck the Halls With Bah and Humbug

by Lindsay Thompson  
Bar News Editor

*Tears, booze . . . I love the holidays.*

—Actress Megan Mulally as socialite Karen Walker  
*Will & Grace* (NBC), Nov. 23, 2000

*The next person that says Merry Christmas to me, I'll kill them.*

—Actress Myrna Loy as socialite Nora Charles  
*The Thin Man*, 1934

I know—I should write something chirpy about the holidays, some wry, written-in-a-rocking-chair-next-to-a-cozy-fire sort of chestnut about the good that lawyers do in the season of doing good.

Sorry. Wrong writer. When it comes to Christmas, I've got issues.

There's the wall-to-wall advertising, and the endless bad arrangements of "Little Drummer Boy." Editors roll out year-end summaries of the year's major news stories as if we all go amnesiac after clearing away the wrapping paper. Religious broadcasts give us the gospel as insurance policy, full coverage to all, but subject to certain exclusions and reservation of rights. Where have you gone, H.L. Mencken, a nation turns its lonely eyes to you.

As a public service, I offer my Holiday Movie Meal—a five-course corrective to the noise, bustle, and inanity of the season.

1. *Home for the Holidays* (1995). Hellish family meals aren't just for Christmas. Jodie Foster directed this black comedy about Thanksgiving weekend ("We don't have to like each other. We're family.") Charles Durning, Anne Bancroft ("I'm giving thanks that we don't have to go through this for another year. Except that we do, because those bastards went and put Christmas right in the middle, just to punish us."), Geraldine Chaplin, Holly Hunter, Robert Downey Jr., Dylan McDermott, Steve Guttenberg, Claire Danes, and David Strathairn round out this overstrung clan. It's a schadenfreudist's delight.

2. *Christmas in Connecticut* (1945). This screwball affair features Barbara Stanwyck as Elizabeth Lane, a poor man's Martha Stewart. When a hospitalized war hero rhapsodizes about Lane's magazine column—fabulous meals in a bucolic Connecticut farmhouse, a bubbly baby, and a cow with a cute name close at hand—the magazine's publisher (Sydney Greenstreet) invites the war hero, and himself, to the farm

for Christmas. Trouble is, Lane can't cook, is single, and lives in a Manhattan walkup. She's gotta get a farm, a husband, an invisible cook, and a baby, pronto. Then she falls in love with the sailor. Doors slam; hijinks ensue. The strong supporting cast includes Dennis Morgan, Reginald Gardner, S.Z. Sakall, Una O'Connor, and Dick Elliott. (*Treacle warning:* Avoid, at all cost, the 1992 remake with Dyan Cannon, Kris Kristofferson, and Tony Curtis, where changing the lead's name to Elizabeth Blane passes for updating.)

3. *Blackadder's Christmas Carol* (1988). Rowan Atkinson played hundreds of years of the original medieval Edmund Blackadder and his descendants on the BBC. They're grasping, whinging, sell-your-grandmother types, generation to generation, *except* Ebenezer, the Victorian shopkeeper. After getting cheerfully but unwittingly swindled of nearly everything on Christmas Eve, he's visited by the Spirit of Christmas, who shows him three visions of his ancestors doing well by being awful. Time for a change of life, thinks Ebenezer. Abjuring niceness, he greets one character, "I trust Christmas brings to you its traditional mix of good food and violent stomach cramp."

4. *The Ref* (1994). Kevin Spacey and Judy Davis host their bickering, dysfunctional family for Christmas dinner. Trapped by a closing manhunt, burglar Denis Leary takes them hostage, and then has to referee their increasingly vicious squabbles ("You know what I'm going to get you next Christmas, Mom? A big wooden cross, so that every time you feel unappreciated for your sacrifices, you can climb on up and nail yourself to it.") "I suppose you'll use this drama as a reason to have another affair. I feel sorry for the next delivery man that comes to this house!". The thief sighs, "Connecticut is the fifth ring of hell." Glynis Johns is the waspish mother-in-law. Christine Baranski and her martini glass appear. Each child is annoying.

5. *A Christmas Carol* (1984). This George C. Scott vehicle is the only version worth a damn. None of that awful scene-chewing by Alastair Sim; Scott's Scrooge is a man embittered by lovelessness; and the look of terror and remorse on his face when he views his own grave is one of genuine, soul-wrenching anguish. Plus, the Cratchits aren't precious.

Back to business next month. Happy holidays, or whatever. ☺

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