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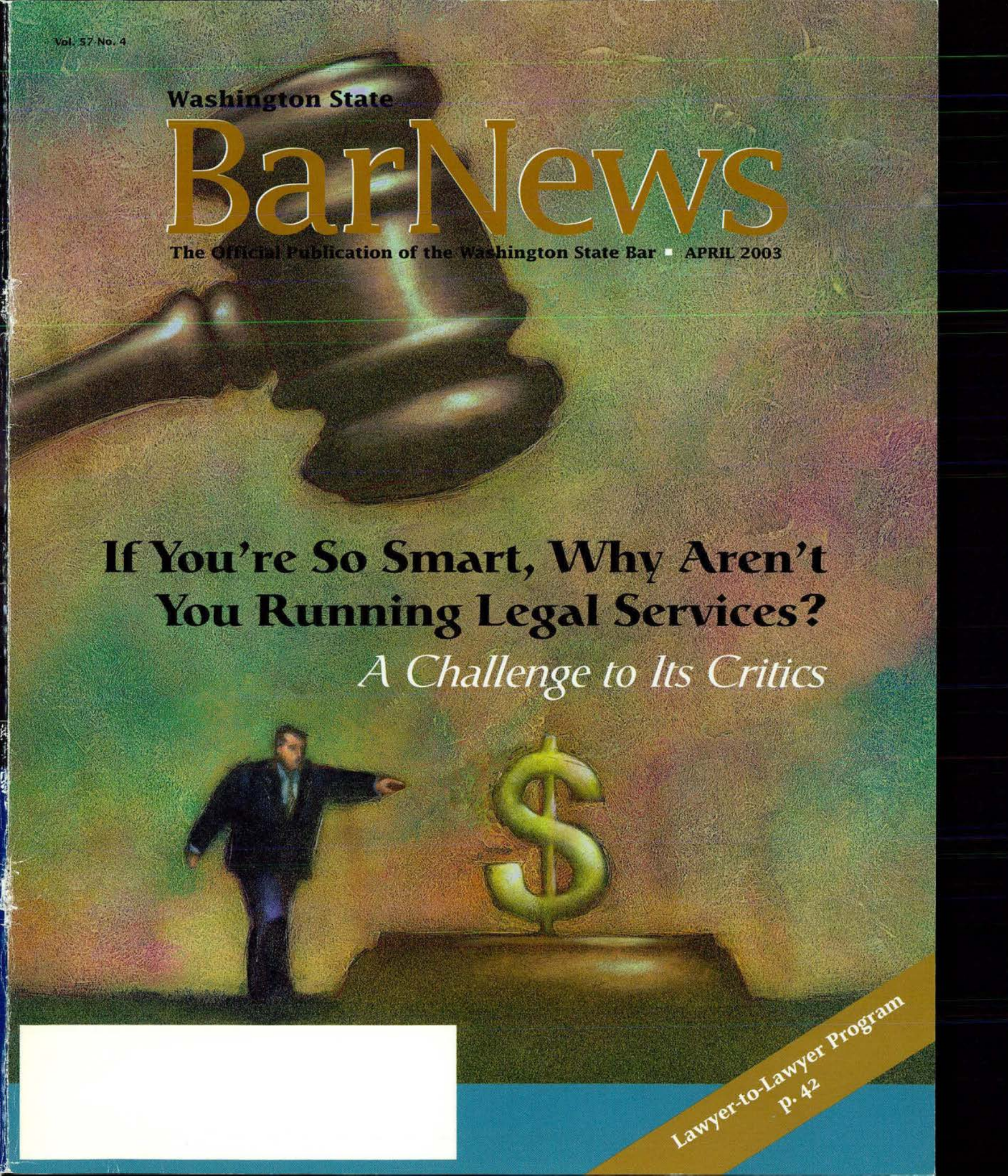
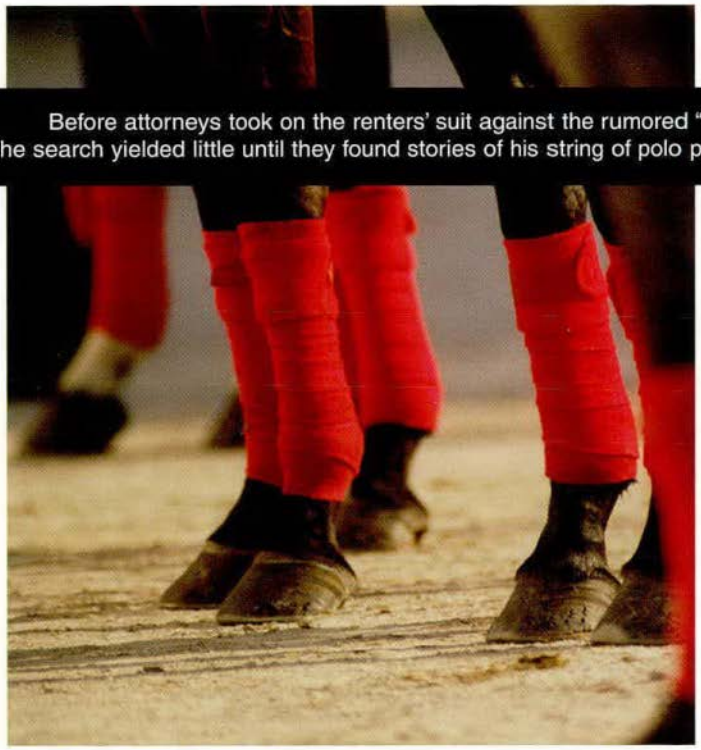


If You're So Smart, Why Aren't You Running Legal Services?

A Challenge to Its Critics

Lawyer-to-Lawyer Program p. 42

Uncovering the landlord's hidden assets was as easy as reading the sports page.



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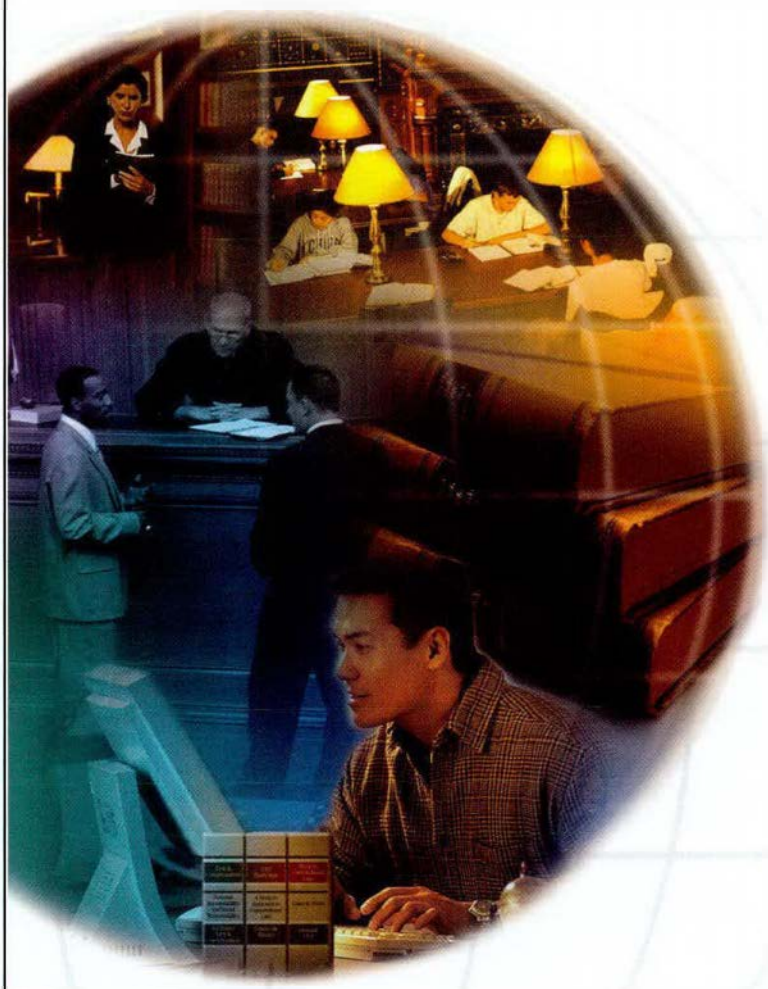
Readers are invited to submit correspondence and articles. They may be sent via e-mail to comm@wsba.org or provided on disk in any conventional format with accompanying hard copy and sent to *Bar News* Editor, 2101 Fourth Avenue, Suite 400, Seattle, WA 98121-2330. Article submissions should run approximately 1,500 to 3,500 words. Graphics and photographs are welcome. The editor reserves the right to edit articles as deemed appropriate.



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M. Janice Michels
Executive Director
206-727-8244; janm@wsba.org

Lindsay T. Thompson
Editor
206-285-4130;
tradelaw@thompsonlaw.com

Judith M. Berrett
Director of Member and Community Relations
206-727-8212; judithb@wsba.org

Amy Hines
Managing Editor
206-727-8214; amyh@wsba.org

Jack Young
Advertising Manager
206-727-8260; jacky@wsba.org

Amy O'Donnell
Classifieds and Subscriptions
Bar News *Online*
206-727-8213; amyo@wsba.org

Communications Division e-mail:
comm@wsba.org

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Letters

Animal rights is a bunch of bull

Editor:

I boggled in disbelief when I saw that the cover of the February issue of *Bar News* was devoted to the false issue of "animal law."

Animals are animals. They may feel pain and affection, but they can't do what we do. That is why they are our possessions. That they feel pain means that they deserve our compassion, and common decency forbids meaningless, indiscriminate harm to them.

The injuries to animals Mr. Karp describes in his article are indeed terrible, but the law already allows for redress to the animals' owners. And, as the author notes, there are criminal penalties for the harm of animals. But the impositions of a C felony for the act does not, despite Mr. Karp's urging, make them "just like" police officers who are the victims of another C felony, Assault 3.

Mr. Karp shifts his argument from animal/human equivalency halfway through his article, from treating animals as our co-equals before the law, to redress for the emotional injuries sustained by their owners.

It always gets back to that, for that is the proper status of domesticated animals. We own them. Consequently we have a duty to avoid wantonly inflicting harm upon them. But if they are harmed, the injury is to our status as their owners. If they feel pain it is our compassionate duty to assuage it. But, legally, the animal itself should have no standing to sue. The "liberal construction" of RCWs 4.20.010 and 020 urged by Mr. Karp, equating a distressed master of a pet to a bereaved parent or sibling, is deeply offensive to anyone who has mourned the loss of or injury to his or her parent, child or sibling.

To consider an animal as plaintiff in a tort action (or defendant for that matter) is a well meaning but sentimentally indulgent gesture that cheapens both human dignity and the law.

Joseph M. Woodland
Shelton

Editor:

The next time *Bar News* wonders why lawyers are the butt of popular jokes, consider the answer under your nose: the presumably serious front-page article by Professor Adam Karp, "Practicing Animal Law in Washington." This is a fine example of the excesses of apparently smart lawyers who seek to create new and fanciful "rights" with which to litigate new causes of action to enrich themselves. Even more troublesome, Professor Karp probably believes he and his disciples are doing good.

Of course, there is an established "animal law" which, as reported by Professor Karp, is quite unremarkable and could have been summarized in a few paragraphs rather than the nine pages in *Bar News*, including 28 footnotes and picture of little girl and fuzzy cat. This article was especially disappointing in that it followed a common-sense piece by Dick Manning examining the question why "much of the public is disaffected with what we trial lawyers do."

What is remarkable (and silly) about Professor Karp's article in its lead in: "Sadly, no state grants a deceased or injured animal standing to sue in its own name for even the most monstrous torment." To whom would damages go, other

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than the plaintiffs' lawyers? There is something wrong with a society that produces lawyers, bar sections and even law school courses that obsess over such trivia. It is perhaps a sign that we have too much wealth and free time, at least for a certain elite segment of our population.

I must admit a certain personal interest in Professor Karp's movement towards "animal rights." As a youth growing up on an acre in north Seattle, I slit the throats of many a rabbit and beheaded probably thousands of chickens as part of my chores to provide protein to a family of 11 (seven children, my mother and father, and two grandmothers). I am now president and part owner of a company that kills approximately 107 million pollocks every year, plus hundreds of thousands of codfish, not to mention thousands of pounds of salmon and whitefish fillets that we donate to local food banks each year. (The Alaska seafood industry is the largest supplier of protein to the national food-bank system in the United States.) We pride ourselves on providing pure and healthy frozen fish products to world markets, but perhaps Professor Karp has another idea.

Am I just paranoid about Professor Karp and the students learning at his feet at Seattle University? Perhaps. The statute of limitations has probably run on the chickens and rabbits. But what about the pollock? The People for Ethical Treatment of Animals (PETA) has active campaigns based on the "pain" to fish caused by the sportsman's hook and, specifically, the horror of pollock "tumbling in the trawler's net." Even Sir Paul McCartney actively promotes this nonsense in Europe.

I do believe in the common sense of people in a free society to correct the urban excesses represented by Professor Karp. My question for *Bar News*: must you accept *every* New Age idea, no matter how goofy?

John Bundy
Seattle

Editor:

Adam Karp laments (February *Bar News*) that "sadly, no state grants a deceased or injured animal standing to sue in its own name" and that he believes that an ethical society should "want a legal system prepared to rectify all illegal harms through civil redress" by "compensat[ing] for every dimension of harm unlawfully inflicted." These are broad pronouncements that beg for contradiction. Despite Mr. Karp's presumed well-meaning sentiments, it is impossible to conceive how such propositions can possibly work in the real world.

In the first instance, allowing an animal to sue "in its own name" has a number of obvious flaws. First and foremost, what is the exact legal status of the animal? Is there an animal age of majority? Can a weanling sue, or must it await its "adulthood"? Must the animal be given legal status to enter into contracts (i.e., a fee agreement with its attorney), and how do we establish proof of the contract, the "meeting of the minds"? Regardless of its age, it cannot read, write or understand language, so one would presume a guardian *ad litem* must be appointed since, among other things, an animal suing "in its own name" cannot possibly be expected to answer interrogatories, be deposed, or otherwise participate in its case.

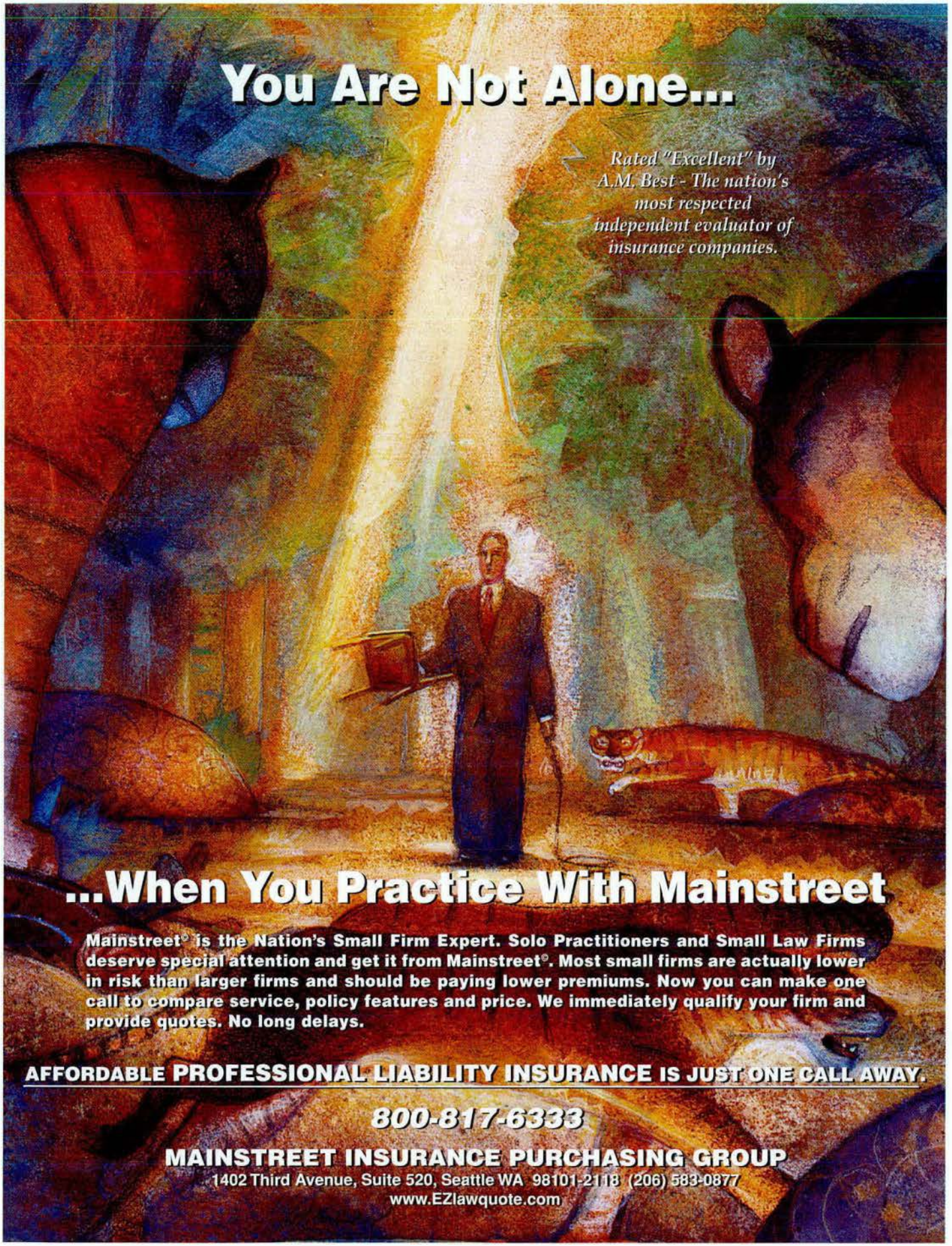
Let's take the next step — suppose the animal wins its case. Who gets the money? If the animal is given status to sue in its

own name, must we then give the animal the status to open its own checking account, or to own property? Obviously, decisions must be made over that property, and the animal cannot make those decisions. This would appear to necessitate a general guardian for the animal, in perpetuity, or at least until the money runs out. Should our courts become embroiled in deciding how that money is used? For example, in the case of a stray injured intentionally by negligence, does the animal now get to buy a house and caretaker?

This all presupposes that the animal survives the unlawful harm inflicted upon it. If not, then does the animal's estate have the right to sue? Who are the animal's beneficiaries? Tracing "issue" or siblings, or issue of siblings could become a monstrous task, especially in the case of a "mutt" which lacks the documentation of pedigree and registration of heritage with the American Kennel Club, or in the case of a stray or a wild animal. What is the standing of the owner of the animal, if there is one? Once an animal is "adopted" by a human (to use the term often used by the animal shelters), is that or would that be similar to adoption of a human child, such that the owner becomes the "parent"? If so, one can imagine the chance "adoption" of a hurt animal at the roadside by a following driver, merely for the prospect of suing the driver who struck it and gaining the right to the animal's jury award. Madness ensues.

Okay, enough of that. Let's move on to the second grand proposition, also faulty in my estimation — that our legal system should be a forum of redress for all unlawfully inflicted harm. As Mr. Karp notes, it is already a crime to mistreat an animal. Why then must every violation of law result in a civil cause of action as well? Can a child sue a parent for the emotional distress of witnessing the parent commit domestic violence upon the other parent? Or upon the child him/herself? If there are any laws allowing such suits, I am not aware of them. Isn't protection of children against harm at least as important as protection of animals? Another logical next step arises as well. If animals can sue, then should they not be able to be sued? Thus, if one wild animal kills and eats another, can the latter sue the former? Oh, but there is no deep pocket there. How about suing the state Department of Wildlife for failure to properly protect prey from predators? More madness, and madness on top of madness.

It would seem as though Mr. Karp wants to extend to animals the benefit of the civil legal system, without imposing upon them the necessary obligations of understanding and conforming with laws. Rights without responsibility. Is that where our society should be headed? Mr. Karp would have a system in which the animal could sue you for striking it with your car (negligence is "unlawful" after all, and if we accord animals rights, it only stands to reason that we humans assume a duty not to interfere with the animal's rights), but it is unclear whether the animal would have any duty at all. If the animal cannot understand that it is not permitted to cross in the middle of a street, or against a light, how can it be bound to a duty, or be shown to have violated it? This might result in a need to establish a whole new definition of duty on the part of ani-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mals, and on the body of law regarding comparative negligence. Who gets the right to sue on behalf of the undomesticated and ownerless raccoon hit by the possibly negligent motorist? This would truly be a plaintiff attorney's full employment act. It is inconceivable that we need to create such a morass just to review and reconsider laws regarding compensation for loss of an animal, which, as it turns out, is the main thrust of his article.

Law should be based upon reason, not emotion. While it may be reasonable to broaden, preferably legislatively, the laws regarding compensable damages available to owners of animals in such instances as the grisly mauling described in Karp's article, this is a far cry from according animals "human" status to sue on their own behalf. While many animals are inarguably "sentient," mere consciousness is insufficient in my view to confer such status. It is hard to disagree with the proposition that animals should not have to bear unnecessary pain and suffering. But it is a *non sequitur* to go from that proposition to one of granting animals rights similar to the rights of adult humans, even leaving aside the practical problems inherent in determining where those rights would begin and end. The suffering (both human and animal) described in the vivid example in Mr. Karp's article is to be avoided if possible, but such emotional scenarios should not lead to opening up Pandora's box to the kinds of mischief sure to result from giving human rights to animals.

Gordon G. Hauschild
Lakewood

Never mind all that, I'm still right

Editor:

I am responding to a letter from Michael Hanbey of Columbia Legal Services in the February *Bar News*. This letter challenged my criticism of the proposed rule 6.1, which would designate certain legal work as *pro bono*, and my criticism of Columbia Legal Services. Rule 6.1 would improperly allow supposed public-interest lawyers to be considered official approved *pro bono* lawyers, an impropriety because the Supreme Court should neither make rules regarding different legal practices nor depart from its prescribed neutrality by anointing some lawyers and causes as better than others. The proposed rule would designate individuals or organizations which claim to protect civil rights, civil liberties or "public rights" as *pro bono* approved, and likewise designate charitable, religious, civil, community, governmental and education organizations as *pro bono*! Better than the lawyers who oppose them. This is wrong because many people do not agree with the goals of such organizations, and many people do not think the courts are the proper forum for deciding public issues of interest to these groups and individuals.

To get back to Mr. Hanbey's letter, first, he dissociates Columbia from connection with the inception of IOLTA. In fact, Columbia's predecessor, Evergreen, was around and received money from IOLTA when it began. The IOLTA fund distributes money mostly to Columbia, with some going to similar agencies, not to individuals in need. Columbia receives the money for lawyer salaries and maintaining itself and for litigation it commences, such as suing the post office, but it does not fund individuals that I know of.

Second, I commented on the lack of Second Amendment advocacy by public lawyers, arguing that this shows that they litigate their own ideology, not their clients'. Columbia says this does not apply to them. But most no-contact orders include a no-firearms provision, and probably many dissolution cases provide similar orders, so there is plenty of opportunity for Columbia to litigate orders that involve the Second Amendment. I agree, though, that I was primarily thinking of criminal cases when I made this comment. Third, I have never said that Columbia's cases are trivial. They are serious matters because they tend to dilute the democratic character of government.

Fourth, Columbia sued the post office to force them to provide different services, and Mr. Hanbey defends this. This is a good example of Columbia using the court system to promote a political position it favors, rather than helping individuals. There must be a Senate committee with oversight over the post office. It is they, Senator Murray, Senator Lott, Senator Olympia Snow (Maine), whoever might be on that committee, who should decide what level of services the post office pro-

vides, not Columbia lawyers insulated from the voters and judges appointed for life. Columbia is invading the executive and legislative branches of government and chipping away at our concept of democratic government.

Finally, Mr. Hanbey suggests that I might have a different opinion if I knew some Columbia lawyers. I do know several Columbia lawyers. They are able and dedicated. This does not mean that I approve of their employer or of the political impact of their work. The matter of differentiating between one's politics and goals and the clients' goals is a subtle matter. I doubt if Columbia lawyers often take positions that are opposed to their own ideological positions. I doubt that Columbia lawyers often counsel their clients on the possible negative impact of receiving government largesse. See Rule of Professional Conduct 2.1, which says "in rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation."

I stand by my comments.

Roger Ley
Seattle

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Scenario-building

by Jan Michels
WSBA Executive Director

I'm a reader — I read anything and everything. My husband, Alan, and I subscribe to magazines from *The Atlantic Monthly* and *The New Yorker* to *Discover* and *Scientific American*. Throw in *Motor Trend*, *Skiing*, *Bicycling*, *Consumer Reports*, and most state bar magazines from around the country, and I get a very rich mix of intellectual stimulation and juxtaposition. On a recent ski vacation at Whistler I used the long, tired evenings to catch up on these materials.

Three articles from different sources (and the Board of Governors' December retreat) melded into this thought: We need to build some creative scenarios about the future practice of law and plan toward them, or we risk having a profession where outside forces, not lawyers themselves, define how lawyers practice.

I'll start with an article by Jeffrey Goldberg in the February 10 issue of *The New Yorker* titled "The Unknown." Goldberg traces the history of U.S. intelligence gathering in both the State Department and the CIA. He speculates about the defects (he doesn't like the term "failure" in this context) that allowed international events such as Pearl Harbor, the 1998 nuclear test in India, 9/11, and the nuclear threats in North Korea to surprise us. Goldberg ascribes this defect to lack of imagination. We were unable to get beyond pure facts and get outside a narrow U.S. worldview. He suggests that we knew objective facts, had bits of information, but could not imagine what they meant and where they were going — a defect he labels "analytic timidity." He calls for all intelligence information to include speculation about the "unknown" — then even a further imagining of the "unknown unknown" — what he calls "scenario-building."

Legal futurist Stuart Forsyth, speaker/facilitator at the December board retreat, spent some time describing the mental picture legal professionals have of themselves and the profession. He described how this mental picture inhibits the profession's ability to discern trends and use available information (i.e., understand the meaning and significance of this "intelligence") to develop realistic assessments about what trends, public opinion and globalization may mean about the future of the legal profession.

All major social upheavals have coincided with the coming together of a major war, shifts into a new era (e.g., the information age), and wide economic disparities.

In an essay on the state of America, "The American Paradox," in the January/February 2003 issue of *The Atlantic Monthly*, Ted Halstead discusses some of the paradoxes in U.S. achievements. While the United States ranks among the top of advanced democracies in biotechnical research, we rank near the bottom in infant mortality. While we are at the top in productivity, we are near the bottom in income inequity. And while we are near the top in GNP, we are at the lowest in universal health care. Halstead's point is to call for a revised social contract, but what caught my attention was his concluding speculation that even without governmental or political intervention, the requisite conditions for a reinvented social order — conditions that will promote fundamental social change — are coming together in a "near perfect political storm." All major social upheavals have coincided with the coming together of a major war, shifts into a new era (e.g., the information age), and wide economic disparities. So, he concludes major social change is imminent.

The third article, *2016: Diary of the Last Lawyer*, from the ABA Futures Committee, has built a dystopic scenario of the future of the legal profession. This article, as well as the full Futures Committee report, was recommended to the board by Stuart Forsyth. While the picture presented is unhappy, it *does* fit the prescription of getting beyond the legal profession's mental picture of itself, and it incorporates Halstead's perfect storm cultural conditions. Social contract for justice demands access, affordability, expediency and predictability; and in *2016* an artificial-intelligence system delivers it without lawyers, judges, and today's "contentious advocacy" (a term from the *Diary*)!

Dr. Alan Kay had it right: "The best way to predict the future is to invent it." We can use current intelligence about what comprises public justice, acknowledge the "perfect conditions" for social change, and imagine a new scenario. Scenario-building is imaginative and fun; it can open up the profession's mental picture of practicing law and encourage optimistic future planning.

If you have an interest in joining the discussion, please contact me at 206-727-8240 or janm@wsba.org.

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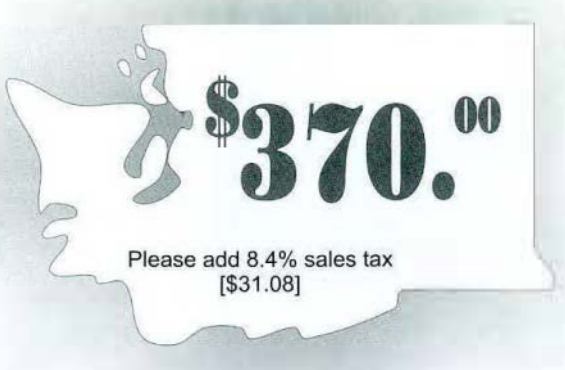

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Slicing the Onion:

Proposed Rules of Professional Conduct and Court Rules Make It Easier for Private and Nonprofit Legal Practitioners to Provide "Unbundled" Legal Services[1]

by Kim Prochnau

The choice for many people of low- and even moderate-income means is not between "unbundled services" and traditional full-service representation, but between "unbundled services" and no legal assistance.

Introduction

Recent amendments to the Washington Rules of Professional Conduct (RPCs), as well as superior court and district court rules, clarify and facilitate the ability of attorneys to limit the scope of their representation.[2] Popularly known as "unbundled legal services," this alternative to traditional full-service representation is sometimes referred to as "limited service representation" or "discrete task representation."[3]

A significant number of Washingtonians are unable to afford attorneys. Despite the remarkable efforts of the access to justice community, the resources provided by *pro bono* and nonprofit legal-assistance providers fall far short of the need. A cursory review of the studies on *pro se* litigation (or a visit to any of the high-volume civil calendars) will demonstrate that a very high percentage of litigants in "personal plight" cases (such as family law or defendants in eviction cases) are unrepresented. The choice for many people of low- and even moderate-income means is not between "unbundled services" and traditional full-service representation, but between "unbundled services" and *no* legal assistance. In recent years, there has been much discussion of how, and under what circumstances, it is appropriate to "slice the onion" by providing "unbundled" services in the area of civil law — thereby stretching limited "free" services and making for-cost services affordable to a larger segment of our society.

Lawyers have been providing "unbundled" services, of course, since time immemorial. For example, many lawyers provide an initial client consultation, at the end of which the lawyer and client may or may not agree that the lawyer should file suit on behalf of the client. Generally, both lawyers and clients are comfortable with "slicing the onion" thin enough to allow for a separate consultation without any requirement that the lawyer represent the client in the lawsuit. This does not absolve the lawyer of his ethical duties, however, to provide competent representation to the client. An attorney may limit the scope of his representation to a brief consultation as to a possible personal injury claim. However, if the lawyer fails to adequately inquire as to the timing of the injury and to advise the client of any applicable statutes of limitations, the lawyer may be made painfully aware of his ethical duties through disciplinary proceedings and malpractice claims.

Limited-service representation is increasingly used as another opportunity to provide access to justice for low income people. Notable examples are Northwest Justice Project's CLEAR program, King and Spokane counties' housing justice projects, and a number of domestic violence advocacy organizations which provide attorneys to appear for petitioners in protection-order proceedings.

Meanwhile, some solo practitioners and small law firms are "unbundling" their practices, most notably in the area of family law. Some practitioners prefer to be able to collect for services at the time of or in advance of the service, so they can spend less time worrying about their accounts receivable. Many clients are unable to provide a sufficient retainer for full-service representation, but can afford to pay for limited services on a "pay as you go" basis. Some attorneys also enjoy the lifestyle advantages of providing limited legal services. They may be able to work from home or part-time, and do not have to commit at the beginning of the case to what could be protracted litigation. Lawyers are even starting to market their "limited services representation" services on the Internet.[4]

... some solo practitioners and small law firms are "unbundling" their practices, most notably in the area of family law.

This trend has encouraged the American Bar Association (ABA), as well as several states, to study their rules of professional conduct to clarify how and under what circumstances lawyers may agree to provide "unbundled services."[5] In recent years, a number of articles, seminars and even manuals have been published on how to provide limited-services representation in a responsible and efficient manner.[6]

Outline of Rule Changes

1. RPC 6.5

Legal-services organizations, courts, and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services (for example, county bar association legal clinics and the CLEAR telephone hotline system). Such programs are normally operated under circumstances in which it is not feasible to systematically screen for conflicts of interest. Because there is no expectation by the client or lawyer that continuing legal services will be rendered, and because services will be limited in scope by agreement with the cli-

ent, this new rule relaxes the usual conflict-of-interest rules for such short-term limited legal services.

RPC 6.5 now requires a "conflicts check" before providing short-term limited legal services under the auspices of a program sponsored by a nonprofit organization or court only if the lawyer *knows* that the representation presents a conflict of interest for the lawyer or the lawyer's firm.[7] If, however, after commencing a short-term representation in accordance with the proposed rule, the lawyer undertakes to represent the client on an ongoing basis, the more stringent requirements of RPCs 1.7, 1.9(a) and 1.10 become applicable.

For example, a tenant facing eviction may seek advice from a lawyer volunteering for an evening legal clinic. That lawyer will likely be unable to check with his firm to determine whether another member of the firm represents the tenant's landlord. Under the new rule, the lawyer can briefly provide legal advice to the tenant. Only if he recognizes the landlord's name as his own client will he be barred from providing advice, due to a *direct* conflict of interest. And he will only have an *imputed* conflict of interest if he has actual knowledge of the conflict, i.e., the tenant has in his possession the eviction paperwork with the lawyer's firm name on the documents. However, before the lawyer agrees to represent the tenant at the eviction hearing, he must go back to his office and check for conflicts. Note that the relaxed conflict-of-interest rules do not apply to for-profit organizations, even if the services are short-term in nature.

Under narrow circumstances, the new rules also allow a nonprofit organization or court-annexed program such as CLEAR to assign two lawyers from the same program to represent opposing parties. The program must, however, first demonstrate through the use of an effective screening mechanism that it will maintain the respective clients' confidences and secrets and assure the individual lawyers' loyalty to their clients.

2. RPC 1.2(c): Scope of Representation

The changes to RPC 1.2 (c) are set forth below:

> A lawyer may limit the ~~objectives~~ scope of the representation if the limitation is reasonable under the circumstances and the client consents after consultation. An agreement limiting the scope of the representation shall consider the applicability of rule 4.2 to the representation.[8]

The new rule clarifies that attorneys and clients may agree to "limited services representation" provided that the limitations based on the scope are reasonable under the particular circumstances. The comments note that, although an agreement to limit legal services does not exempt a lawyer from a duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. A client's consent to limiting the scope of the representation need not be in writing, although it is obviously better to do so when practicable.

3. RPC 4.2 and 4.3: Communication with Person Represented by Counsel/ Dealing with an Unrepresented Person

Under RPC 4.2, a lawyer who knows a person is represented by a lawyer as to a particular matter generally may not commu-

nicate with that person as to that matter.

When a person is receiving limited services representation, however, opposing counsel may normally treat that person as not represented by counsel (thus, the lawyer's duties toward that person would be governed by RPC 4.3) and may communicate directly with that person.[9] This allows an attorney and client to limit the scope of the attorney's representation to brief advice or document drafting, for example, without fear that the attorney will be unwillingly brought in for extensive negotiations.

However, the opposing attorney may not communicate with the opposing party directly if he "knows of, or has been provided with, a written notice of appearance under which, or a written notice of time period during which, he is to communicate only with the limited representation lawyer as to the subject matter within the limited scope of the representation."[10]

These changes relieve opposing counsel from having to speculate as to whether he is free to communicate with the opposing party directly, and address one of the most common complaints voiced by lawyers when dealing with a person who may or may not be receiving limited services from a lawyer. The new rules place the burden on the lawyer providing "unbundled services" to prepare a written notice and to make sure opposing counsel knows of its existence if the lawyer providing limited legal services does not want opposing counsel to communicate directly with the client.

4. CR 4.2; CrRLJ 4.2: Process-limited Representation

Representation of a person by an attorney at "...any proceeding before a judge, magistrate, or other judicial officer on behalf of the person constitutes an entry of [general] appearance pursuant to RCW 4.28.210 and CR 4(a)(3), except to the extent that a limited notice of appearance as provided for under [new] CR 70.1 is filed and served prior to or simultaneous with the actual appearance." (Bracketed material added for emphasis.)

This rule (coupled with CR 70.1/CRLJ 70.1), in effect, allows a lawyer to make a special appearance in a court case. While most clients and cases may be best served by full-service representation, the reality is that many litigants are appearing *pro se* either because they cannot afford or do not want full-service representation. A lawyer can now accept a modest fee for a court hearing or agree to argue a motion *pro bono* without undue fear that he will be forced to stay in the case until the litigation is finished.

Together, the amendments to this rule and CR 70.1/CRLJ 70.1 (discussed below) allow a lawyer to provide limited legal services in a civil proceeding in superior, district or municipal court. However, the lawyer must obtain the consent of the client in advance, provide a written notice of limited appearance before or at the hearing, and must comply with other RPCs, including the duty to provide competent representation. If on balance, representing the client for the one hearing alone will "slice the onion" too thinly by doing more harm than good, the lawyer must refuse the representation. *See*, RPC 1.2 (c).

Some *pro bono* and legal-assistance providers have been using "limited notices of appearance" for several years. For example, the Eastside Legal Assistance Program (in King County) has used such notices to allow *pro bono* lawyers to both appear for a protection order hearing and to immediately withdraw after the hearing; the no-

tice contains their client's written consent to the limited representation. The rule, in effect, approves such an approach.

5. CR 70.1; CrRLJ 70.1

This new rule formally permits a "notice of limited appearance"; proper utilization of the notice will allow a lawyer's role to terminate automatically and without necessity of leave of court.

When "...filed and served prior to or simultaneous with the proceeding, an attorney's role may be limited to one or more individual proceedings in the action. Service on an attorney who has made a limited appearance for a party shall be valid (to the extent permitted by statute and rule 5(b)) only in connection with the specific proceedings for which the attorney has appeared, including any hearing or trial at which the attorney appeared and any subsequent motions for presentation of orders. At the conclusion of such proceedings, the attorney's role terminates without the necessity of leave of court upon the attorney filing notice of completion of limited appearance, which notice shall include the client information required by rule 71(c)(1)."[11] (CR 71(c)(1) requires disclosure in the notice of the trial date, if any, and the name and service address of the client or clients.)

Where the attorney is appearing for only one hearing and orders will be immediately entered, he may be able to combine the notice of appearance with a notice of completion of limited appearance, and serve and file it at the hearing. If it later develops that the hearing must be continued, or presentation of orders is set over for a later date, that attorney continues in his role until the conclusion of the hearing or presentation. It is preferable, although not mandatory, that the documents include an agreement signed by the client consenting to the limited representation.

A lawyer can now accept a modest fee for a court hearing or agree to argue a motion *pro bono* without undue fear that he will be forced to stay in the case until the litigation is finished.

It is this author's opinion that the notice of limited appearance should be called to the attention of the court and opposing counsel no later than the beginning of the hearing.

6. CR 11; CrRLJ 11

One of the major ethical questions posed by "unbundled services" has been whether lawyers may draft pleadings for their otherwise self-represented clients without affirmatively disclosing their involvement on the face of the document. This practice, commonly known as "ghost-writing," was specifically prohibited by a federal court in Colorado. The Colorado State Supreme Court has enacted rules requiring all pleadings to disclose the name of any attorney providing drafting assistance. The drafters of Washington's rule, however, rejected such an affirmative disclosure requirement after listening to a practitioner's comments about the practical problems presented. A litigant may visit several different lawyers for advice; he may hire a lawyer to prepare a pleading and then make his own changes to the pleading before filing it; or he may obtain a court form from the Internet and briefly speak to an attorney over the telephone before completing the pleading. None of these examples allows an attorney to maintain exclusive control over the content of a pleading or the court to reasonably infer what portions of the pleading the attorney is responsible for.[12]

Washington's rule, however, does clarify that the requirements and risks of CR 11 will generally be applied to lawyers providing drafting assistance for any "pleadings, motions, or documents filed by an otherwise self-represented person," to the extent that objectionable material in the document is the product of the lawyer's drafting and not the client's later changes. Just as with traditional representation, a lawyer cannot draft a motion for a *pro se* litigant where the lawyer knows that it is being filed merely to harass the other party. However, the attorney "may rely on the otherwise self-represented person's representation of facts, unless the attorney has reason to believe that such representations are false or materially insufficient, in which case the attorney shall make an independent reasonable inquiry into the facts."[13]

The new rule makes it clear that when providing such limited-service representation, the attorney may ordinarily rely on the client's representation of facts.

CR 11(b) addresses the practical problems faced by lawyers whose brief contact with the client does not make it practicable to make the same type of inquiry into the facts as if the lawyer were providing full-service representation. When an attorney volunteers for an evening at the local bar association's legal clinic, his advice is normally dependent on the client's version of the facts and the attorney's knowledge of the applicable law; the attorney will not ordinarily be able to review the client's court file. The new rule makes it clear that when providing such limited-service representation, the attorney may ordinarily rely on the client's representation of facts. However, if he has reason to believe that such representations are false or materially insufficient, the attorney is required to make an independent reasonable inquiry into the facts before assisting with any pleadings, motions or documents filed with the courts. Thus, if a client wants to file a motion for contempt of the parenting-plan order but doesn't have a copy of the parenting-plan and can't remember what it says, the attorney might

reasonably refuse to assist the client until the client has actually reviewed the parenting plan or has provided it to the attorney for his review.

Conclusion

While not the first in the nation to enact "unbundled" rules, Washington can take pride in having the most thorough set of rules to date. Washington's RPCs now explicitly allow attorneys and clients to agree to limit the scope of representation. Opposing counsel may communicate directly with an otherwise self-represented person unless they know of or are provided with a written notice instructing them to communicate with counsel. When providing short-term limited legal services under the auspices of a court or nonprofit program, a lawyer is not required to systematically check for conflicts of interest, but may rely on his knowledge of any direct or imputed conflict of interest.

While most of the requirements of CR 11 still apply to a lawyer who provides drafting assistance with pleadings even if the lawyer's name is not on the pleading, the lawyer is only responsible to the extent that the objectionable materials are the result of the lawyer's drafting and not that of the litigant. And, a lawyer merely providing help with drafting of pleadings need not make an independent investigation of the facts but may rely on the client's representations, unless the attorney has reason to believe the representations to be false or materially insufficient. Lawyers may appear for discrete proceedings in a municipal, district or superior court action and immediately withdraw at the conclusion of the hearing, provided that a notice of limited appearance is served and filed at or before the hearing.

No doubt there will be problems with application of the rules. However, they represent a pragmatic approach to the dual problems of access to justice and the gap between what clients can afford to pay and what lawyers need to charge for full-service representation.

Kim Prochnau is a King County Superior Court commissioner, and member of the Washington State Access to Justice Unbundled Services Committee and the ABA Standing Committee on Delivery of Legal Services.

NOTES

1. An earlier draft of this article was prepared for the June 2002 Access to Justice Conference. Credit goes to Barrie Althoff, chair of the Unbundled Services Committee, for his extensive editing of this article.
2. The new rules were endorsed by the WSBA Access to Justice (ATJ) Board, Superior and District Court Judges' Associations, and the ABA Standing Committee on the Delivery of Legal Services. The rules were prepared at the request of the ATJ Board by its Unbundled Legal Services Committee (Barrie Althoff, chair; and King County Superior Court Commissioners Kim Prochnau and Nancy Bradburn-Johnson). The committee consulted extensively with national legal ethics experts and Washington lawyers who actually provide unbundled services; the suggested rules incorporate comments informally received from legal-services organizations as well as lawyers' and judges' committees.
3. The rules are found at 157 Wn.2d 4 (Oct. 29, 2002). An electronic version of the rules and the drafters' comments may be accessed at http://www.courts.wa.gov/rules.
4. *See*, for example, www.onlyfamilylaw.com.
5. The ABA's governing body enacted model rules to facilitate unbundling in August 2002. *See*, http://www.abanet.org/cpr/ethics2k.html. Colorado and Maine have followed suit.
6. An extensive bibliography, as well as selected articles, may be found at http://www.unbundledlaw.org. This Web site is an outgrowth of a national conference co-sponsored by the ABA. *See, also*, Mosten, Forrest, "Unbundling Legal Services: How to Deliver Legal Services a la Carte for Improved Service and Profits" (American Bar Association, 2000). (This very extensive manual can be ordered from the ABA's publications division or directly from the author at http://www.mostenmediation.com.) Barrie Althoff has written extensively on the ethical constraints of "unbundling" under Washington law. *See*, Althoff, Barrie, "Limiting the Scope of Your Representation," *Washington State Bar News* (June and July 1997). *See, also*, the spring 2002 edition of *Family Courts and Conciliation Review* for a compilation of articles on "unbundled legal services."
7. The ABA model rules adopted in August 2002 are similar but not identical.
8. Cf., ABA Model Rules of Professional Conduct 1.2 (c) (August 2002) ("A lawyer may limit the scope of the representation if the limit is reasonable under the circumstances and the client gives informed consent.").
9. There is no parallel change to the ABA Model Rules of Professional Conduct.
10. RPC 4.2(b) (Oct. 29, 2002).
11. CR 70.1(b); CrRLJ 70.1(b) (Oct. 29, 2002).
12. Of course, the court may inquire of a litigant whether he has had assistance with a pleading. It should take any answer with a grain of salt, however, given the all-too-human propensity of trying to "shift the blame."
13. CR 11(b); CRrLJ 11(b).

Illustration by Tim Teebken

If You're So Smart, Why Aren't You Running Legal Services?

A Challenge to Its Critics

by Lindsay Thompson • Bar News *Editor*

"Once the rockets are up, who cares where they come down?
That's not my department," says Wernher von Braun.
— *Tom Lehrer,* That Was the Year That Was *(1965)*

The debate over legal services to the poor, paid for by the public, never ends.

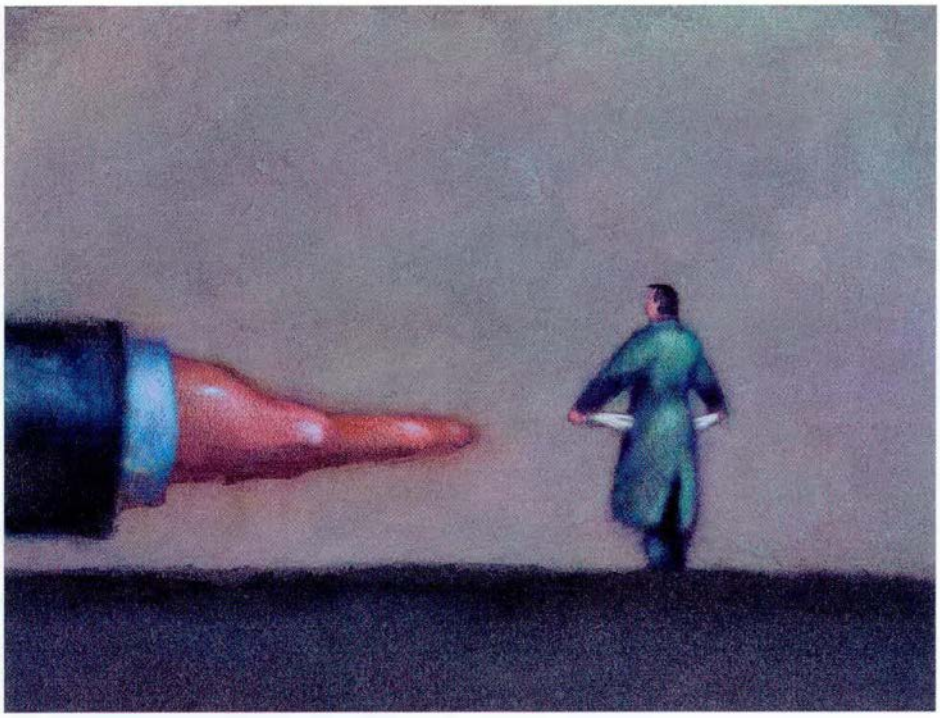
In fat times and lean, its opponents scheme and fume and struggle to cut legal-services funding, to hobble its lawyers with restrictions, to limit the kinds of cases they can take, to kill it off entirely.

That is, of course, their right. But it doesn't necessarily make them right.

"The poor" is a malleable term. We can define it to include and exclude. We have "deserving poor" in some people's calculations, just as we once had "innocent victims" of AIDS. The people we define out are those of whom we disapprove for whatever reason. In fact, all kinds of people can turn up in the ranks of the poor: the formerly married now raising families without the support of a spouse; people laid off from formerly well paying jobs; people whose disabilities make it hard or impossible to hold jobs at all; immigrants doing jobs the majority population disdains; people who worked hard all their lives but find their retirement and savings insufficient to cover the cost of living in places like Seattle; people with catastrophic health problems and no insurance.

Because being "poor" has such disparate origins, it's easy to pick and choose who is a good poor person, or the other sort, who is more or less getting what they deserve, even as we grudgingly admit we have to do something about them just the same. I am surprised by how often we make judgments — thoughtless, ill-considered ones — about the poor as a basis for our views of policies on how to help them or whether to do so.

I am surprised by how often we make judgments – thoughtless, ill-considered ones – about the poor as a basis for our views of policies on how to help them or whether to do so.



Tim Teecke

When I was a boy growing up in North Carolina, for example, it was commonplace for well-off white people to joke about the day each month you didn't want to be in line at the post office because that was when all the welfare checks came in the mail. You heard the "welfare queen" stories, and about people on food stamps in line at the grocery buying all kinds of "luxury" items with other people's hard-earned money.

This sort of anecdotal, mindless criticism feeds into a worldview that views the poor as inherently undeserving and dishonest. The trouble is it leads to arguments we are spending too much, or the wrong way, or that we should employ armies of officials to make the poor report and account and come to government offices to satisfy our sense that someone, somewhere, out there might be chiseling out a bit more than they are due.

So even as we require more — and more complicated — interactions with the law and government of poor people than the rest of the population, we give them fewer legal resources to help them navigate the mazes we create. Give a set of pattern dissolution forms to a person with a junior-high education and see what you get. Better yet, try filling out a set yourself.

The Lord comes forward to argue his case,
Standing up to judge his people.
The Lord opens the indictment
Against the elders and officers of his people.
It is you who have ravaged the vineyard;
In your houses are the spoils taken from the poor.
Is it nothing to you that you crush my people
And grind the faces of the poor?
— Isaiah 3:13-15

Some critics, seeking a high road, attack legal-services lawyers as the corruptors of an otherwise noble effort to serve the poor. *Bar News* has run scores of such letters over the years, lawyers attacking their colleagues for providing the sort of zealous, creative lawyering to poor people everyone else expects more or less as a right. As luck would have it, we have one in this month's *Letters*, in which legal-services lawyers are blamed for litigating "their own ideology, not their clients'," bringing cases that "tend to dilute the democratic character of government," and questioning whether legal-services lawyers "counsel their clients on the possible negative impact of receiving government largesse."

The writer has, of course, every right to argue such point in this magazine. And I have a right to say, "Bull."

To prevent these radicals from upsetting Life As We Know It, Congress — driven by critics of legal services — has mandated that legal-services lawyers cannot use federal funds to do anything in immigration law; cannot bring class-action suits; cannot seek welfare reform (an odd one that, given how many politicians of both parties have been up on their hind legs about changing welfare as we know it; it seems like they'd want help changing it for the better — but I digress). Legal-services lawyers cannot do anything about predatory lending, either. There are a variety of other such restrictions, and legislators, state and federal, never cease toiling to add to the prohibitions.

Given so many restrictions and outright bans on legal action, not to mention how few legal services lawyers there are — in

Washington and the nation — it almost beggars the imagination to figure out what radical ideas are left to go and abuse the legal system with.

Legal services critics are clever people, but the radical-agenda thing seems to have stumped them. If all there is to solving this problem is having more conservative legal-aid lawyers pursuing a more correct agenda for the poor, it shouldn't be that hard to set up a fellowship plan or something to encourage cadres of conservative lawyers to apply for work as legal-services attorneys. Conservatives have newspapers and magazines and TV networks and radio shows and even a law school or two; fixing the problem they've bemoaned for so long should be light lifting indeed — unless the radical lawyers argument is just a stalking horse for the real issue.

There have been many great men that have flattered the people who never loved them.

— *Shakespeare*, Coriolanus *(1608)*

In December 2002 the Supreme Court of Washington found itself in an unusual spot: appearing as a party to a lawsuit before the U.S. Supreme Court.

The Washington Legal Foundation (from the other Washington) sued the Legal Foundation of Washington (from here) over its collection and distribution of interest on lawyer and real estate closing-officer trust accounts to fund legal services for the poor in Washington. According to its Web site, the WLF has battled funding legal services to the poor for over a decade. In some cases, the WLF argues applying IOLTA funds to legal services violates the Fifth Amendment takings clause, even though Harvard law professor Charles Fried, who argued the WLF's case to the Supreme Court, conceded that the same money deposited in individual accounts would have earned no net interest at all. According to one press account, Mr. Fried told the court: "It is a taking even if the just compensation is zero."

If they think the system is so bad as to dun their members for a decade's worth of litigation to try and kill it, where's their solution?

In other cases, the WLF has argued IOLTA violates the First Amendment by compelling people to support causes they don't want to support. A WLF fundraising letter quoted in *The New York Times* said the WLF's goal is "to deal a death blow to the single most important source of income for radical legal groups across the country.... It's an abomination that IOLTA can take money that is rightly the property of Americans like you and me and use that money to support programs we oppose, that stand in direct opposition to everything we believe in."

Liberty and justice for all, exit stage right.

I went to the WLF Web site and spent a long time reading. Their lawyer, Mr. Fried, told the Supreme Court the only thing for IOLTA to do is shut down. That led me to wonder — "...and replace it with what?" The WLF has really smart and important people like former Attorney General Richard Thornburgh on its board. If they think the system is so bad as to dun their members for a decade's worth of litigation to try and kill it, where's their solution?

The answer seems pretty clear. A more acceptable successor to IOLTA and legal services in its present form is: "nothing."

How much money are we talking about, anyway? The proposed 2003-05

state budget is over $22 billion. Federal funds for legal services in Washington come to about $5 million a year. State funding for 2002 was $4.8 million. IOLTA produces $6.2 million. LAW Fund (direct contributions by lawyers) contributes another $150,000 or so per year. The money involved is so tiny in the scope of the state budget, you wonder why there is such a fuss over it with such a big budget hole to patch. Yet for years, critics have devoted much of their time and energy not to coming up with other funding sources. They just seem to want to eliminate the program entirely. Increasingly the money argument looks like another stalking horse for the real issue.

Anyone who has ever struggled with poverty knows how expensive it is to be poor.

— James Baldwin,
Nobody Knows My Name *(1961)*

Thus we reach the basic issue. If IOLTA is so bad, if legal-services lawyers are so radical (presumably, according to our letter writer this issue, in contrast to their conservative, right-thinking poor clients), what should it be replaced with? Why is so much time and energy devoted to efforts to choke off funding sources and reduce the kinds of cases legal-services lawyers can handle?

First, an aside, as I am sure a number are already reaching for pen, phone or keyboard to shoot the messenger, denouncing me as a radical, a socialist, a tax-and-spend liberal.

Anyone who tells you I'm not a conservative doesn't know me. I've been a registered Republican since I was old enough to vote.

That said, being a conservative doesn't — in most cases — mean you've checked your brains at the door. John McKay is as thoughtful and committed a Republican as I know, but when legal-services funding in Washington faced attack some years ago, he didn't hesitate to take a lead in assembling a coalition of law and community groups to broaden the base of support for renewed funding.

So effective were John's efforts that he was recruited to the presidency of the federal Legal Services Corporation, where he served with distinction for four years. Now U.S attorney for western Washington, John

continues to support legal services. He makes me, and should make us all, proud to call ourselves lawyers.

I mention this because the debate about legal services all too often turns into a set-piece exchange of ideological bromides reduced to even less substantial sound-bites. "If you think this, you must be that."

The advantage to such an approach is that you don't have to talk, or think, much about the real, underlying issue of what to do about a legal system that is failing to meet the needs of the poor. Surrogate arguments — takings, free speech, abominations and radical lawyers — these fuel endless sidebar debates while the problem goes unresolved. If anything, it gets worse as we fiddle. Washington's economy is hurting. Our state unemployment rate is among the nation's highest; in Ferry County it's over 15 percent. A lot of our neighbors need legal help. In March *The Wenatchee World* reported: "There will soon be only five legal services attorneys based in Wenatchee to serve a vast area of North Central Washington. There are an estimated 40,000 poverty-level residents in Chelan and Douglas counties alone." Carping about liberal ideologues may be fun, but it doesn't do anything to fix that kind of problem.

But there is one way in this country in which all men are created equal — there is one institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court. It can be the Supreme Court of the United States, or the humblest J.P. court in the land, or this honorable court which you serve. Our courts have their faults, but in this country our courts are the great levelers, and in our country all men are created equal.

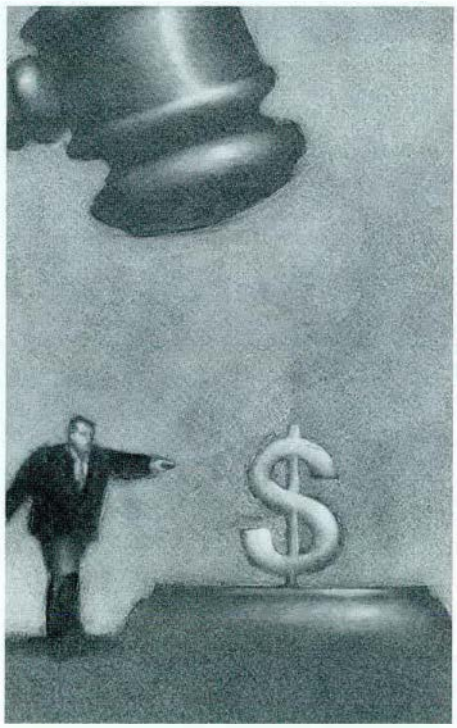
— *Harper Lee*, To Kill a Mockingbird *(1960)*

Who are our heroes as lawyers? The ones who take on the unpopular cause or client, who go the distance for principle regardless of personal cost. The WSBA honors them with an award for courage.

I've often heard it said every lawyer would like to be Atticus Finch, and not just because Gregory Peck looked so distinguished in that white suit. We admire him for being a small-town white lawyer willing to put his reputation and privilege at hazard to defend a poor African-American accused of awful crimes.

Yet the lawyers who do that sort of thing in real life — not the book or the movie — are all too few. As a profession we seem to be content to be the least we can be, snarling and complaining about yet another exhortation to do more *pro bono* or another boring article like this one from another Seattle lawyer obviously oblivious to the realities of practice in other parts of Washington. It's easy to call bad business decisions leading to write-offs *pro bono*, or worthwhile but undemanding civic work.

Surrogate arguments — takings, free speech, abominations and radical lawyers — these fuel endless sidebar debates while the problem goes unresolved.



I don't understand such views. We get special privileges as lawyers. We can engage the power of the state to sue people, to force them to go places and disclose information as we want. But because most of us operate in a market-driven private sector, increasing numbers of people who *aren't* poor, not to mention all those who are, can't afford us. If we can't do the work, who can? Who will? Should we farm it out to paralegals? Should we look the other way as marginally qualified non-lawyers pick up the slack? To the extent that last idea has been floated around the Bar, members have pretty consistently complained it would take work away from them. But what about all the people who can't afford them in the first place?

As Chief Justice Alexander said in his address to the Legislature in January, "It seems to me in America, where we rejoice in the fact that we are a nation devoted to the rule of law, we should not ration access to justice." I guess that makes him another radical lefty.

Private initiative, local control, increased charity — these are all hallmarks of conservatism. But I don't see a lot of legal services' critics doing much but criticize.

When I listen to the attacks on legal-services programs, and listen for the critics' solutions — for the alternative that will suit their principles better — I can only reach the conclusion that there are a lot of lawyers who just don't believe the poor are entitled to any more help than they can scratch up from a local volunteer attorney.

I have written this essay, as one of my college professors says good advocacy should, to provoke and irritate. I want to take a hammer to the box this debate has been stuck in for so long. So, to the critics of legal services in our association, a challenge:

Come up with a solution.

You can approach it either of two ways: 1) Write *Bar News* — by letter or article — and explain why you believe ignoring the legal needs of the poor is consistent with your oath of attorney: if the current system is so bad, here's an alternative that meets all the conservative objections; or 2) surprise us; come up with your own approach.

I'm not a betting man, but if I were I'd lay a wager here that what we'll get is a lot of shoot-the-messenger letters and little else.

Want to prove me wrong? ✍

Lindsay Thompson practices law in Seattle. His views, here and everywhere, are his own.

The Tar Pit: Anatomy of a Parking Ticket

(with deep appreciation for the works of Franz Kafka)

by James Goche

No one likes parking tickets. The little yellow envelopes have long been an accepted hazard of parking in town, and Washington cities issue them by the hundreds of thousands every year. As regulatory penalties, they have been compared to mosquitoes. They multiply quickly and seem to be everywhere, but their individual bites, the small fines which have traditionally cost only a couple of bucks, create more irritation than damage. In recent years, however, this has changed because the mosquito's bite has grown quite large.

Ticket costs have skyrocketed with the addition of surcharges and fees, and cities' increasing use of private collection agencies to collect these penalties is creating even greater costs through the long-term damage done to people's credit rat-

The total cost of a handful of parking tickets may now exceed the financial penalties set for some felonies.

ings. As a result, a couple of parking tickets can now cost you your vehicle and create problems if you are trying to buy or rent a house, get a job, purchase insurance, take out a loan, or get medical attention for your family. The total cost of a handful of parking tickets may now exceed the financial penalties set for some felonies.

To make matters worse, people are being convicted of infractions which they did not commit. The law in Washington allows cities to assume initially that the registered owner is the operator of the ticketed vehicle for purposes of issuing the parking citation, but requires cities to eventually prove their case. Courts have said that only the driver can be guilty and that "strict liability" for the owner is not permitted. Nevertheless, cities commonly assume that the owner is guilty unless the citation is appealed, and then often make it impossible to rebut these presumptions.

The appeal period for parking citations is short (around two weeks) and after the period has expired, the defendant loses his right to challenge the ticket. If the owner wasn't driving the car, he probably won't know about the citations and so cannot not appeal them. This means that after 15 days, innocent owners will be deemed guilty of the infractions, face escalating fines, and find themselves stuck in a legal system which demands full payment of all penalties as the only way out. They may learn about their predicament only when they begin receiving harassing calls from a collection agency.

Given all this, a more apt metaphor for a city's parking enforcement system might be that of a "tar pit" which entraps unassuming animals coming to a watering hole to drink. Once caught, there is no way out of the sticky and unmerciful morass, which swallows its victims faster the more they struggle.

Sound farfetched? Perhaps overly dramatic? I would have thought so, too, until I found myself stuck in the tar.

Discovery

One evening around suppertime, I received a phone call from a friendly sort who seemed to know me. When I asked what the call was about, the conversation became threatening, and the caller told me that I owed over a thousand dollars in claims which I must pay immediately or face legal action.

I eventually discovered that the call was from a collection agency hired by the city to collect parking fines. The agency had added a variety of surcharges, fees and interest to the fines, and now wanted payment for everything — right away! However, I had not committed the parking infractions. I had received no notice about any overdue tickets from the city, and knew nothing of the matter.

The collection agency was vague about the details, except that it wanted money. I wrote to the agency, asking it to stop its action while I contacted the city to obtain a clear picture of the claims and sort out the situation. Under federal law, my written notice would normally be effective in consumer transactions to advise the agency that the debt was contested, and suspend a collection action for a time. But, as I was to find later, the law does not cover "city debt."

As I began investigating, I discovered the origin of the problem. Someone who had the loan of my auto had received some parking tickets and didn't mention the ones she had forgotten to pay. I contacted the city, but immediately ran into a tangle of bureaucracy. First, the city's record-keeping was so poor that it had a difficult time providing consistent answers to simple questions like, "How many citations were

issued?" or "How many dollars were owing?" It couldn't even show me copies of its own parking citations.

Secondly, the city claimed that it had sent me the notices, but had a difficult time showing proof when I requested it. I also discovered that the city kept its mailing costs down by using first-class rather than certified mail for its notices. When pressed, officials had to admit that they had no idea if the alleged notices were actually delivered.

Finally, "ownership" of the situation was a problem. Both the city and collection agency wanted money, but no one was in charge. When I made inquiries about the citations to one, I was referred to the other and then back again in a game of "parking ticket ping-pong."

In the meantime, the driver came forward and, to her credit, admitted responsibility for the tickets. She sent the city full payment of its fines and surcharges.

At that point, the city had an innocent defendant who committed no wrongs and should have owed no fines, meaning that the city "debt" now sitting in collection was void and uncollectable. The city also had a confession on file by the vehicle operator, and easy money in its pocket with the voluntary payment she had made. To top it off, the city was saving money by not having to spend taxpayer dollars to refile and prosecute the tickets. The case should have been heading for a prompt resolution, right? Well actually, no.

The city said that its collection agency would not return its tickets. The city believed it no longer "owned" its parking citations once it sent them to a private collection agency, and so was no longer responsible for their defects. There was nothing the city could do but "let the system run its course."

On the other hand, the collection agency maintained that its client's claims were rock solid. The client was no mere business or professional organization, but

... the city claimed that it had sent notices to me, but had a difficult time showing proof when I requested it.

was a local government assessing regulatory fines with the full force of state authority behind it. The law gave deference to such essential governmental functions as traffic regulation, and, unlike debts created through consumer transactions, the law presumed that fines issued under the color of state action were valid. Therefore, the city's "debt" must be good. The collection agency felt there was nothing it could do but "let the system run it course."

Despair

It seemed like I was sunk. The appeal period had expired 15 days after the tickets were issued, and "the system" now presumed I was guilty. It didn't seem to matter that I was innocent or that the city had failed to tell me about the tickets or give me my day in court.

Then I looked into the consequences of paying off the collection agency and discovered that doing so would be disastrous to my family, my personal finances, and my business. When a collection action is listed on a person's credit record, the credit bureau creates a "credit profile" which is increasingly used by employers, landlords, lenders, insurers and medical providers to determine whether they will do business with the person profiled. A minor blemish on one's credit record can mean that

any or all of these essentials will cost more or become entirely unavailable. The blemish remains on the person's credit history for up to seven years after it is paid.

Soon after, I experienced some of the colossal damage an agency can do to one's credit when I attempted to take out a business loan. My lending institution informed me that despite an otherwise superior credit rating, the city's collection action for its parking tickets had taken me from a class-A to a class-C borrower. I could still get a loan, but the price would be higher. The lender also advised me that even if I paid the collection agency, the record of its listing (i.e., that I was a "deadbeat") would continue to affect my credit rating for another seven years.

Instead of paying, I decided to fight; I hired a lawyer. Little did I know that this was the beginning of a threeyear legal battle and an expensive education in parking enforcement procedures. "The system," I discovered, wasn't used to being challenged, and was willing to make things very difficult when it felt insecure.

Fighting the System, Part 1

I quickly discovered that the city has lots of ways to persuade a person to pay a parking ticket. In addition to the collection action, it made sure that I could not use my vehicle until the cases were resolved. Without telling me, the city had contacted the state Department of Licensing (DOL) and suspended my ability to renew my registration. If I drove an unlicensed vehicle, I could be cited for a criminal violation and the auto could be impounded. On the other hand, my family needed the vehicle, a minivan, to get our kids to school, to the doctor, and wherever else necessary. I contacted the DOL to explain that I was innocent and ask it to renew my registration. Department staff advised me that there was no appeal and that I should contact the city. After considering my options, I sold my vehicle at a loss and scraped together enough money to replace it.

Next, I found that the collection agency had also been busy. It had ignored my letter and, while I was talking with the city in an attempt to resolve the matter, the agency had taken me to court. It used the city's municipal court to turn the citations into judgments, and then transferred them to the county district court to begin a collection action. I was now guilty of park-

ing tickets in two court jurisdictions, but had received notice of neither. Had this been a consumer-debt situation, federal law would have required the collection agency to stop running up its bill while I attempted to settle the claim, and would have required it to give notice of its actions. Unfortunately, "city debt" falls through a loophole in the law, so the collection agency decided that it could pursue legal actions in two separate courts unilaterally and without notice.

When my attorney discovered what the collection agency had done, "ownership" of the cases again became a problem, but this time between the courts. I attempted to file a challenge to the citations in the city's municipal court, but the judge indicated that he would not hear it because the matter was now under county district court jurisdiction. My attorney filed an appeal with the county, but after a hearing on the matter, the district court judge said that she could not overturn a municipal court judgment and that my appeal should have been filed with the city. We returned to the municipal court and filed an identical appeal there, only to have the city judge repeat his refusal to hear it. We asked the two judges to discuss the matter over a cup of coffee, and eventually the municipal court grudgingly accepted the appeal. By then nearly a year had passed and attorney fees were mounting.

The municipal court postponed and rescheduled the matter for months, but eventually heard the appeal. Notice and record-keeping difficulties again arose as a problem. The city and its collection agency were still at odds over how many tickets were involved and the amount owing. The collection agency was also unable to provide copies of the notices it claimed to have sent. Neither seemed to care that the defendant was innocent, but both claimed that "all necessary procedures had been followed" as the collection agency vigorously asserted its claims within "the system."

Eventually the judge took the matter under advisement.

During the next six months, the city continued to fumble over its poor record-keeping practices. At one point I received back-to-back letters from the city parking-enforcement supervisor and her boss, the transportation division manager, each claiming to have researched my case thoroughly so they could clarify the record regarding the tickets issued and the fines owing. Each came up with different answers.

Pressure to settle also grew. I received a letter from the city manager telling me the judge wanted to settle the case and advising me to pay up. The city manager apparently wanted the city's municipal court to be aware of this as well, since the letter indicated that the city manager had sent a copy to the presiding judge. This seemed curious, because city administrators don't usually speak for local judges regarding litigation matters, and parties to a lawsuit usually don't speak to judges about a case outside the courtroom. I chose not to settle, and continued to press for a decision in the matter.

Finally, nearly two years into the process, the municipal court dismissed the collection agency's judgments and confirmed what the city knew two years before — that I was innocent of the charges.

I had won! Well, sort of. The judge did not dismiss the underlying citations but, rather, indicated that I could request a contested hearing on them. The parking-enforcement office confirmed that the city attorney's office said a hearing was neces-

sary. A hearing about what though, I wondered? The judge had specifically stated in his decision that I did not commit the parking infractions. If I am innocent, what more did I have to prove?

Fighting the System, Part 2

I contacted the city to protest and ask that it cancel the parking tickets. The city said it would not. It was still expecting me to pay the fines. I asked if the clock was running on the appeal period, considering that this whole mess started with the expiration of deadlines. Oh yes! Since the court's dismissal of the judgments, the city had started the prosecution process again from the beginning. I apparently had 15 days to appeal or the city would again presume

I requested information from the city attorney as "discovery" and also as a public-information request, but was unable to get even the names of the officers who had written the tickets.

that I was guilty. After all, the system must be allowed to "run its course."

So I formally "contested" the parking tickets, and the city scheduled a hearing before the same municipal court that had just dismissed the case, challenging parking infractions which the same judge had conclusively determined that I didn't commit, contesting issues which the city couldn't identify. The court set a hearing date for three months later. I filed a motion to dismiss, which the court ignored. I requested information from the city attorney as "discovery" and also as a public-information request, but was unable to get even the names of the officers who had written the tickets. Time passed and expenses continue to mount.

The city allowed its system to "run its course" until the day before our court date. Just hours before the hearing, the city attorney dismissed all charges against me, again without prior notice of his motion. I had won! Well, sort of. I was happy that the case was over and that it could come off my credit record, but I had paid a high price, and the city seemed to do everything in its power to make the victory as expensive as possible. During the nearly two-and-a-half years it took to resolve these cases, I had accumulated approximately $6,000 in legal costs and other expenses, I had sold my vehicle, and my credit rating was damaged.

Fighting the System, Part 3

As for the city, it was unrepentant and continued to "work its system." After two years of prosecuting me, the city then went after the driver — the one who had admitted responsibility and sent the city a check long ago. The city seemed to believe that it could continue filing parking citations against people until it found someone to pay them. Nor was its righteousness diminished by the fact that it had chosen to disregard evidence and pursue the wrong defendant for years.

As for the driver's earlier payment, the city had refused to accept her check but had not returned it to her. It remained outstanding during the years in which the city pursued me for payment. Recently, the city gave the driver 15 days to appeal the citations or pay them — again. Otherwise it would begin doubling the fines and could eventually send them to collection. The driver appealed, believing that the tickets were now too old and the city's actions were unjust.

In response, the city asserted that time limitations were only for defendants. It had stretched this case out for years, but turned around and claimed that it was not bound by statutes of limitation or speedy-trial rules. The city admitted that the case was so old that the citing officers had left its employment and were unavailable to testify. The city's only evidence was the driver's admission of responsibility, the one which it had discounted two years ago to prosecute its cases against me, which it now said should support her conviction. The judge readily agreed and, despite the driver's prior payment, he assessed fines against her. The judge, however, buffered his judgment somewhat and, taking some note of the extraordinary circumstances of the case, reduced the fines to $3 per ticket.

Of the many things which might be said about the city's actions to this point, one observation seems particularly poignant. It created extraordinary damage for all involved and achieved nothing. It turned down a guaranteed payment of hundreds of dollars, spent unknown amounts of public funds to prosecute an innocent defendant for years, and then wound up with an award of only a few cents on the dollar. "The system" had been allowed to work, but everyone lost, including the taxpayers.

The System and the Need for Reform

I believe this case underscores the need for reform of "the system." Most Washington cities have enforcement and collection practices which are similar to the ones described in this tale and, according to state statistics, issue nearly a million parking tickets every year. That's a lot of people falling into the parking enforcement "tar pit." Cities also turn several hundred thousand of these over to collection annually.

In a sense, I was lucky because I had the resources to successfully fight city hall and avoid greater damage to my credit rating. Considering the cost and uncertainty of mounting a challenge, however, this option is unavailable to most people no matter how unfair city actions are. I hope our Legislature will take an interest in the problem and re-establish basic public protections in the laws governing parking infractions.

Legal safeguards for the public must be improved and should increase at least at the same rate as the penalties.

Parking tickets touch many people's lives. As a specific example, the city in this story, a modest-sized community of only 42,500, admits to issuing 31,761 parking citations in 2001 and sending 5,435 cases to collection. That's a lot of ruined credit ratings and a big impact on our local economy. Some defendants are single parents and low-income families who are struggling to maintain a home, keep a job, and get the kids to the doctor when they are sick. They may not know about the parking tickets until they are in collection, and the damage to their credit rating may push them into a financial hole they will never get out of.

Finally, this case demonstrates that parking tickets are no longer minor charges. The mosquito's bite is now quite large, and the damage it does can be substantial and long-lasting. These days, parking-infraction costs climb rapidly and create unnecessary damage to individuals, families

and businesses. Legal safeguards for the public must be improved and should increase at least at the same rate as the penalties.

Many state and local organizations and media have protested the city's lack of notice and hearing protections for the public. They have demanded reform of parking-enforcement and debt-collection practices. Recently, the American Civil Liberties Union and the Washington State Bar Association Civil Rights Committee have written the city, expressing concern that its due-process protections appear to be lacking and its practices may be illegal.

But reform appears to be an uphill road with local policymakers, because cities increasingly rely on regulatory fines to replace sinking tax revenues. Unlike taxes, which require the consent of the people, cities can generate revenue quickly and unilaterally through fines and penalties. Unfortunately, to do this they must accuse people of wrongdoing, and cities seem to be doing so in increasing numbers. And from the standpoint of generating money for city treasuries, making "the system" fairer would also make it less profitable.

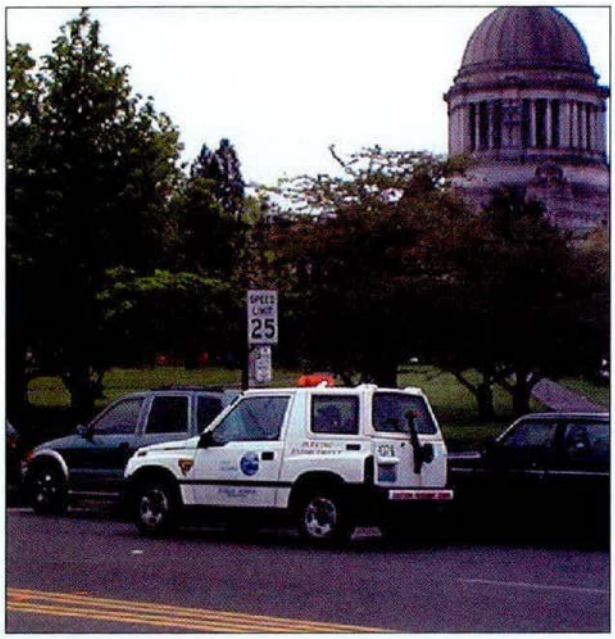
Fighting the System, Part 4

As for myself, I have discovered that old parking tickets don't die easily. Six months have passed since the city dismissed its citations, and my family finances are recovering. Unlike other "civil" cases, parking enforcement laws do not allow defendants to recoup their attorney fees, no matter how outrageously a city may act. The city avoided accountability for its mistakes and did not pay for the damage it created for me and my family. The city, however, is nothing if not persistent.

I recently received a notice advising that I had an overdue parking ticket which would be sent to collection if not paid. This was something of an accomplishment for the city, because, after two and a half years of claiming that it had sent pre-collection notices, it actually managed to get one to me. A closer inspection of the notice shows the continuing sloppiness of city notice and record-keeping practices, and suggests several reasons why it fails to notify the defendants it charges.

First, the face of the notice indicates it was printed nearly two weeks before it was put it in the mail. I received it just in time for a 15-day appeal period to have expired.

Secondly, the envelope was improperly posted, and the postmark was incorrectly dated for a year earlier. The local post office advises that this is a violation of federal law, and can delay or obstruct delivery of the mail. Nor is it likely that my situation is unique. It appears that the city has sent over a thousand of these illegally mailed pre-collection notices in the last couple of months, and because it mails its notices on the cheap (without a return receipt), the city now cannot determine how many of them were actually delivered. It does not appear possible to claim that all these notices were "legally mailed," and the city must decide whether it will 1) resend the notices and pull back the cases it has already sent off to collection; or 2) ignore its mistakes and push on with its prosecutions.



Finally, the notice was for one of the original tickets that started this whole mess back in the prior millennium (1999). The claim was now almost three years old, had been twice tried, twice dismissed, and was, by any stretch of the imagination, conclusively dead. Nevertheless, here it was again.

I have written to the city attorney and council to protest and ask that the notice be withdrawn. I have again explained that I am innocent of the charges. On top of that fact, the city's own municipal court judge issued an order determining that I didn't commit the infraction, and the city attorney dismissed the citation.

As city officials have patiently explained to me many times over the last three years — the system must be allowed to run its course.

James Goche is a small-business owner, and former practicing attorney and deputy prosecutor. He lives in Olympia.

The Board's Work

by Lindsay Thompson
Bar News Editor

Seattle, February 6 and 18, 2003 — Tort law continued to roil the waters as the legislative session went into its second month, and a business coalition got a slug of bills introduced to make all kinds of changes to how lawyers go about representing clients. The daftest I heard was one that would require lawyers planning to sue doctors to give 90 days' notice, and would require the Bar to discipline any who didn't.

But this is big stuff for lots of our members, so the board held two meetings in Seattle to try and arrive at positions on what we'd support and oppose in the Legislature. Because the legislative process is so dynamic, trying to take legislative positions is kind of like what Wayne Gretzky said about the puck in hockey: You gotta figure out where it's going and be there to meet it.

WSTLA President **Steve Toole** gave the governors a letter and some sheets analyzing the known legislative proposals — mainly, at that time, to cap jury awards and set a different standard of proof for suing doctors and hospitals — from the trial lawyers' standpoint. He urged the board to go ahead and vote on taking positions at the meeting.

Jan Eric Peterson, who is a god of the trial lawyers' bar and a respected former WSBA president, appeared, speaking for himself, and recounted how the tug of war over tort litigation has gone on for his entire career. He urged the board not to be talked into not taking positions perceived by many as defense vs. plaintiffs' bar issues. Peterson said the proposals to regulate lawyer fees, regulate how we discipline ourselves, and create special standards of proof for some that are different from others — while being offered in the context of tort reform — would affect all civil cases and thus all lawyers who practice. Look at the big picture, he urged, and look out for the interests of all WSBA members by opposing ideas that are just bad ideas. He, too, urged the board to act sooner rather than later.

Jim Macpherson, who has been the Defense Trial Lawyers' liaison to the board for years, and **Jim Berg**, their president, appeared and spoke on the flip side of the case. They counseled deliberation. Just because GR 12 allows you to take positions on things doesn't always mean you should, they argued. If it will be contentious among members on different sides of the issue, the board should sit the issue out.

WDTLA's position on specifics was less clearly formed. Some things they thought members would support conceptually, but not in the sometimes poorly worded form of the first rush of bills on tort reform. Berg expressed concerns about the proposals that would affect the change of standards of proof in medical malpractice cases.

The meeting, convened midafternoon, was a short one. It was apparent there wasn't a consensus on what to do, if anything. So the board adjourned, subject to the call of the president.

That call came soon enough, and the board reconvened at the Bar office February 18. This time the situation was clearer. The WSBA legislative affairs director presented the board a list of some two dozen changes various bills proposed to make this session. After some preliminary discussion about some standards for deciding if legislation presents an issue the Bar can or should take a position on (proposed by a committee chaired by President-elect **Dave Savage**), and some wrangling about the best way to decide what positions to take (and a couple of efforts to vote them up or down as a package), the board tackled them more or less one by one, and in several hours' work made decisions about all of them.

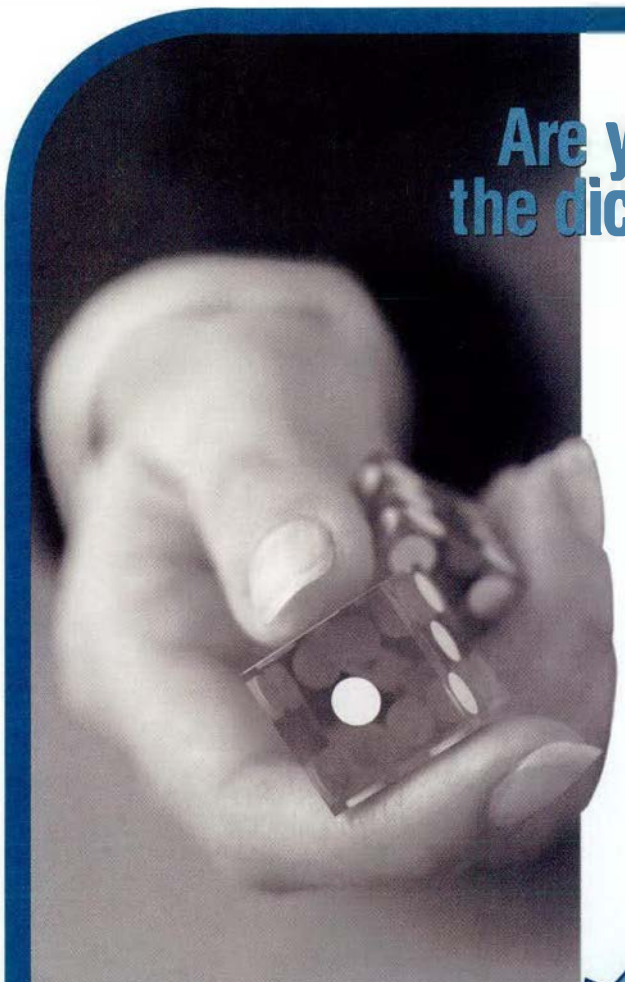
In his memoirs, Henry Kissinger commonly referred to diplomatic negotiations as Kabuki dances — precise, ornate, complicated, and operating at several levels of meaning all at once. The discussion on tort reform is always like that — this year and years past — because at heart people feel warmly about these issues: They have important consequences and they always represent someone trying to hold a thumb on the scales of justice for someone else. So there's a healthy dose of self-interest involved in such legislation.

For lawyers there's some of those kinds of considerations as well, plus the larger interests of the public and WSBA members generally to be factored into the discussion. There are some things one side or the other clearly favors, but politically it's hard to come right out and say so. There are always members who believe the Bar should be on record with nearly as many positions as it takes on things. All of these things get processed into a very polite, high-minded tone of discussion, very Kabuki-like.

So the board falls into those three general groups: support, oppose, do nothing. Within those groups the membership moves a bit, back and forth, depending on the issue. I could go on at length about the debates, and who voted where on what, and it would be about as interesting to most readers as the European Union's Common Agricultural Policy. Instead I am going to list the topics and the action taken. Keep in mind where the board voted to support or oppose, it was based on a determination — by each member's standards and the guidelines they adopted — that somehow the issue fell within the Bar's right to take positions under GR 12 on things affecting the administration of justice. Want to know more? Ask your governor.

Here's the list (vote totals vary because three governors were absent during different parts of the meeting, owing to client conflicts):

1. Elimination of joint and several liability except where tortfeasors acted in concert or by agency: No position, President **Dick Manning** breaking a tie.
2. Fault under RCW 4.22.015 to include intentional acts or omissions: Oppose, 7-4.
3. Presumption of good faith and provision of immunity for employers giving references; rebuttable by clear, cogent and convincing evidence that information given was knowingly false or misleading: Oppose, 7-4.
4. Changing the postjudgment interest rate from 12 percent per annum to the treasury bill rate plus two percent: No position, 10-1.
5. Cap of $250,000 on noneconomic damages in medical malpractice cases: Oppose, 11-0.
6. Constitutional amendment to allow the Legislature to establish a cap on noneconomic damages in all cases: Oppose, 11-0.



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7. Imposition of a legislatively prescribed sliding scale for contingent attorney fees: Oppose, 11-0.
8. Requiring a 90-day notice of intent to sue for medical malpractice, plus mandatory WSBA action against lawyers who fail to comply: Oppose, 11-0.
9. Reducing the medical malpractice statute of limitations to three years from injury or one year from discovery, whichever is shorter: Oppose, 11-0.
10. Changing the medical malpractice case burden of proof to clear, cogent and convincing evidence: Oppose, 11-0.
11. Declaring arbitration clauses in medical contracts reasonable: Oppose 11-0.
12. Allowing for periodic payment of future damages if the award is over $50,000, terminable at plaintiff's death: Oppose, 11-0.
13. Creating a list of affirmative defenses contractors can use when sued: No position, 10-2.
14. Allowing introduction of evidence of failure to wear seatbelts as evidence of negligence: No position, 8-3.
15. Allowing for a jury instruction that state agencies and personnel are being reasonable when choosing between two or more possible courses of action: Oppose, 11-0.
16. Providing that the state is liable only if proven to have acted in gross negligence: Oppose, 12-0.
17. Limiting each side in a case to one independent expert and one standard-of-care expert except for good cause: Oppose, 8-3.
18. Establishing a 90-day notice of intent to sue in medical malpractice cases, with an extension of the statute of limitations: Oppose, 8-4.
19. Mandatory arbitration for medical-malpractice claims: No position, 8-4.
20. Elimination of joint and several liability for hospitals where the hospital is found less than 25 percent at fault: Oppose, 9-3.
21. Allowing fault in med-mal cases to be attributed only to parties and anyone released by the claimant (elimination of the empty-chair defense/requiring any such party be brought into the suit): No position, 7-3 (to oppose); 2 (to support).
22. Elimination of "apparent authority" for health-care providers (reversal of *Adamski vs. Tacoma General Hospital* [1978]): Oppose, 11-0.
23. Hold hospitals harmless for health-care provider actions unless the provider is an agent or employee of the hospital: Oppose, 8-3.
24. Re-impose the eight-year statute of repose (*DeYoung vs. Providence Medical Center*, RCW 4.16.350): No position, 6-4 (to oppose); 1 (to support).
25. Elimination of the collateral source rule: Oppose, 11-0.

And with that, we all went home.

Note for readers: *The Board's Work* is not the official minutes of the BOG's meetings and actions. I report on what I found interesting or important. The WSBA executive director keeps the official minutes.

Note, also, that meetings of the BOG are open to members. You can speak up and everything. So few members ever take the BOG up on it that when they do show up with opinions on things, the influence they can have can be remarkable. Give it a try.

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The Meaning of a Match:

An Update on the WSBA's Lawyer-to-Lawyer Program

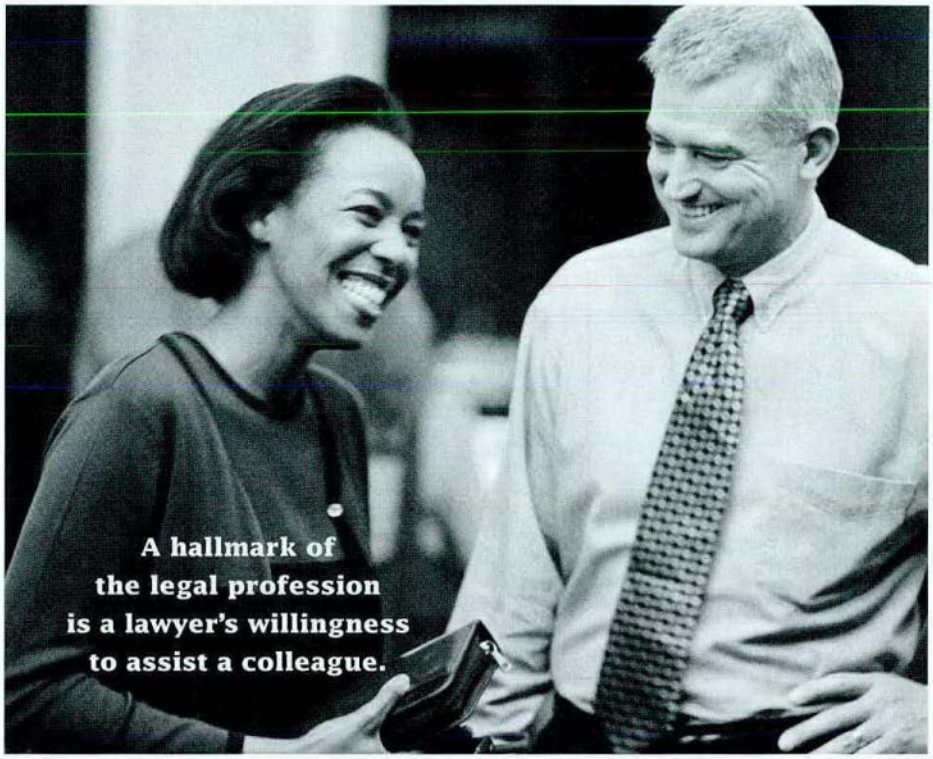
by Sam Elder *(with Peter Roberts)*

The Lawyer-to-Lawyer Program facilitates the acquaintance of two members of the Washington State Bar Association. One member is more experienced, and the other is usually, but not exclusively, starting a career in law or making a shift in practice emphasis. After acquaintance, the Lawyer-to-Lawyer Program supports communication between the two lawyers for up to one year under the auspices of the program. We call this period a "match," and the lawyers are "parties" to the match.

This relationship offers newer lawyers an opportunity to heighten the degree of civility, professionalism and competence with which they represent their clients by creating an avenue to learn from more experienced WSBA members. Specific activities of the lawyer-to-lawyer match will vary with the needs and interests of the lawyers participating in the program. After one year, both parties may decide to continue or discontinue contact. The Lawyer-to-Lawyer Program is not a co-counsel arrangement for specific client matters.

"They Didn't Teach Me That in Law School!"

Harken back to your early years in practice. We are sure those words will echo in your ears. *How do I handle an angry client? What is the best way to ask a question of the court clerk? How can I persuade my client to pay his bill?* The answers to these questions lie in the "lawyering skills" that come with experience. Such skills, which are not written in a textbook, facilitate the success of a law practice. In law school students learn how to think like a lawyer. But "doing" the tasks required by the representation on behalf of a client requires practical skills that come through experience and emulation. We all may agree on the importance of bridging this gap, but how do we do it?



A hallmark of the legal profession is a lawyer's willingness to assist a colleague. Today's e-mail discussion groups are good examples. Many acts of assistance occur each day as part of a program, part of a friendship, or part of a collaboration on a matter. Enter the WSBA Lawyer-to-Lawyer Program. The program is a great way for experienced lawyers to pass on knowledge gained from practical experience, and for new lawyers to learn and develop connections within the legal community statewide. Local bar associations, which often have mentorship programs, are supported by WSBA's Lawyer-to-Lawyer Program.

Being a Mentor

I am a mentor in the program. Having practiced for more than six years provides a mix of experience and familiarity with issues facing newer admittees. The topics I have shared include balancing work and personal needs, long-range career goals, and professional fulfillment. A young or new lawyer wants to feel connected to the legal community by having a friendly contact and asking simple questions that may be embarrassing to ask a supervising attorney in his or her own firm.

The time commitment to the program involves making an initial contact with the newer lawyer, inquiring into particular areas where the relationship can be helpful, and following up periodically by telephone. Introducing the newer lawyer to colleagues or judges, inviting him to watch a court hearing or trial, attending a continuing legal education course, or meeting for periodic lunches is optional.

Newer lawyers may be concerned about taking the time of an experienced and busy lawyer. The mentor should make the initial contact and make the newer law-

yer feel comfortable by initiating future contacts.

Being a New Admittee

I asked Jennifer Miller to comment on her experience:

"Moving away from Oregon and up to Seattle after getting my joint degree was an exciting but scary time for me. I wanted to get involved in the legal community and experience Seattle living to its fullest. I was happy be paired with Don Logerwell as my mentor in the WSBA Lawyer-to-Lawyer Program. I found out that Don was the father of a classmate of mine at Willamette College of Law in Salem, Oregon. The world is smaller than we sometimes think!

"We both have very demanding schedules. I work in the King County Prosecuting Attorney's Office, and Don does arbitrations and other dispute resolution. We make the time to catch up for lunch and try to get together once a month. We have the chance to discuss recent experiences in our areas of practice and what we've learned from them. We both recognize that every case a person deals with as a lawyer can provide a learning experience, as every case is unique and hence presents its own unique problems.

"I was in a mentor program in law school and found that the things I learned from my three mentors (a judge, a defense attorney and a civil attorney) were very helpful. I was excited to note that the WSBA was starting a mentor program because I thought it might provide me the chance to learn and meet others in the legal field.

"It is a great experience. In Don Logerwell I found a mentor and a friend I can trust. I highly recommend the program and hope that others have as good of luck as I did in finding a match."

Some Frequently Asked Questions

How is a newer lawyer assigned?

The staff in the Law Office Management Assistance Program undertakes the matching process based on information previously provided by both parties. Each party has the opportunity to provide input to WSBA staff before completing the match. Members are matched by practice area and, if possible, locality, including out-of-state matches. Participation by lawyers practicing outside King and Pierce counties increases the likelihood of successful matches.

Who initiates the first contact?

The experienced lawyer typically initiates the first contact, usually by telephone. We suggest avoiding e-mail the first time contact is made.

What are some joint activities?

Consider touring the courthouse; sharing redacted pleading samples; or introducing the newer lawer to members of the judiciary, court officials, staff and other lawyers. Consider offering the opportunity to observe you (if applicable) or other experienced lawyers in court; or offer to observe the newer lawyer in court. Consider attending CLE seminars and suitable law-related social events together. Use pre-scheduled telephone conversations as well.

How often do the parties meet?

That is up to the individuals. We suggest that you be available on a reasonably regular basis, since you will benefit all the more.

Should I prepare anything before meeting?

Questions are the important thing. Think about the "how-to" aspects of practicing law and drafting documents, or dealing with certain client situations and ethical issues. The more you prepare in this fashion, the more productive the meetings will be. A cardinal rule is that no question is a silly question. Both parties are expected to bring up questions for mutual benefit.

Is there a limit on the amount of time I can ask of the experienced lawyer?

It is expected that you will exercise discretion in both the amount of the experienced lawyer's time as well as how that time is used. We recommend that you discuss time limitations with the experienced lawyer during the early phase of your contacts.

The Path Ahead

We have an unprecedented success on our hands! There are more than 60 lawyers waiting for a mentor. Because of the shortage of experienced lawyers participating in the program, we are experimenting with periodic meetings of experienced lawyers, and newer lawyers on the waiting list. The next meeting is at the WSBA office on April 28. We hope you will consider sharing your experience with a newer colleague. It is mutually rewarding and helps to "bridge the gap" from law school to practice in a very special way.

For more information on the Lawyer-to-Lawyer Program or to reserve a space at the April 28 meeting, contact Peter Roberts at 206-727 8237 or peter@wsba.org; or Allison Durazzi at 206-733-5914 or allisond@wsba.org.

Sam Elder practices law with Gordon Edmunds Elder PLLC in Bellevue. He is chair of the Law Office Management Assistance Program Committee.

Peter Roberts is practice management advisor with the Law Office Management Assistance Program and the Lawyer-to-Lawyer Program.

We are pleased to recognize these experienced lawyers who completed a Lawyer-to-Lawyer Program match during the past year. Thank you all for participating!

Richard Bartholomew
Nancy Berg
Diane Fitz-Gerald-Ramerman
Douglas W. Harris
Sally Harrison
Steve Henderson
Pete Karademos
Walt Krueger
Don Logerwell
Dick Manning
Judy Massong
Harry McCarthy
William H. Nielsen
Joyce Thomas
Lindsay Thompson
Bill Trippett
Lish Whitson

Around the State

King County Report

by Lindsay Thompson

Part of the tradition of *Around the State* for decades, until it was killed off in 1995, was the county reports. Each county that wanted one had one. Some picked their correspondent by precise means. For others, destiny called someone. They wrote as often or as little as they liked, in their own voices. I hope to bring back the county reports in greater numbers over the coming years.

In the meantime, there is always a lot going on in King County, where **Jim Varnell** was the incumbent report writer for years, in the old days. Until we get a new King County reporter, I'll be filling in. Here's the news we've received lately:

It's good to be named J. Todd, for one thing.

Eileen I. McKillop has become a partner at **Oles Morrison, Rinker & Baker** in Seattle. She does general insurance defense and construction litigation. **J. Todd Henry, Bryan A. Kelley** (a member of the California State Bar), **John N. Carr** (construction litigation associates, Seattle office); and **Christine V. Williams** (ditto, Anchorage office) have also joined the firm.

Lori A. Terry has moved from **Preston Gates & Ellis** to **Foster Pepper & Shefelman** as a member in the land use and environmental practice groups. Her expertise includes experience in federal and state environmental permitting and litigation; surface and ground water issues, including all aspects of NPDES and stormwater permitting; the transportation, infrastructure and agribusiness industries; and defending against numerous citizen suits and agency enforcement actions in federal and state claims. **W. Gregory Guedel** has become a member of the firm in its construction law practice.

On the flip side, **Peter Ehrlichman** reports: "After 26 enjoyable years (my entire legal career save for a judicial clerkship) at **Foster Pepper**, I have joined the Seattle office of **Dorsey & Whitney LLP**. I will be co-chairing its Seattle trial group. With 21 offices and almost 800 lawyers throughout the United States, Canada, Asia and Europe, Dorsey is just a little bit bigger than what I've been used to ... but the Seattle office is about the same size as my former firm, and everyone is making me feel quite at home."

Ogden Murphy Wallace has elected **Donald Black, Jeffrey Dunbar, Paul Kube, J. Todd Tracy** and **Brian A. Walker** to membership in the firm.

Mark Barak has become an associate (real estate) at **Short Cressman & Burgess**.

Mark Davidson is the new managing director at **Williams Kastner & Gibbs**.

Nick Scarpelli, who has been with **Carney Badley Spellman** since 1974, has been named one of Seattle's best 115 lawyers in a poll conducted by *Seattle Magazine*. The firm's newsletter editor, lawyer-law librarian **Susan Beebe**, was honored by the Puget Sound Chapter of the Society for Technical Communication for her editing of the firm newsletter.

Graham & Dunn's Irvin Sandman has been appointed a director and officer of the **Seattle-King County Convention and Visitors Bureau** executive board.

Whatcom County Report

by Mick Moynihan

Bellingham City Attorney **Joan Hoisington** recently announced that two new attorneys have been hired to fill vacancies. **Peter Ruffato**, former King County civil deputy, and **Jorge Vera**, previously with the Texas Attorney General's Office, are now with the city. However, Mayor **Mark Asmundson** saw Vera's credentials, stole him from Joan's office, and made him interim planning director. Also from the same office, **Les Reardanz** was called to active duty for Operation Sandstorm, so they are a bit shorthanded.

And while on the subject, **Nancy Neal**, formerly with the **Chmelik** law firm, is working 15-20 hours per week prosecuting for the city. That should keep the wolves away for a while until she can get her practice established.

Dave McEachran, who has been prosecuting here in the county for the past 100 years or so, stated that he is fortunate to obtain the services of **Tom Verge**, recently unelected Skagit prosecutor, and also **Karl Munson**, another transfer from Skagit County. Verge will be in juvenile court, and Munson will be assigned to district court.

Bert Kale, who is probably unknown to most of the attorneys in Whatcom County, served as superior court judge from 1952 to 1972. Bert is now playing golf at least five days per week, which is pretty good for an old fellow like him who is about to turn 90 (that's years, not his golf score). **Tut Asmundson** finally hung up his golf bag. Once he starting shooting his age, 96, the thrill went away.

Craig Chambers has been seen driving his old five-window pickup around town. He said that he is getting a few repairs made in anticipation of a new paint job this spring. I think the truck is older than he is and better looking, too.

Korean American Bar Association of Washington

The **Korean American Bar Association of Washington** (KABA) held its third annual dinner on January 24 at the Washington Athletic Club in Seattle. Over 70 in attendance, including attorneys, judges, law students and the deputy consul general of the Republic of Korea, gathered to hear remarks from keynote speaker **Dr. Chang Mook Sohn**, executive director of the **Washington State Office of the Forecast Council**.

At the dinner, KABA announced its elected board for 2003: **John Chun** – president, **Jongwon Yi** – president elect, **Joong-Bin (J.B.) Im** – secretary, and **Peter Kim** – treasurer; advisory board: **Sang Chae, Yong Han, Benjamin Lee**; board members at large: **Grace Han, Rachel Han, Elizabeth Kim, Eugene Kim, Miry Kim** and **Julie Yee**; and law school liaisons: **Susan Chang** and **Dinah Choi**.

The Judiciary

Retired King County Superior Court Judge **J. Kathleen Learned** has joined **Judicial Arbitration and Mediation Service** (JAMS) in Seattle. Judge Learned served as a judge in King County Superior Court from 1988 to 2002. From 1979 to 1988, she was a partner with **Schroeter, Goldmark and Bender**. As a trial attorney her practice emphasized professional negligence, including medical and legal malpractice; product liability; employment discrimination based on disability, gender and race; and general personal injury. Judge Learned served as a deputy in both the civil division (1977 to 1979) and criminal division (1975 to 1977) of the **King**


Learned

County Prosecuting Attorney's Office. She was chief of the **King County Superior Court Civil Department** (1997), chair of the Judges ADR Committee in King County Superior Court (1990 to 1996), and a member of King County Superior Court's Delay Reduction Task Force.

Judge Learned was a member of the WSBA ADR Council (1993 to 1995), a member of the Washington State Gender & Justice Implementation Committee (1990 to 1993), a member of the Medical/Legal Committee of the Seattle-King County Bar Association (1985 to 1988), and a member of the Court Congestion Committee of the Seattle-King County Bar Association (1986 to 1988). She also served as an arbitrator with the King County Mandatory Arbitration Panel from 1985 to 1988. Judge Learned was a co-founder and board member (1975 to 1981) of the Northwest Women's Law Center.

Judge Learned earned her J.D. with honors from the University of Wisconsin Law School in 1974, where she also received the Am Jur Award in Criminal Law. She earned her M.A. in political science from the University of Washington in 1967 and her B.A. in political science from the University of Washington in 1965.

U.S. District Court Judge **Barbara Rothstein** has been appointed director of the **Federal Judicial Center**, a national education and research body created by Congress in 1967. She is expected to serve in the position for at least four years. Although she will leave the bench to take the position, by law she can resume her judgeship after she leaves the center's directorship. A former King County superior court judge and UW law professor, Judge Rothstein was appointed to the federal bench by President Carter in 1980.

Supreme Court Justice **Bobbe Bridge** issued a public apology March 3 after a February 28 incident in which she was arrested for DUI and striking a parked vehicle near her Seattle home. "On Friday evening I made an extremely poor decision and drove my car after having too much to drink," she said. "As a result, I was charged with driving under the influence of alcohol and failing to stop immediately after striking an unoccupied vehicle. I know my behavior was inexcusable. I apologize to the people of the state of Washington, to my fellow members of the State Supreme Court, and to my family and friends. There are not words to describe how deeply remorseful I am. I thank God no one was hurt.

"This incident has caused me to take a serious look at my use of alcohol. It is not an issue to be taken lightly, and I pledge to take every step necessary to address it. I am going to seek a professional alcohol evaluation and will diligently pursue any recommended treatment. The people of this state have a right to expect that their public officials will admit their errors and deal with the consequences with integrity and honesty. The events of Friday evening were my fault, and I accept full responsibility. No one is more disappointed in me than I am.

"I have devoted my professional career

and much of my personal life as well to serving the public. It has been a privilege to do so, and I hope to continue to serve the people of our state on the Supreme Court for many years to come. I have always dealt with challenges in my life in a direct and forthright way. I will deal with this too as honestly and openly as I can. Again, I offer my deepest apology. Thank you."

Justice Bridge's attorney told Seattle reporters the case would be handled in the ordinary course of things. Justice Bridge said she did not plan to resign her seat. She was appointed to the Court in 2000 to succeed Chief Justice Barbara Durham, and was elected to a full term in November 2002.

Changes/Relocations/Honors

Former Skamania County Prosecuting Attorney **Bradley W. Andersen** has joined Portland-based **Schwabe Williamson & Wyatt** as a shareholder. He works in the firm's Vancouver office and plans to open an outpost for the firm in Stevenson.

The Yakima firm Halverson Applegate has hired **Sara Pirk** (a member of the Oregon State Bar) as an associate. Her practice focuses on environmental law.

Stoel Rives has made **Timothy McMahan** a partner in its Vancouver office.

Peter Koehler Jr. has left Portland's **Tonkon Torp** to become regional counsel/USA and the Americas for Nike, Inc., a firm client. Koehler joined Tonkon Torp in 1987 after practicing in Seattle.

Tacoma's **Gordon Thomas Honeywell Malanca Peterson & Daheim** has won an Aurora Award for a video the firm funded that helped win a $1.5 million settlement for a client. Elsewhere around town, **Dennis Harlowe** and **Michael Hitt** have opened Harlowe & Hitt LLP to do business, trusts and estates, and bankruptcy law. Other members of the firm are **Alfred Falk, Lee Humphreys** and **Mario Parisio**; **Laura Weselmann** is the firm associate.

In Spokane, **Winston & Cashatt** has added **Joshua Rataezyk** to the firm's construction and bankruptcy rosters in the home office. **Constance Shields** has joined **Huppin Ewing Anderson & Paul**, Spokane, as an associate. **Robyn L. Pugsley** opened her firm in Spokane January 1, 2003, eponymously named.

Lawyers' Fund *for* Client Protection

The Lawyers' Fund for Client Protection Committee meets quarterly to review applications for gifts from the fund. The committee is authorized to make gifts of up to $10,000 to eligible applicants. On applications for more than $10,000, the committee makes recommendations to the Board of Governors, who are the fund's trustees. At their November 22, 2002, meeting, the committee took the following action:

C. Alan Grider (WSBA No. 16927, Clarkston; disbarred): Grider was employed to probate an estate, the only asset of which was a condemned house that sold for $15,000. The court approved disbursal of the proceeds, which was to include payment of $7,945 to a funeral home and $1,000 to the personal representative. Grider failed to make those payments or to account for the funds. The committee approved payments of those amounts.

Paul H. King (WSBA No. 7370, Seattle; suspended): The applicants hired King to represent them in a wage claim against their former employer on a 40 percent contingent-fee basis. After mediation, the employer offered to settle for $14,000, to which the applicants agreed. Without his clients' knowledge or consent, King demanded settlement of $17,500. A few days later, King's office advised the employer that they would settle for the $14,000 offer.

After receipt of the $14,000 settlement agreement, King advised the applicants to proceed to trial. The applicants again told King to accept the settlement and they left with a copy of the settlement agreement. King the told employer that the applicants wanted to proceed to trial. However, the applicants delivered a signed settlement agreement to the employer. King then demanded that the applicants change their fee agreement with him, to pay King 50 percent of the total settlement. They refused.

When King's office received the $14,000 settlement, he advised the applicants that he would hold the settlement funds in trust until the "fee

dispute" was resolved. He sent them a disbursal statement showing fee payment to himself of $7,000; payment to the applicants of approximately $3,500; and that the balance would be held in trust as disputed attorney's fees. Shortly thereafter, the applicants signed an agreement to pay King $6,918 in fees plus $788 in costs, because they needed the funds King was withholding.

In his stipulation to suspension, King stipulated that the fee he was entitled to be paid from the settlement funds was 40 percent ($5,600) instead of the 50 percent he charged ($6,918). He stipulated to pay the difference ($1,318) to the applicants. On September 4, 2002, the WSBA received an unsigned check on behalf of King made payable to the applicants in the amount of $1,318. King has not paid restitution. The committee approved payment of $1,318 to the applicants.

Robert H. Lewis (WSBA No. 23635, Tacoma; suspended): Lewis had worked as a contract attorney for another lawyer who moved to Brazil and sold his practice to Lewis. Shortly thereafter, Lewis abandoned the practice.

- The applicant paid Lewis $800 to represent her on a criminal charge; however, Lewis failed to appear at the arraignment. The applicant wrote to Lewis discharging him as her lawyer and requesting an $800 refund. Lewis sent her a handwritten note that read: "I will be forward to you a complete refund as soon as possible" [*sic*]. The applicant received no refund. The committee approved payment of $800.
- The applicant paid Lewis $500 for representation in her divorce; however, Lewis did no work on the case. The committee approved payment of $500.
- The applicant paid Lewis $600 for representation on a DUI charge; however, Lewis did no work on his case. The applicant was unable to reach Lewis, and finally discharged him. Lewis wrote to the applicant, enclosing a payment and stating: "I will continue to make payments until the agreed upon amount is paid." The applicant returned the check to Lewis, saying that he had never accepted a "partial payment" plan, and asking for refund of the full $600. He received no response from Lewis. The committee approved payment of $600.
- The applicant paid Lewis $375 for representation in an uncontested divorce. He says he heard nothing further after he paid Lewis. When another lawyer took over his case after Lewis disappeared, the only items in the applicant's file were his name, address and phone number. The committee approved payment of $375.

Robert C. Lyons (WSBA No. 22275, Spanaway; disbarred): Lyons was disbarred based on allegations of sexual misconduct, as well as conversion of client funds and failure to return unearned fees.

- The applicant paid Lyons $1,000 for representation in a child-support proceeding. Lyons said he would be in contact with her, but she never heard from him again. When she tried to contact him at his office, she was told he no longer worked there. A child-support hearing was set and Lyons failed to appear. Lyons never returned the applicant's $1,000. The committee approved payment of $1,000.
- The applicant paid Lyons $750 for a dissolution modification. When the applicant called Lyons, for a while "he made a lot of excuses," and then she could not reach him. The committee approved payment of $750.

Stephen L. Palmberg (WSBA No. 3178, Grand Coulee; disbarred): The applicant paid Palmberg $1,350 to defend him against a civil claim two weeks before Palmberg was suspended for nonpayment of his annual license fee. This fee was to cover up to ten-and-a-half hours of legal services. After the applicant paid Palmberg, he was unable to reach him by phone or at his office. On the day the matter was set for hearing, Palmberg failed to appear and refused to return the fee or the file. The committee approved payment of $1,350.

Other business: The committee reviewed 16 additional applications that were denied for lack of evidence of dishonest conduct, or as fee disputes or malpractice claims. Two applications were dismissed, as restitution had been made, and one was continued to the next meeting.

Restitution: The fund seeks restitution from the lawyers who cause payments from the fund. Because in most cases those lawyers have no assets, the chief avenue of restitution is through court-ordered restitution in criminal cases. Prosecuting attorneys cooperate with the fund in getting the fund listed in restitution orders. As of November 2002, seven lawyers were making regular restitution payments to the fund.

Thank yous: The purpose of the Lawyers' Fund for Client Protection is to assist persons who have been the victims of dishonest lawyers. Although the fund cannot fully compensate a person for the harm done by a dishonest lawyer, the fund receives notes of appreciation to the lawyers of Washington state:

- "On behalf of my family, we would like to extend our sincerest thank you for all the help you and your associates extended to us! Thank you."
- "I want to take a moment to thank you for all of your help. The WSBA's response to [my clients'] plight has done much to wipe away the hurt caused by [the respondent lawyer]. The Lawyers' Fund is a program that has its obvious financial benefits, but certainly as important, it can do much to help injured people wipe the slate clean. So it is for [my clients], and I know that they could not be more grateful."
- "Thank you — this helped a lot."

The committee chair is Pullman attorney Scott Bergstedt. WSBA General Counsel Robert Welden is staff liaison to the committee.

Law Week 2003

April 28 - May 2

A Lawyer or Judge in Every School

Visit www.lawweek.org or contact Lisa Harper
at 206-733-5944 or lisak@wsba.org.

Opportunities for Service

WSBA Presidential Search

Application deadline: May 15, 2003

The WSBA Board of Governors is seeking applicants for the position of WSBA president for 2004-2005. Pursuant to Article IV(A)(2) of the WSBA bylaws, the primary place of business of candidates for the 2004-2005 president must be King County. The WSBA member selected to be president will have an opportunity to provide a significant contribution to the legal profession.

Applications will be accepted through May 15, 2003, and should be limited to a current résumé, a concise application letter stating interest and qualifications, and no less than five or more than 10 references. The Presidential Search Committee and the Board of Governors will consider endorsement letters received by May 30, 2003. Applications and endorsement letters should be sent to WSBA Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

Confidential interviews with the Presidential Search Committee will be conducted May 16-30, 2003, at the WSBA office. Direct contact with the governors is also encouraged. All candidates will have an interview with the full Board of Governors in open session at the June meeting. Following the interviews, the board will select the president.

Although prior experience on the WSBA's Board of Governors may be helpful, there is no requirement that one must have been a member of the Board of Governors or had previous experience in Bar activities. The candidate must be willing to devote a substantial number of hours to WSBA affairs and be capable of being a positive representative for the legal profession. The position is unpaid; some expenses, such as WSBA-related travel, are reimbursed.

The commitment begins in June 2003, following selection. A one-year term as president-elect will begin at the WSBA annual business meeting in September 2003. The president-elect is expected to attend two-day board meetings held approximately every five to six weeks, as well as numerous subcommittee, section, regional, national and local meetings.

In September 2004, at the annual business meeting, the president-elect will assume the position of president. During his or her service, the president-elect and president will also be required to meet with members of the Bar, courts, media, and public and legal interest groups, as well as be involved in the Bar's legislative activities. Appropriate time will need to be devoted to communication by letter, e-mail and telephone in connection with these responsibilities.

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

Presidential Search Committee: *Lucy Isaki, chair; Dick Manning, president; Dave Savage, president-elect; Robert Boggs, Ray Gonzales, Bill Hyslop and Fawn Sharp*

Consumer-Information Pamphlets Available

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

Alternatives to Court; Bankruptcy; Buying and Selling Real Estate; Criminal Law; Dissolution; Elder Law; Landlord/Tenant Rights; Lawyers; Lawyers' Fund for Client Protection; Legal Fees; Marriage; Parenting Act; Probate; Revocable Living Trusts; Signing Documents; Thinking about Law School?; Trusts; and Wills

Pamphlets are priced as follows:

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

To place an order, please call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or send an e-mail to questions@wsba.org. Prices include shipping and handling, but do not include 8.8% state sales tax. Payment may be made by check, MasterCard or Visa.

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

WYLD President-elect Election

Filing deadline: June 2, 2003

Young lawyers interested in serving as presidentelect of the WYLD are invited to submit a statement of eligibility and qualifications for this position. The president-elect automatically succeeds to the position of WYLD president upon completion of a one-year term commencing October 1, 2003.

To be eligible for the position of president-elect, candidates must have a principal place of business in Washington and must be a member of the WYLD at the time of taking office for the president-elect position. Additionally, the bylaws require that the president and president-elect have principal places of business in different counties. Therefore, this year's candidates may not have a principal place of business in King County.

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

Individuals intending to stand for election must send their statement of eligibility and qualifications to Lisa Harper, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; lisak@wsba.org; or fax 206-727-8319.

WYLD Trustee Elections

Filing deadline: June 2, 2003

Young lawyers interested in serving on the WYLD board of trustees are invited to submit a statement of eligibility and qualifications for the following trustee district positions:

- **King District** — representing King County (two positions available)
- **Peninsula District** — representing Clallam, Grays Harbor, Jefferson, Kitsap and Mason counties
- **Pierce District** — representing Pierce County

To be eligible for one of these positions, a candidate must reside or have his or her principal place of business in the district he or she wishes to represent, and must be a member of the WYLD for at least the first two full years of the position. Elected trustees will serve three-year terms commencing October 1, 2003.

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

Individuals intending to stand for election must send their statement of eligibility and qualifications to Lisa Harper, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 981212330; lisak@wsba.org; or fax 206-727 8319.

Commission on Judicial Conduct

Application deadline: April 25, 2003

The WSBA Board of Governors is seeking applicants interested in serving a four-year term on the Commission on Judicial Conduct. Two positions are available, one as a member and one as an alternate. Incumbents are eligible for reap-

pointment and must submit a letter of interest.

The goal of the commission is to maintain confidence and integrity in the judicial system by seeking to preserve both judicial independence and public accountability. The public interest requires a fair and reasonable process to address judicial misconduct or disability, separate from the judicial appeals system that allows individual litigants to appeal legal errors. The commission reviews new complaints, discusses the progress of investigations, and takes action to resolve complaints. The commission consists of 11 members who serve four-year terms: six nonlawyer citizens, three judges and two lawyers. The lawyers must be admitted to practice in Washington and are selected by the WSBA. The four-year term will commence June 16, 2003. Please submit a letter of interest and résumé to WSBA Bar Leaders Division, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; or e-mail barleaders@wsba.org.

ABA House of Delegates

Application deadline: April 15, 2003

The WSBA Board of Governors is accepting letters of interest from members interested in serving on the ABA House of Delegates, representing Washington. There are three positions available (in August 2003) and one new position "pending ABA approval." A written expression of interest is required for any incumbents seeking reappointment.

The control and administration of the ABA is vested in the House of Delegates, the policymaking body of the ABA. The house, which has approximately 500 delegates, elects the ABA officers and board, and meets out of state twice a year. Delegate attendance is required. The WSBA's allowance is $500 per year per delegate. Members appointed to the House of Delegates serve a two-year term, which begins at the close of the ABA annual meeting (August 2003).

Please submit a letter of interest and résumé to WSBA Bar Leaders Division, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; or e-mail barleaders@wsba.org.

ABA Accepting Award Nominations

Nomination deadline: April 4, 2003

The American Bar Association Government and Public Sector Lawyers Division is seeking nominations for three awards designed to recognize the extraordinary achievements of public lawyers. The Hodson Award for Public Service, the Nelson Award for Outstanding Service to the ABA, and the Dorsey Award for Outstanding Public Defender or Legal Aid Lawyer will be awarded at the ABA Annual Meeting in San Francisco in August 2003. The Hodson Award recognizes outstanding accomplishments by a government or public-sector law office. The Nelson Award recognizes outstanding contributions to the ABA by an individual government or public-sector lawyer. The Dorsey Award honors an outstanding public defender or legal aid lawyer. Nominations are due April 4. For more information, contact Theona Salmon at 202-662-1023 or salmont@staff.abanet.org, or see the Government and Public Sector Lawyers Division Web site at http:// www.governmentlawyer.org.

2003 Board of Governors Elections, and Candidates' Biographical Statements

On April 15, ballots will be mailed to all active WSBA members eligible to vote for the 5th or 7th West district governor. Returned ballots must be postmarked by May 15 in order to be counted.

Board of Governors nomination forms for the 1st, 5th and 7th-West congressional districts have been received from Kristin G. Olson (1st District), unopposed; Peter J. Karademos, Mark H. Kim and Michael J. Pontarolo (5th District), candidates; and Kevin C. Baumgardner, Ellen C. Dial and Mark A. Johnson (7th-West District), candidates. The governor-elect and candidates have provided the following biographical statements:

1st District

Kristin G. Olson, 1st District, governor-elect, states: I am a shareholder in O'Shea Barnard Martin in Bellevue and have engaged in commercial litigation practice since 1991, when I graduated from the University of Washington School of Law. I have been actively involved in bar activities. I served as trustee of the East King County Bar Association for several years, as its secretary in 1997, its vice-president in 1998, and its president in 1999. I served as trustee of the King County Bar Association from 2000 to 2002. I would be honored to serve on the Board of Governors for the 1st District. As 1st District governor I would represent my constituents to the best of my ability and would try to ensure that their needs are met by the WSBA.

5th District

Peter J. Karademos, 5th District candidate, attorney since 1974, working in civil litigation, criminal cases and probate; currently in family law. Involved in Legal Assistants Committee; Family Law Executive Committee (13 years); Legislative Committee, currently vice chair; 13 years as Superior Court Commissioner *Pro Tem*. Reviewed hundreds of legislative bills; drafted bills adopted as law. Attended several BOG meetings per year as liaison, fully understanding the board's workings. My goal is representing attorneys' interests rather than making politically expedient decisions. With 29+ years' experience, I promise to continue working hard for you. I understand problems and concerns of lawyers working in many aspects of the law. Thank you for your consideration.

Mark H. Kim, 5th District candidate, was admitted to the Bar in 1997. Mark's service to the legal community began as a trustee of the Spokane County Young Lawyers. His service continued with the Young Lawyers, being elected as president for 2001. Currently, he is the chair of the Greater Access and Assistance Project (GAAP), and a committee member of the Law Office Management Assistance Program (LOMAP) Committee. He was awarded the Professionalism Award for 2002 by the WSBA Young Lawyers Division. Mark is a lawyer devoted to uplifting the legal community by providing innovative ideas in addressing the challenges lawyers face in this district. He seeks your support to be elected to the Board of Governors to continue his service.

Michael J. Pontarolo, 5th District candidate, states: As lawyers, we're called to be stewards of our profession, face challenges, listen and seek solutions. For 30 years I have accepted this calling as an adjunct law professor; state bar special district counsel; Judicial Recommendation, and Character and Fitness committees chair; committee memberships including Interprofessional, Consumer Protection, and Rules of Professional Conduct; Spokane County Superior Court Liaison Committee chair; and Spokane County Bar president. Each position provided insight into the needs of lawyers. Being an effective governor requires time, energy, common sense, decisiveness, and listening to members. I wish to bring these qualities to the position and welcome the opportunity to serve.

7th-West District

Kevin C. Baumgardner, 7th-West District candidate, states: I live on Vashon Island, and have practiced law in Seattle for nearly 19 years. I am currently a partner at Corr Cronin, where my practice is focused on civil litigation. From 1984 to 1999, I was at Bogle & Gates, where I was a member of that firm's executive committee and chair of the product liability practice group. Having been part of both a large law firm and now a much smaller firm, I have an appreciation for the wide variety of challenges and concerns that face lawyers on a daily basis. As a WSBA governor, I want to serve the diverse interests of all lawyers.

Ellen C. Dial, 7th-West District candidate, states: In 1977, my husband and I moved to Washington state with our two young children. We learned that Washington is a wonderful place to raise a family, pursue a career (Joe in public education, I in the law), and to be involved in the community. Now a 23-year member of the WSBA, I am deeply impressed by the commitment of its lawyers to the success and integrity of our legal system. I am inspired by that commitment to seek a seat on the Board of Governors to contribute what I may to the future strength of the WSBA.

Mark A. Johnson, 7th-West District candidate, states: I would appreciate the opportunity to serve Washington's lawyers on the WSBA Board of Governors from the 7th-West Congressional District. I am 49 years old and was admitted to practice in 1978. I am a member of Johnson Flora, a Seattle professional liability trial practice firm. I am the current chair of the WSBA's Character and Fitness Committee and a member of the Professional Development Committee. I have authored approximately one-half dozen articles which have been published in WSTLA's *Trial News* and the WSBA's *Bar News*. I have been listed in *The Best Lawyers in America* since 1997.

Notice of Deadline for Filing WSBA Resolutions

Pursuant to WSBA Bylaw Article VII, Section F — Resolutions, any 10 active members of the Washington State Bar Association may present a written resolution to the Board of Governors for consideration at the WSBA's annual business meeting. This year's meeting will be September 11, 2003, beginning at 6:00 p.m. at the Bell Harbor International Conference Center, 2211 Alaskan Way, Pier 66, Seattle.

Resolutions must be filed with the WSBA executive director at least 90 days before the annual meeting (by 5:00 p.m. June 13, 2003), and must be accompanied by a written report explaining the resolution. The resolution and explanatory report together must not exceed a total of 1,000 words. Send resolutions to WSBA Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

The Board of Governors will refer any resolutions addressing issues within the purposes of the WSBA to the WSBA Resolutions Committee. Those purposes are set forth in Article I of the WSBA Bylaws and General Rule 12 of the Washington Court Rules.

Not more than 11 nor less than seven days before the annual meeting, the Resolutions Committee will hold a public hearing at the WSBA office (2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330) to consider the views of proponents and opponents of resolutions. Proponents and opponents may attend the hearing in person or present their views in written form for consideration by the committee. Proposed resolutions will be published in the August 2003 issue of *Bar News*, along with the date of the Resolutions Committee meeting and a list of committee members.

For further information, contact WSBA General Counsel Robert D. Welden at bobw@wsba.org or 206-727-8232.

Shop Online for WSBA-CLE Publications

Convenient, fast and easy to use! Browse the entire inventory of WSBA CLE publications by practice area, add to your shopping cart, and pay by credit card. Look for the "Online Store" link on the WSBA Web site (www.wsba.org) and find coursebooks, tapes, CD-ROMs and deskbooks; stock your library; and acquire CLE credits. You'll also find links to the CLE seminar calendar, individual upcoming seminars, law-office management and lawyer-assistance products, WSBA merchandise and more. Shop online, and send your feedback about the store to cle@wsba.org.

9th Annual Washington Criminal Justice Institute (2002) Audiotape and Coursebook

WSBA-CLE Publications presents Professor Charles H. Whitebread, Karl B. Tegland, Thomas A. McBride and other distinguished presenters in a seminar that attendees consistently rate as one of the year's very best. Three days of highlights are condensed into a single volume, with audiotape for A/V credits. Topics include U.S. Supreme Court decisions in review, developments in evidence affecting criminal practice, understanding collateral consequences facing clients, and alternatives to incarceration for juvenile offenders. (7.0 A/V general CLE credits; 158 pages. See the WSBA online store at www.wsba.org/store for details.)

2003 WSBA Award Nominations Sought

Each year, members of the Washington State Bar Association are asked to identify those members of our profession and the public who deserve the legal profession's recognition. Nominations are sought for the following awards:

Award of Merit

This is the WSBA's highest honor. It was first given in 1957.

In general, the Award of Merit is given for long-term service to the Bar and/or the public, although it has also been presented in recognition of a single, extraordinary contribution or project. It is given to individuals only —both lawyers and nonlawyers.

President's Award

As the name implies, this award is given for special accomplishment or service to the WSBA during the term of the current president.

Board of Governors' Award for Professionalism

This honor is awarded to a member of the WSBA who exemplifies the spirit of professionalism in the practice of law. Professionalism is defined as the pursuit of a learned profession in the spirit of service to the public and in the sharing of values with other members of the profession.

Angelo Petruss Award for Lawyers in Public Service

This award is named in honor of the late Angelo R. Petruss, a senior assistant attorney general who passed away during his term of service on the WSBA Board of Governors. The selection criterion is a significant contribution by a lawyer in government service to the legal profession, the system of justice, and the public.

Excellence in Legal Journalism Award

This award recognizes that describing the context, facts and players involved in our system with fairness and sensitivity requires intelligence, knowledge, dedication and high skill levels. This award is given to a journalist and his organization who set the standard for relevance, clarity, accuracy and understanding in reporting.

Pro Bono Award

This award is presented to a lawyer, nonlawyer, law firm or local bar association for outstanding efforts in providing pro bono services to the poor. This award is based on cumulative efforts, as opposed to a lawyer's or law firm's pro bono hours or financial contribution.

Outstanding Judge Award

This award may be presented to a judge from any level of court. It is presented for outstanding service to the bench and for special contribution to the legal profession.

Courageous Award

This award is presented to a lawyer who has displayed exceptional courage in the face of adversity, thus bringingcredit to the legal profession.

Affirmative Action Award

This award is made to a lawyer or law firm making a significant contribution to affirmative action in the employment of ethnic minorities, women, and the disabled in the legal profession within the state of Washington.

Outstanding Elected Official in the Legislative Branch

This award is presented to an elected official for outstanding service to Washington residents, with special contributions to the legal profession. The recipient has demonstrated a commitment to justice beyond the usual call of duty.

Photo Bar Cards Available

The WSBA is pleased to offer photo bar cards to active members. This is an option for those who are interested in having their photo on their card; original and replacement cards without photos are provided at no cost. Here's how it works:

- You can either e-mail an electronic photo in .bmp format or mail a hard-copy photo that we will scan. Photos can be any size.
- You may submit a black-and-white or color photo, however all photos will be printed in black and white.
- The cost is $10 for cards created from electronic photos, and $15 for cards created from hard-copy photos. Checks, MasterCard and Visa are accepted for payment.
- If you're mailing a hard-copy photo, please mail the photo with the completed order form and payment.
- If you're e-mailing an electronic photo, mail the completed order form with your payment. If paying by credit card, you may fax the order form.

If you have questions, please contact the WSBA Service Center at 800-945WSBA, 206-443WSBA or questions@wsba.org.

YES! I would like to order a photo bar card (I am an active member).

Select one of the following:

❑ Photo submitted electronically $ 10.00
(If in Washington, add WA state sales tax @ 8.8%.) .88
Total $ _____

❑ Hard-copy photo enclosed $ 15.00
(If in Washington, add WA state sales tax @ 8.8%.) $ 1.32
Total $ _____

If submitting an electronic photo, please e-mail to amyo@wsba.org. We recommend that you e-mail the photo the same day you send this form. If paying by credit card, you may fax this form to 206-727-8319. If submitting a hard-copy photo, be sure to write your name on the back and enclose it with this form. Your photo will be returned to you.

❑ check enclosed (payable to WSBA)
❑ MasterCard ❑ Visa

No. _____

Exp. date _____

Name as it appears on card _____

Signature _____

Please send to:
Member and Community Relations
Communications Division, WSBA
2101 Fourth Ave., Ste. 400
Seattle, WA 98121-2330

Name _____

Address _____

City _____ State ___ ZIP _____

WSBA office use only: 4506o/LICMR

date _____ check no. _____ amount _____

Lifetime Service

This is a special award given for a lifetime of service to the WSBA and the public.

It is important to note that presentation of any WSBA award is made only when there are truly deserving recipients. Some years, no award is given in some categories. If you know of someone who fits the criteria set forth above, please send a letter of nomination and relevant information by May 1, 2003. Send nominations to WSBA Executive Director, Attn: Awards, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; fax 206-727-8319; or e-mail oed@wsba.org.

(Please note that the *Pro Bono* Award will be presented at the Access to Justice Conference in Wenatchee on June 7; the President's Award will be presented at the President's Dinner on September 10; and the Outstanding Judge Award will be presented at the Judges' Conference in October.)

License Fee Reminder

Lawyers' Fund for Client Protection (LFCP) Fee

In addition to your license fee, per APR 15, the Supreme Court has ordered that all active members must pay a $13 assessment to the Lawyers' Fund for Client Protection (LFCP). Payment of this fee is due with your license fee.

Late Payment Actions

If your annual fees were not paid by March 3, 2003, a 20 percent late-payment penalty was imposed on your license fee. After April 1, 2003, the late-payment penalty is increased to 50 percent. If your license fee or penalty assessment (for all members) or LFCP fee (for active members) remains unpaid after May 1, 2003, 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 license fee and penalty (triple the original license fee) and LFCP fee (for active members), as well as satisfy any outstanding MCLE compliance issues.

Address Changes

You can check your address in the WSBA database by going to the online lawyer directory on the WSBA Web site at www.wsba.org/directory. If your address has changed, please notify the WSBA Service Center as soon as possible by e-mailing questions@wsba.org or faxing the change to 206-727-8319.

More Information

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

MCLE Reporting

Group 2

Active WSBA members who are in reporting group 2 (active members admitted in 1976 through 1983; or in 1992, 1995, 1998 or 2001*) are reporting CLE credits this year for activities undertaken in 2000, 2001 and 2002.

**Newly Admitted Members*

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

CLE Compliance

If you are in reporting group 2, your C-2 compliance affidavit was due to the WSBA on February 3, 2003. If you are in group 2 and have not yet met your CLE requirements or submitted your C-2 compliance affidavit, you will receive an automatic four-month extension, but you must also pay a late fee. You must make up any needed credits before May 1, file the signed C-2, and pay the late fee. The late fee is $150 the first year, and then increases by $300 each consecutive reporting period that you file late (a reporting period is a three-year reporting cycle). For more information, see the WSBA Web site at www.wsba.org/faq/mcle.htm.

Online MCLE Credit-Tracking System

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

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

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

2003 Bar Leaders and Access to Justice Conference

The 2003 WSBA Bar Leaders Conference and Access to Justice (ATJ) Conference will be held at the WestCoast Wenatchee Center June 7-8. Registration brochures will be mailed in April. For bar leaders registration information, contact Desiree Ogden at 206-733-5932 or desireeo@wsba.org. For ATJ registration information, contact Sharlene Steele at 206-727-8262 or sharlene@wsba.org.

Resources on Sale for Half Price

The 2002-2003 *Resources* membership directory is now on sale for half-price:

$9 – WSBA members ($9.79 in WA)
$18 – non-WSBA members ($19.58 in WA)

To order *Resources*, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or mail a request to WSBA Order Processing, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330. Payment may be made by check (payable to WSBA), MasterCard or Visa, and must accompany your order.

Note: The 2003-2004 edition will be available in May.

WSBA Members on Active Military Duty

WSBA members who are on active duty in the U.S. military service may transfer to inactive status (if they are not otherwise engaged in the practice of law that requires them to be active members of the Bar). The WSBA bylaws provide that a member in military service who has been inactive for five years or less may, within 90 days after termination from active duty, transfer to active Bar membership status by paying the current active membership fee and otherwise complying with the bylaws. For more information, see WSBA Bylaws Art. II (C)(3); www.wsba.org/bylaws/bylaws.doc.

Law Week 2003

Law Week 2003 is an exciting opportunity for lawyers and judges to bring legal education into the classroom. Each year, Law Week provides an enriching experience to youth through positive interactions with lawyers and judges. Law Week 2003 will take place the week of April 28, coinciding with the nationally celebrated Law Day on May 1. To learn more about the program or to participate, visit www.lawweek.org, or contact Lisa Harper at 206-733-5944 or lisak@wsba.org.

BOG Meetings

April 11-12 – Bellevue
May 9-10 – Spokane
June 6 – Wenatchee

With the exception of a one-hour executive session the morning of the first day, BOG meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Please contact Donna Sato at 206-727-8244 or donnas@wsba.org. The complete BOG schedule is available on the WSBA Web site at www.wsba.org/bog/schedule.htm.

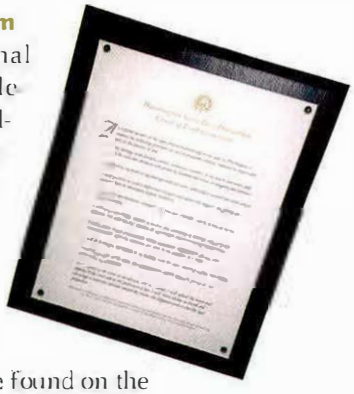
Loren Miller Bar Association Scholarship Dinner

The Loren Miller Bar Association's Philip L. Burton Memorial Scholarship Dinner will be held on May 30, 2003, in the Grand Ballroom of the Westin Hotel in downtown Seattle. The reception will be 5:30 p.m. to 6:45 p.m.; the dinner, 7:00 p.m. to 9:00 p.m. The cost is $75. Please RSVP to LMBA President Karen Murray at 206-624 8105, ext. 247. The theme of the dinner is "Equal Justice for All." The keynote speaker will address the issue of justice before and after 9/11 and our roles as lawyers in responding to this crisis.

WSBA Civil Rights Committee Survey

The WSBA Civil Rights Committee has proposed that the WSBA sponsor a full-day CLE with a specific focus on Title 42, Section 1983 of the U.S. Code (civil action for deprivation of rights). The committee is conducting a survey to gather information about interest in such a topic. If this topic is of interest to you and you would likely attend such a CLE, we'd appreciate hearing from you. Please e-mail civilrights@wsba.org with "Yes to 1983" in the subject line. This seminar would be priced at $199 for approximately 6.5 general credits, and is tentatively scheduled for September 2003. For more information about the WSBA Civil Rights Committee, see the WSBA Web site at www.wsba.org/civilrights.

Creed of Professionalism



The WSBA's aspirational Creed of Professionalism, developed by the Professionalism Committee with input from members around the state, and approved by the Board of Governors, has as its purpose to "inspire and guide lawyers in the practice of law." The full text of the creed can be found on the WSBA Web site at 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 cream-colored 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.

Creed suitable for framing:

@ $4 each (includes shipping) $_____

Creed mounted on a wooden plaque:

@ $20 each (includes shipping) $_____

If in Washington, add state sales tax @ 8.8% $_____

Total $_____

❑ check enclosed (payable to WSBA)

❑ MasterCard Visa

No. _____

Exp. date _____

Name as it appears on card:

_____

Signature _____

Please send to:

Member and Community Relations
Washington State Bar Association
2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330

MasterCard and Visa orders may also be placed over the phone by calling the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

Name _____

Address _____

City/State/ZIP _____

WSBA office use only: 44200-COMM

date _____ check no. _____ amount _____

Web Site Links from Lawyer Directory

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

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

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. Please consider providing us your e-mail address. Contact the WSBA Service Center at 800-945 WSBA, 206 443 WSBA or questions@wsba.org. Representatives are available Monday through Friday, 8:00 a.m. to 5:00 p.m.

The WSBA Store Is Open

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

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

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

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in March 2003 is 1.196 per cent. The maximum allowable interest rate for April is therefore 12 percent. Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills and past maximum interest rates for June 1988-June 1999 appear on page 53 of the June 1999 *Bar News*. Information from January 1987 to date is on the WSBA Web site at www.wsba.org/barnews/usuryrate.html.

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.

Announcements

BAROKAS MARTIN & TOMLINSON

is pleased to announce that

Dennis J. McGlothin

has become a member of the firm.

Mr. McGlothin will continue to emphasize construction, real estate and commercial litigation in his practice, as well as assisting the firm's clients in creditors' rights, domestic relations and employment litigation matters.

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Fax: 206-621-9907

HILLIS CLARK MARTIN & PETERSON

is pleased to announce that

JOSEPH A. SAKAY

has become a principal in the firm.

JANUARY 2003

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www.hcmp.com

The law firm of

Ogden Murphy Wallace, P.L.L.C.

is pleased to announce that

Donald W. Black
Jeffrey D. Dunbar
Paul S. Kube
J. Todd Tracy
and
Brian Walker

have been elected to membership in the firm.

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2100 Westlake Center Tower
1601 Fifth Avenue
Seattle, WA 98101
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Jim Johnson

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Appellate Counsel

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Jim Johnson has argued appeals before the U.S. Supreme Court; the Washington State Supreme Court; the 8th, 9th and D.C. Circuits of U.S. Courts of Appeals; and each Washington State Appeals Court.

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Jim Johnson understands the appeals process, and can craft your appeal to increase your chances of being granted a writ of *certiorari* or review, and of prevailing, once in the Court.

Experience
Jim Johnson's experience includes 20 years as an Assistant Attorney General. During this time he served as Chief of Special Litigation and Counsel for the Environment. In 10 years of private practice, Jim has focused on appeals, and U.S. and Washington State constitutional issues.

James M. Johnson
Telephone: 360-357-3104
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Olympia, Washington 98501

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it has changed its name to

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in recognition of the untold
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by our colleague Jeff James.

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We are pleased to announce that

William A. Masters

has joined

Steven V. Rizzo, PC

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(especially professional malpractice,
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commercial disputes; and disputes over
wills, trusts and estates.

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in Oregon and Washington.

1620 SW Taylor Street, Suite 350
Portland, Oregon 97205
Telephone: 503-229-1819

Mills Meyers Swartling

is pleased to announce

Caryn Geraghty Jorgensen

and

Gretchen Graham Salazar

have become principals in the firm
effective January 2003.

We are also pleased to announce that

Kasey D. Huebner

has joined the firm as an associate.

Law Offices of
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A Professional Service Corporation
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Seattle, Washington 98104-1064
Telephone: 206-382-1000
Fax: 206-386-7343
E-mail: mms@ mms-seattle.com
www.mms-seattle.com

Calendar

Please check with providers to verify approved CLE credits. To announce a seminar, please send information to: WSBA *Bar News* Calendar
2101 Fourth Avenue, Suite 400, Seattle, WA 98121-2330
fax: 206-727-8319; e mail: comm@wsba.org
Information must be received by the
1st day of the month for placement in the following month's calendar.

ADR

11th Annual ADR Conference
April 11-12 – Shoreline. 10 CLE credits, including 2.75 ethics. By UW-CLE; 800-CLE-UNIV.

BUSINESS

Business Law Section Midyear
May 16 – Seattle. CLE credits TBD. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

ENVIRONMENTAL & LAND USE LAW

Building a Vision for Washington's Future: What Will Our State Look Like in 2025?
May 1-3 – Yakima. 11.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

ESTATE PLANNING

Federal and Washington Estate Tax Returns: Updates on Planning and Practical Tips
April 2 – Seattle. 7 CLE credits, including .75 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

GENERAL

Eyewitness Memory for People and Events: Science in the Courtroom
April 26 – Seattle. 6.5 CLE credits, including 1 ethics. By UW-CLE; 800-CLE-UNIV.

INTERNATIONAL PRACTICE

The World Wide Web of Commerce: The International Law Section CLE
May 16 – Seattle. CLE credits TBD. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

LITIGATION

Legal Issues Facing Nonprofits
April 3 – Spokane. 7 CLE credits. By WSTLA; 206-464-1011.

Strategies for the Information Age
April 11 – Seattle. 7.25 CLE credits. By WSTLA; 206-464-1011.

Ethics in Litigation: Mission Possible – The 2003 Civil-Litigation Institute
April 24 – Seattle. 6.75 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Damages: Achieving Money Justice *(with Johnnie Cochran)*
April 30 – Seattle. 6 CLE credits. By WSTLA; 206-464-1011.

Workers' Compensation
May 9 – Seattle. CLE credits TBD. By WSTLA; 206-464-1011.

Nursing-Home Litigation and Elder Law
May 14 – Seattle. CLE credits TBD. By WSTLA; 206-464-1011.

Brain Injuries
May 22 – Seattle. CLE credits TBD. By WSTLA; 206-464-1011.

REAL ESTATE

RPPT Real Estate Seminar
May 8 – Tacoma; May 9 – Seattle. CLE credits TBD. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

WSBA Service Center

800-945-WSBA / 206-443-WSBA
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Sweeping, unobstructed view of Mt. Rainier (Wells Fargo Building, 41st fl., Seattle): Elegant law office near courthouse. Reasonable rates include receptionist, basic messenger service, mail delivery, fax, two conference rooms, law library, fully equipped kitchen. For more information, please call Diane at 206-624-9400.

Downtown Seattle office-sharing: $150 per month. Also, full-time offices available on 32nd fl., 1001 4th Avenue Plaza. Close to courts. Furnished/unfurnished suites; short-term/long-term lease. Receptionist, legal word processing, telephone answering, fax, law library, legal messenger and other services. 206-624-9188.

Renton downtown office space in small law-office building; optional secretarial space; use of copier, fax, phone system, legal messenger, receptionist. 425-2288889.

For sublease: Two spacious offices in small suite on the 22nd floor at 1111 3rd Ave., Seattle, one with full western exposure, one with northern exposure (ideal for paralegal or support staff). Reception and other amenities provided. Contact Allen Bentley at 206 343-9391 or e-mail abentley@concentric.net.

Downtown Seattle: Professional tenants wanted. Six months' free rent to use over the term of your lease or all at once. Two spaces available: 550 sq. ft., $900 per month; 209 sq. ft., $290 per month. Building completely renovated four years ago. All utilities paid except telephone and Internet services. Contact Sharlee, 206-467-9777, to make an appointment.

New class-A Seattle space in Mt. Baker: 10 minutes from downtown at 1414 31st Ave. S. Great access to freeways. 2,100 RSF available. Free street and leased garage parking. Patio garden. Call Douglas at 206-3223690, ext. 3.

Downtown Seattle: Law firm on 26th floor of Two Union Square has a professional office suite available. Space consists of six attorney offices with western and southern exposures (three 225 sq. ft./three 125 sq. ft.), plus one interior paralegal office, two secretarial stations and a small administrative area. Includes shared receptionist, conference rooms, library, kitchen, copier and word processing services. Contact Sonya Baker at 206 654-2410 or baker@lasher.com.

Tacoma: One block from courthouse; 1,088 sq. ft., free parking, reception area, conference room. Utilities included. Available 5/1/03. Call Diane at 253 627-8186.

Office space Everett: Close to courthouse and post office. $800-1,000 per month. Includes: phone, Internet, utilities, storage, parking and more. Please contact NAS Properties at 425-397-0970.

POSITIONS AVAILABLE

Pierce County District Court vacancy: There is currently a vacancy in Pierce County District Court due to the resignation of Judge Ron Culpepper. If you are interested in applying for the district court position, please contact the Office of the Pierce County Council; 930 Tacoma Ave. S., Ste. 1046, Tacoma, WA 98402; or call 253-798-7777; e-mail gjohns1@co.pierce.wa.us. You will be given an application packet that includes the process for making the appointment, an application, and other pertinent information. The council will receive applications through Friday, May 2, 2003. Your application must be date stamped or received in the office listed above before 4:30 p.m. that date. Applications received after the deadline will not be considered. If you have any questions, please call the council's legal counsel, Susan Long, or Council Administrator Gerri Johnson at 2537987777.

To Place a Classified Ad:

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

Deadline: Text and payment must be received (not postmarked) by the first day of each month for the issue following, e.g., May 1 for the June issue. No cancellations after deadline. **Mail to:** WSBA *Bar News* Classifieds, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

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

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

Contract attorney opening: Small complex-litigation firm in Pioneer Square seeks contract attorney for brief writing, trial preparation and related projects. Excellent academic and professional credentials required, with minimum of three years' experience. Please send cover letter, résumé and writing sample to Office Manager; Smith & Hennessey PLLC; 316 Occidental Ave. S., Ste. 500, Seattle, WA 98104. Please, no telephone inquiries.

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Associate attorney: Dynamic, medium-sized, AV-rated full-service Tacoma law firm seeks a qualified associate, general litigation, with at least two years' experience. Please submit cover letter, résumé, writing sample and references to attorney Monte Bersante; Davies Pearson PC; PO Box 1657, Tacoma WA 98401.

Litigation position available: Snohomish County prosecuting attorney, civil division. The civil division of the Snohomish County Prosecuting Attorney's Office seeks a civil litigator, preferably with at least eight years' civil trial experience. Responsibilities primarily include defense of a wide variety of tort and damage actions, including personal injury, wrongful discharge, and land-use claims. Applicants must be admitted to the WSBA and be able to assume immediate primary responsibility for assigned cases. Salary range determined by experience, plus generous fringe benefits and leave package. To apply, please submit a résumé, cover letter and writing sample to Thomas Fitzpatrick; Snohomish County Prosecuting Attorney's Office; 2918 Colby Ave., Ste. 203, Everett, WA 98201. Snohomish County is an equal opportunity employer.

Bankruptcy associate wanted by small downtown Seattle firm for full-time or near full-time position. At least two years' experience in creditor-debtor work preferred, including some litigation. Chapter 13 knowledge a big plus! Please fax résumé and writing sample to 206 224 3463 or e-mail gloria @naglerlaw.com.

Carney Badley Spellman seeks an associate attorney with a minimum of three years' construction experience, particularly prosecution of construction claims. The successful candidate must be able to work independently, and have proven negotiation skills and trial-management experience. Preferred credentials include top academic education, demonstration of professional development, and successful client-building skills. This is a great opportunity to develop a successful practice in a service-oriented firm. Please send cover letter, résumé, and two writing samples to Deborah Dillard; Carney Badley Spellman; 700 5th Ave., Ste. 5800, Seattle, WA 98104; or e-mail dillard@carneylaw.com (Word documents only).

Scheer & Zehnder LLP seek an associate attorney with litigation experience. Insurance coverage, construction defect defense, appellate and/or personal-injury experience is preferred. The successful candidate must be interested in complex and challenging litigation and be able to work independently. Scheer & Zehnder LLP is a small, dynamic downtown firm with a broad and rapidly growing litigation and appellate practice, offering competitive salary, benefits, and an enjoyable work environment. Contact Heather Karamanos, 206-262-1200; e-mail hkaramanos@scheerlaw.com.

Be a big fish: Small trial firm with diverse practice focusing on commercial litigation seeks litigation associate. At least one year's experience preferred. We are looking for a lawyer who brings passion to the practice of law and who can work independently. The environment is friendly and high energy. Please submit a résumé and cover letter to Donna Klein, 1305 4th Ave., Ste. 414, Seattle, WA 98101.

Alaska Airlines is seeking a commercial attorney to review and negotiate contracts involving acquisition, leasing/finance of flight equipment; and agreements concerning intellectual property, marketing, fuel and other airline-related products or services. Seeking an attorney with excellent academic credentials, at least three years' experience in business/commercial transactions, and an interest in working on complex agreements in a corporate environment. Please send résumé and writing sample to Alaska Airlines; Attn: SEAZL, PO Box 68900, Seattle, WA 98168.

Bellingham firm with active insurance defense, commercial and municipal litigation practice seeks associate. Experience preferred, but not required. Must be currently admitted to the WSBA. Great quality of life and competitive salary. Send résumé to Jeff Brown; Roy & Simmons PS; 114 W. Magnolia, Ste. 201, Bellingham, WA 98225.

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Van Ness Feldman PC, a prominent Washington, D.C., law firm with one of the leading energy, environmental and natural resources law practices in the nation, is seeking an associate attorney with at least three years' experience in related practice areas for its Seattle regional office. Regulatory, transactional or federal litigation experience a plus. The position offers a potential for trade, transportation and commercial practice area development. Excellent academic credentials and outstanding writing ability are required. Our firm offers a collegial atmosphere, superior opportunities for professional growth and practice development, and an excellent salary and benefits package. Please send confidential cover letter and résumé to Hiring Coordinator; Van Ness Feldman PC; 821 2nd Ave., Ste. 2000, Seattle, WA 98104; dew@vnf.com.

Tax/corporate associate: Garvey Schubert Barer, a dynamic, medium sized and growing multi-office law firm, seeks a tax/corporate associate with at least five years' experience and LLM in tax for our Portland office. Position offers substantial responsibility, tremendous growth potential, and competitive salary. Applicants must have top academic credentials and extensive experience and background in tax and corporate transactions. Reply in strict confidence to Leslie Zochert; Garvey Schubert Barer; 121 SW Morrison, 11th Fl., Portland, OR 97204.

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WILL SEARCH

Searching for the will (or related information) of Michael Dunn Murphy of Kailua-Kona, HI, formerly of Colbert/Spokane, WA, who passed away February 5, 2003. Please contact attorney Kimberly A. Jackson at 808-329-4421; fax 808-329-4508; or e-mail kjackson@turquoise.net.

Seeking the will of Jacques Eric Miller, aka Eric J. Miller; resided in West Seattle. Contact estate attorney Eric Fahlman at efahlman@faolaw.com or 206-583-0155.

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Methow cabin for work or play: View, Jacuzzi, full kitchen, sleeps seven, Internet; near Mazama and trails for hiking, biking,; $500 week, $1,600 month. E-mail skimethow@juno.com or call 253-874-1155.

Ballard home for rent: Very nice three-bedroom, two bath with fireplace; 2,400 sq. ft.; great yard; close to city/bus/schools; W/D/DW; garage with street parking. $1,850/mo. Available April 1. For more information, call 206-790-0544.

Gearhart, OR: Charming, cozy cottage. Stone fireplace, knotty pine. Private, wooded location. Walk to beach. Two bedrooms, one bath. $175/night. Call for off-season, weekly rates. 800-488-3301.

Sincerely Yours

by Lindsay Thompson
Bar News *Editor*

Several letters this month ask, in effect, who's the gormless prat who decided to run Adam Karp's article on animal law in the February issue. One correspondent went further, wondering plaintively why we run "every New Age idea" that comes down the pike.

Which is as it should be. A vigorous debate in *Letters* is a sign of a strong, healthy bar association. Paul Luvera once wrote an article on jury selection (this was back when the introduction of the struck jury selection method was widely denounced by lawyers as the end of civilization) and triggered two years' active and wide-ranging discussion among members. We even got a letter from 12 superior court judges writing as a group.

Some of you who write us, however, need to chill out some. During my years as a common reader, it interested me how often members wrote in to demand: How dare you run something I don't like?

That's an easy one. It's called serving all of you. This is your magazine. I try to produce each issue to reach a wide array of interests from lifestyle stuff to law office management to the scholarly pieces we occasionally run. When we run articles addressing practice areas less numerously populated than, say, criminal or insurance defense, or plaintiffs' personal-injury law, we get two reactions. Members of the big practice groups ask, "Who's the gormless prat who decided to run *that*?" and the lawyers who practice in that area say, "'Bout damn time."

The other thing we find happens is that the article you think is dumb today may come in handy later. We get calls all the time from lawyers who remember we ran it but can't remember when, and now they need it. Call it time-release learning.

Rule 1: Bar News belongs to everyone. Given space limitations, we can't indulge everyone's professional interests every month.

Well, actually, we can. You just have to go to your member of the Board of Governors and say, "Give *Bar News* a sackful of money to run bigger, more interesting issues every month and raise my dues if that's what it takes."

Look, out the window — a flying pig!

Rule 2: Pay heed to the little box in *Letters* that says we run them in reasonable length.

We have long interpreted "reasonable length" liberally because sometimes people need the space to make their point. Sometimes, too, diatribes, jeremiads, screeds and denunciations all require a long runway for the writer to get worked up into a truly satisfying, red-faced castigation.

But some of you tend to repeat yourselves a lot, not only letter-to-letter but within letters. My eighth-grade math teacher, Francis Stanley, used to say the reason he hated opera was because Wagner always passed six or seven good places to stop before he finally got around to it.

Keep that in mind.

Rule 3: Keep a sense of perspective about things. It always surprises me how serious some members get about things. Grim, humorless, almost Highland Scots Presbyterian serious. When Kim Novak got all bent out of shape about her "motivations" in a film scene, the director, Alfred Hitchcock, purred, "Kimm ... it's jost a ... moooo-vie." I am always glad to hear from readers about why they think I — as *Bar News*' Interim Head Gormless Prat — don't have sense enough to come in from the dark when I choose articles for publication. Some even part friends after the call. But remember, it's just an article.

OK, you say, enough about being a warm and caring, if slightly snarky in tone, editor. Why animal law?

Simple. It's an emerging area of interest for lawyers all over the country. Enough WSBA members are interested in it to meet the requirements of our bylaws for forming a section within our Bar. Don't like it? Don't join it. But there are similar sections forming or formed in other state and local bars, law review articles being written about it, and trial lawyers sharing notes on litigation strategies and appellate arguments. That makes it worth noting.

Will it catch on? Beats me. It might. Then again, it may turn out to be another one of those crackpot ideas of lawyers past, like the one that African-Americans are people or women have rights independent of marriage. You never know. All I can say is what Fred Allen, the radio comedian of the 40s, said when he got critical mail. He sent back a printed post card reading: Dear Sir/Madam: You may, or may not, be right.

Lindsay Thompson edits Bar News. *His views are his own. Send your denunciations to him at tradelaw@thompsonlaw.com.*

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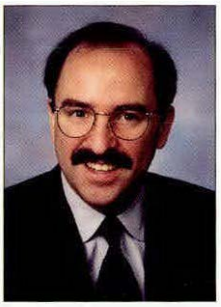

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FOX › BOWMAN › DUARTE
1621 114th Avenue SE, Suite 210
Bellevue, Washington 98004

www.foxbowmanduarte.com

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