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Washington State

BarNews

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Washington State
Civil Legal Needs Study p. 16

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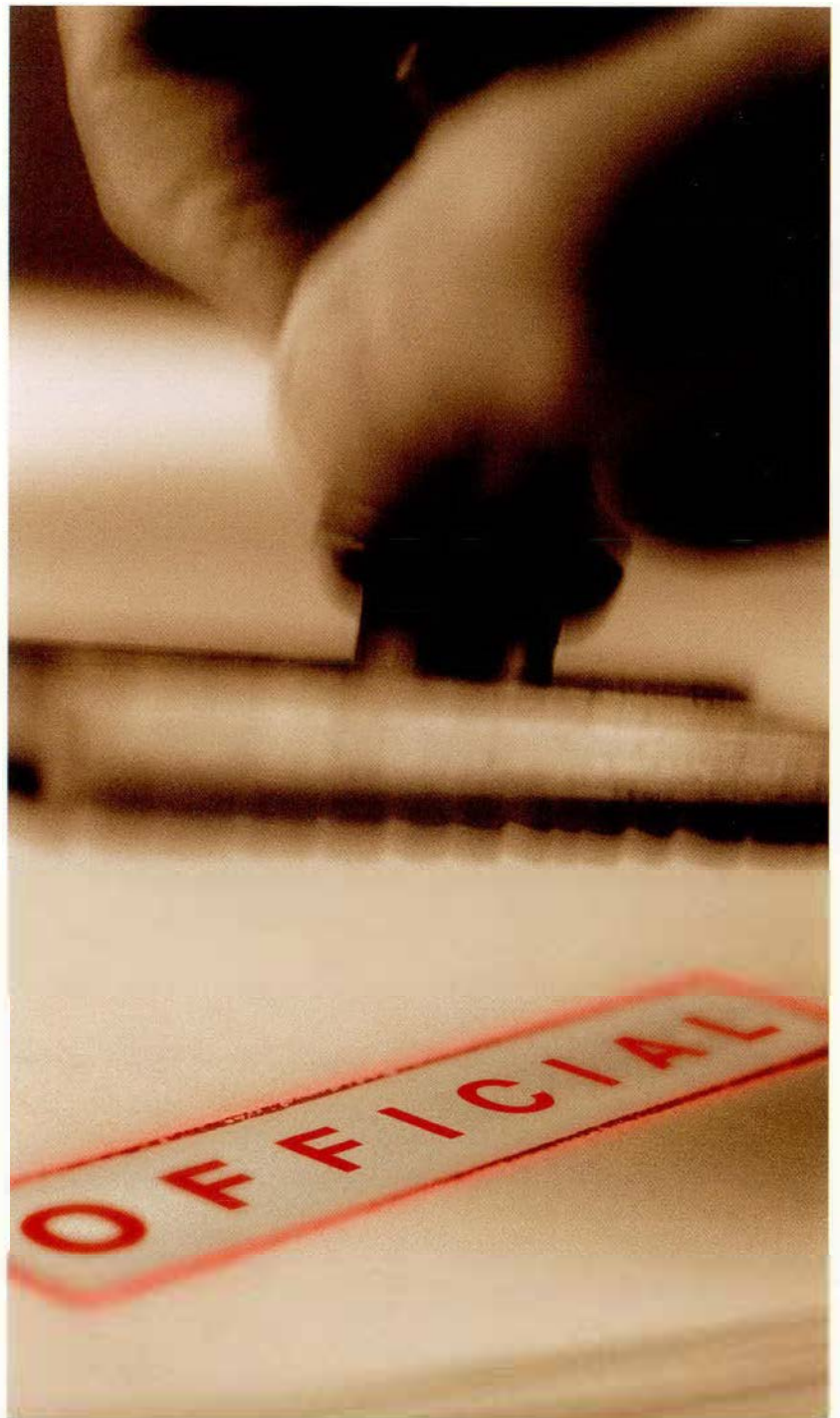
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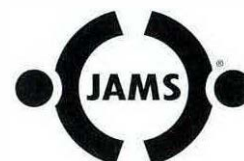
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The Official Publication of the Washington State Bar

January 2004

FEATURES

Moving Beyond Anecdotes: The Washington State Civil Legal Needs Study 16

by Justice Charles W. Johnson and Judge Mary Kay Becker

The Right to Counsel: Every Accused Person's Right 22

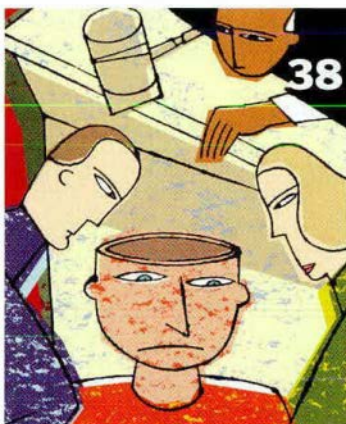
by Robert C. Boruchowitz

A Primer for Attorneys: The Rules and Regulations Applicable to Washington Court Reporters and the Transcripts They Produce 30

by Susan Colard

This Wonderful World of Words 32

by Robert C. Cumbow



38

16



32



DEPARTMENTS

7 Letters to the Editor

38 Humor: *Voir Dire*
by Greg Lawless

42 Around the State

44 Disciplinary Notices

46 FYI

LISTINGS

51 Announcements

53 Professionals

55 Calendar

55 Classifieds

59 *Bar News* 2003 Index

COLUMNS

11 **President's Corner**

Why Diversity Matters —
Reflecting the Public We Serve
by Dave Savage

13 **Executive's Report**

Justice in Jeopardy:
Inadequate Funding of
Our Trial Courts
by Jan Michels

64 **Editor's Page**

How to Say "No"
by Jeff Tolman

Cover artist: Bobbi Tull

Submission Guidelines: 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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(not pictured)

The editor's anti-Christian bias is showing

I was not going to bother responding to Lindsay Thompson's latest editorial effort ("Leadership, of a Sort," *Bar News*, October 2003), about Alabama Chief Justice Roy Moore, because he did make a couple of good points. The media coverage of the Ten Commandments monument story was less than helpful and the court decisions are hopelessly confused regarding religion in the public square.

But Mr. Thompson also let his anti-Christian bias show. He says that Moore "has struck a chord with the sort of people who see no inconsistency between the Commandments, the death penalty, wartime service . . . or the occasional coveting of your neighbor's ox and/or wife." I do not know about a chord being struck, but I do know that I am one of those "sorts of people" who sees no inconsistency between the Commandments and wartime service. Apparently Mr. Thompson sees some inconsistency there, but fails to let us know what it is. Maybe in a future editorial he can share with us what the inconsistency is, based upon his obviously extensive hermeneutical skills. Then I, and my "sort of people," can be enlightened. As for covetousness, I think the commandments are against it, without exception.

And while he is sharing, perhaps it would not be too hard for Mr. Thompson to explain just exactly how allowing religion in the public square equates to a theocracy. Throughout the history of this country, religion has been in the public square (until relatively recently) and at no point in time could our system of government legitimately be called a theocracy. But I suppose my lack of understanding is because I am one of those "sorts of people."

One would hope that in the future Mr. Thompson would try to be just a bit more thoughtful and a little less shallow when writing about matters religious.

*James A. Winterstein
Olympia*

The editor's liberal bias is showing

I just finished reading Thomas Mengert's letter to the editor, "It all adds up" (*Bar*

News, November 2003) in which he did nothing but make unsupported, in some cases false, and in all cases, extremely partisan accusations about the current administration. Although I fully support Mr. Mengert's right to have his opinions, no matter how misguided I believe them to be, what I don't support is the WSBA's decision to allow Mr. Mengert to use *Bar News* as a forum for those opinions. As far as I can tell, at least in theory, although clearly not in practice, *Bar News* should be a pub-

lication dedicated to the exchange of information on the legal profession in the state of Washington, not a left wing propaganda outlet.

I find your decision to publish this article thoroughly reprehensible. It's the straw that broke this camel's back. Please remove me from your mailing list immediately, for I no longer have any use for this magazine.

*Mara Vinnedge
Kent*



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

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

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

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

marketing system he developed six years ago.

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

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

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

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

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

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

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

America's courts have lost their moral compass

Re: *Lawrence v. Texas*, 123 S. Ct. 2472 (June 2003). The facts: police officers responding to a reported weapons disturbance entered a residence to find two men engaging in sodomy. The men were charged and pleaded *nolo contendere* to violation of Texas Penal Code Sec. 21.06(a) which makes it a misdemeanor to engage in "deviate sexual intercourse with another individual of the same sex." The legitimacy

of the officers' entry into the residence apparently was not questioned.

The case worked its way through the Texas legal system and eventually landed in front of the United States Supreme Court. The issues before the Court were whether the Texas statute violated the Fourteenth Amendment's Equal Protection Clause and/or Due Process Clause.

The court's analysis is particularly noteworthy. The majority, applying the "rational basis" test (a statute need only be ra-

tionally related to a legitimate state interest), nevertheless invalidated Texas' statute prohibiting sodomy holding, *inter alia*, that protecting community morality was not a sufficiently legitimate state interest.

The court did *not* find that engaging in homosexual sodomy was a "fundamental right" thus invoking the "strict scrutiny" standard of review typically applied in invalidating a statute that impacts individual rights or freedoms. Rather, the court applied the more relaxed standard of review to invalidate the codified voice of the people of Texas in matters of community morality. The court's justification: some vague "liberty protected by the Constitution" based (believe it or not) on "an emerging awareness that liberty gives substantial protection to adult persons in deciding how to conduct their private lives . . ." and the fact that some European nations have "legalized" homosexuality. And all this only a decade and a half after the court decided *Bowers v. Hardwick*, 478 U.S. 186 (1986), which held *just the opposite*: i.e., state statutes outlawing sodomy were constitutional.

The court's decision in *Lawrence*, rejecting community morality as a legitimate state interest within the purview of appropriate legislation, completely undermines the very basis of our system of jurisprudence. If one stops to think about it, nearly all of our laws, both criminal and civil, are based on some notion of morality or concept of right and wrong. Many of these laws have to do with very personal and private choices by "consenting adults."

We don't think twice about proscribing incest, bigamy, bestiality, prostitution, drug abuse, obscenity, euthanasia, and the mere possession of child pornography. These offenses are all "moral judgments" and yet carry with them criminal penalties. Why if a community, indeed an entire state, believes sodomy is equally offensive, can't they outlaw it just like other offensive private conduct?

What the Supreme Court has done is, in effect, substitute its own version of morality for that of the State of Texas and any other state that has laws on its books prohibiting homosexual sodomy, while at the same time completely abrogating every state's police power — its inherent power

*Jan complained he was the only bald partner.
So we added one.*



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to protect the public peace, health, safety, morals, and general welfare. Are all other state laws having any basis in morality now suspect and vulnerable to judicial fiat by our Supreme Oligarchy? *Lawrence v. Texas* has got to represent one of the worst, least analytical, yet potentially most far-reaching decisions the nation has been subjected to for a long time. It's an act of judicial terrorism that will demolish the moral landscape of this country.

Brian L. McCoy
Puyallup

Pierce County affair needed an example made, but not of Schafer

I have been happily retired from active membership in the Bar for several years past. Unfortunately in the past two or three years I find that I have become concerned, in fact, deeply disturbed, over the approach by the Bar officials as to the relative disciplines imposed on Grant Anderson and Douglas Schafer.

Our State Supreme Court found that Mr. Anderson was too dishonest to serve as a Superior Court Judge but (by subsequent action, with a concluding stipulated result) was more than good enough to practice as a lawyer after a two-year suspension. I personally find this insulting. They should have equal rights to be dishonest.

This result was achieved only after constant prodding by Mr. Schafer, who apparently provided bar officials with more comprehensive and damaging information than they apparently cared to know.

It appears to me that Mr. Schafer's attempts at achieving bar action could best be described as equivalent to walking across the Tacoma mudflats in the dark at dead low tide while towing a bar association barge which was dragging its anchor. This ultimately resulted in Mr. Schafer being subjected to a one-year suspension, which was subsequently graciously reduced to a six-month suspension by our Supreme Court (*In re Disciplinary Proceeding Against Schafer*, 149 Wn. 2d 148 (2003)). The Court found it necessary to castigate Mr. Schafer for their perceived view that he had wrongfully published a secret statement of his client.

Mr. Schafer was told by his client that he needed a corporation formed (no problem) because a lawyer friend was trustee of an estate and would give him a "sweet-heart" deal on the sale of a bowling alley business and real property owned by the estate (big problem).

If I understand it correctly, our bar officials responsible for discipline of attorneys believe that for the sum of three hundred dollars for forming the corporation Mr. Schafer had the absolute duty to ignore

the looting of an estate by a lawyer. I understand that one of the judges hearing the discipline case felt that Mr. Schafer could have gone to the public records to expose Mr. Anderson's conduct. That view ignores the fact that the public records have Mr. Schafer's client as the other party to this fraudulent transaction, thereby violating the Court's rule against disclosure of the client's participation, which was obtained by the client's statements.

While Mr. Schafer says he waited until

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the three-year statute of limitations had run before pursuing the corrupt conduct (with the apparent intent of protecting him from criminal prosecution), this did not satisfy the Court. In fact, as I recall, one of the judges speculated that Mr. Schafer had pursued the matter because Mr. Anderson, after becoming a Superior Court judge, ruled against Mr. Schafer on a matter before him.

It was my experience, during some 50 years of practice that if lawyers took violent exception to adverse decisions of judges, which the lawyers felt to be based on incompetence or animosity, there wouldn't be many judges alive today.

Fortunately, the present trend seems to be that in the future lawyers will have a duty to disclose confidences involving future criminal conduct. Our Court had an opportunity to be in the forefront of this movement but chose to be very righteous but (in my mind) very wrong.

The paramount rule of ethical conduct is that all members of the bar and bench shall be open and honest in their conduct and serve with integrity.

The position of our Supreme Court that an attorney should be allowed to practice after violating his fiduciary responsibilities and looting an estate is completely repugnant to me. I unfortunately feel the same about their opinion of Mr. Schafer's conduct in this matter. I believe that without his diligent pursuit, on many fronts, of this corruption, little or nothing would have been achieved—which was almost the result anyway.

I have great respect for our Supreme Court and those that serve the bar in pursuing matters of possible legal and ethical violations, but I have little respect for their conclusions in this matter.

I feel sympathy for Mr. Schafer in his not being allowed to practice for six months but this ethical problem goes far beyond that immediate matter.

*Levy S. Johnston
Mountlake Terrace*

CLE is timely and tech-savvy

Like Rip Van Winkle, I awoke from a technology-deprived slumber. My jaw dropped open in astonishment at the Internet

screen before me, a Seattle University offered CLE dramatic presentation on Justice William O. Douglas. As a 1999 Bar admittee approaching the end of the first reporting period, I needed .25 ethics credits and had just selected a 1.75 credit course from the Seattle University Law School catalog of online presentations.

From the comfort of my computer station I watched, enthralled, by the compelling dramatic production, a one-man show, of the life and judicial service of this remarkable justice from our own state. The "Impeach Justice Douglas!" production proved to be one of the most inspiring 105 minutes I have recently spent.

In this time of the current Patriot Act and the disturbing erosion of civil rights, it was incredibly relevant to be reminded of Justice Douglas' courageous and steadfast support of the Constitution, and especially the Bill of Rights. Fulfilling my last CLE requirement for this term proved to be an unexpected delight, yet a sobering reminder of the dangers we face as a nation if we turn a blind eye to the erosion of the U.S. Constitution.

*Bambi Lin Litchman
Tacoma*

WSBA members made a difference where it counted

Ninety-three-year-old Ottis Jaquish and his wife of 70 years, Thelma, needed a \$5,000 loan to upgrade their northern Okanogan County home, now that winter trips to Arizona were no longer realistic. A classic scenario unfolded, in which an unscrupulous lender invented more than \$1,300 in phantom monthly income so two 15.5 percent adjustable rate loans totaling \$72,000 could be approved and within hours sold on the secondary mortgage market. The vulnerable seniors' monthly loan payments jumped to more than 75 percent of their modest monthly SSA income.

The seniors were ultimately forced to sue powerful lending institutions backing the predatory lender in the secondary mortgage market to prevent foreclosure. The Jaquishes were represented by Columbia Legal Services and by David Russell and Amy Hanson of Seattle's Keller Rohrback law firm, who co-counseled on the

case. Russell, Hanson, and their firm's litigation and business law expertise, investigation staff, resources, and impressive reputation had a huge impact in successfully resolving the case. On October 17, 2003, papers were filed in U.S. District Court in Spokane, settling the matter and saving the Jaquishes' home.

Huge "thank yous" go out to Russell, Hanson, and the Keller Rohrback firm for donating their valuable time and resources in this litigation. Private attorneys who volunteer free legal representation play an invaluable role in delivering on our country's promise of equal justice. When the opposing party has far greater resources and power, as in this case, and the clients are highly vulnerable, help from the private bar with specialized expertise is indispensable. With the generosity of attorneys Hanson and Russell and the Keller Rohrback firm, the Jaquishes' home, independence and security have been saved into their twilight years.

*D. Ty Duhamel
Columbia Legal Services
Wenatchee*



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Why Diversity Matters — Reflecting the Public We Serve

by David Savage, WSBA President

A key component of my central initiative, “listening to our membership,” is striving for diversity in the legal profession.

We all want this bar association to be relevant. It cannot exist simply to tax and police. It must lead, but it cannot do so unless it reflects, understands, connects with, and represents women, persons of color, people with disabilities, and those disenfranchised due to their age, economic circumstance, national origin, or sexual orientation.

Established in January 1888, this bar association (which became “integrated,” or mandatory, in 1933, with the enactment of the State Bar Act) is directed by a 14-member Board of Governors, a president, and a president-elect. The Board guides its work by means of Strategic Goals, which it reviews annually and revises in detail every five years. The 2003-2006 Strategic Goals, adopted by the Board of Governors on May 9, 2003, provide:

1. The WSBA will be a leader in assuring equal civil access to justice.
2. The WSBA will advocate for effective criminal and juvenile access to justice.
3. The WSBA as the voice of the profession will exert leadership on issues affecting the rule of law and the integrity and effectiveness of the justice system.
4. The WSBA will foster communication with and among members and provide value to their professional lives.
5. The WSBA will promote civility and professionalism in the practice of law and the professional development of new lawyers.
6. The WSBA will assist members in balancing their business, professional, and personal lives.
7. The WSBA will help members address changing conditions of practicing law.
8. The WSBA will explore and promote just and effective methods for resolving disputes.
9. The WSBA will promote diversity, equality, and cultural competence in the courts, legal profession, and the bar.

While our membership has changed dramatically from the 35 white male lawyers of whom the organization consisted in 1888, the following comparative statistics reflect the continuing need for further change:

	WSBA (24,000 members)	Washington (6 million citizens)
Under age 40	34%	59%
Female	32%	50%
Persons of color	10%	18%

As the foregoing reveals, the WSBA trails, rather than leads, in reflecting the diversity of Washington. Until the adoption of Bylaw III.M in May 2001, which provides for two governor-at-large seats on the Board, Lembhard Howell was the only person of color to have served on the Board of Governors. Since the adoption of the bylaw, the Board has been and is now served by two talented women of color, Zulema Hinojos-Fall and Fawn Sharp.

In its 115-year history, the Board has had the benefit of only 18 female governors, and until the Board’s creation of a seat for the Washington Young Lawyers Division in September 2001, there was no provision to ensure representation of our young lawyers. It was 1998 before the first openly gay member of the Board of Governors was elected.

Though I am proud to be your 113th president, our bar association’s lengthy history includes only two women presidents, Elizabeth J. Bracelin and Mary E. Fairhurst (now Justice Mary E. Fairhurst). Until Ronald R. Ward was elected as president-elect in the spring of 2003 to become president in September 2004, this bar association had never been led by a person of color.

We can talk all we want about relevance, but until we reflect the diversity of our membership and strive to reflect that of the public we serve, we are going to have relevance for only a limited audience.

Society has changed dramatically and continues to change. By the strength of their struggle, persons of color and women have achieved ever-more-prominent roles in our social fabric. By virtue of their numbers, persons of color will soon be in the majority in several states of the Union.

Broadening our composition is necessary if the legal profession is to play a meaningful role in addressing the substantial social issues and problems inherent in a complex and diverse society. Economic disparity continues to increase rather than diminish. Single parent families and homelessness are growing tragedies. The recent Civil Legal Needs Study, com-

missioned in November 2001 by the Washington State Supreme Court, found that Washington's low-income citizens annually experience nearly 1.1 million legal problems — a significant number involving matters of safety or subsistence. Women and children suffer this circumstance the most, especially with respect to family law matters and domestic violence. Low-income persons face more than 85 percent of these problems without help from an attorney. (For more about the study, see the article on p. 16. Visit www.wsba.org/media/releases/2003/wa_courts_study.htm for a link to the Civil Legal Needs Study.)

Similarly, the legal system is stretched to the breaking point in its ability to provide capable representation of indigents in the criminal-justice system. The legal system has done a poor job of competently representing those charged with capital crimes. While five percent of the world's population lives in the United States, 25 percent of the world's prison population resides in U.S. jails and prisons; 66 percent of the nation's prison population are persons of color, 53 percent of inmates earned less than \$10,000 per year prior to incarceration, 13 percent were homeless before imprisonment, and 34 percent lost their homes because of their sentences. The circumstances are equally challenging with respect to the juvenile justice system as the

recently released Washington Juvenile Justice Assessment Project demonstrates. (See www.wsba.org/jjstudy.pdf for the Project report.)

Addressing these problems requires adequate and stable funding for our courts, and counsel for the indigent. Funding for our courts continues to be in jeopardy, and counsel for the needy has never been adequate or stable. We must take the lead in elevating these economic needs to a place of primacy in the allocation of public monies.

For our part, if the promise of "justice for all" embodied in the Pledge of Allegiance is to be realized, the WSBA must reflect the diversity of the public it serves. We must recruit dramatically more women and persons of color into our ranks, and truly open the profession to all who wish to serve regardless of disability, age, national origin, or sexual orientation.

The Board of Governors has committed to these goals as reflected in its Long-Range Plan. The job, however, is more than recruitment and "opening." We must ensure thereafter that these members of our Bar Association are and remain fully enfranchised by it.

This "follow-through" is central to the work of the Glass Ceiling Task Force, its Minority Women's Advisory Committee, the Gender and Justice Commission, the Minority and Justice Commission, and the

minority bar associations, all of which are devoted to seeing to it that the diverse members of our ranks enjoy more than token participation in the benefits of the profession. (For instance, visit www.wsba.org/info/glassceiling.htm, for information about the Glass Ceiling Task Force and a link to its report.)

Recognizing the need for a concerted effort, the Diversity Consortium, a collaborative effort of bar associations and leaders, has developed the *Initiative for Diversity*, which will be launched this spring. The *Initiative for Diversity* seeks an attorney work force that is representative of the many faces of our pluralistic society and includes a set of commitments by which signatories will pledge their adherence to diversity goals and receive support in the implementation of their commitment.

Change is underway. The Washington State Bar Association is committed to it. Meaningful change, however, requires a meaningful commitment to "listen" to those who have been excluded, who are on the periphery, or who are only partially enfranchised.

We will devote the Board's February 2004 meeting to listening to the minority bars — the Asian Bar Association of Washington, the Cardozo Society, the Filipino-American Legal Association of Washington, the Hispanic Bar Association, the Kanoon South Asian Bar Association, King County Washington Women Lawyers, the Korean-American Bar Association of Washington, the Loren Miller Bar Association, the National Conference of Black Lawyers, the Northwest Indian Bar Association, the Pierce County Minority Bar Association, Washington LEGALS, and the Washington Women Lawyers.

No single meeting, no single president, and no single Board, however, can achieve the needed change. Change will not be achieved until we have institutionalized diversity by opening our profession to all persons regardless of race, creed, color, sex, national origin, sexual orientation, or disability. This is a job for all. We need your help. We need to hear from you. We are listening. 🗣️

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Justice in Jeopardy: Inadequate Funding of Our Trial Courts

by Jan Michels, WSBA Executive Director

Democracy means agreeing to submit to conditions of being governed — a social contract — in exchange for a voice in how that governance is enacted. The rule of law is simply the statement of this social contract.

The principles that underlay the conditions of our social contracts are based on the Constitution and the Bill of Rights, and are elaborated through law both civil and criminal and legal decisions. The U.S. Congress and state legislatures are responsible for citizens' social contracts, the fibers that weave and manage our interactions with each other in a way that permits an orderly social system where we can interact safely with strangers. Living under these social contracts requires the means to enforce laws consistently, timely, and under agreed and predictable procedures. We depend on the law to spell out ways to bring grievance, and allow recourse and redress for violations. The rule of law depends on the courts to judge the degree of transgression and the remedy. Without a consistent, timely, and predictable forum for conflicts, we deteriorate into feudal, corrupt, and/or bifurcated justice, where outcome is based on extraneous factors such as race, family, income, power, or wealth.

The Court Funding Task Force — a response to the jeopardy

In response to the growing gap between current and adequate funding of the trial courts, the Board for Judicial Administration created the Court Funding Task Force. Chief Justice Gerry Alexander asked Wayne Blair to chair the task force. The task force divided into five workgroups to tackle the issues: define the problem, develop funding alternatives, resolve the structural questions in the courts of limited jurisdiction, implement the funding recommendations, and educate the public on the importance of adequate funding. The workgroup chairs have collaborated to develop a list of 13 preliminary principles to govern their work, including:

- Funding the trial courts is a general government responsibility.

- State and local governments should equitably share responsibility for funding the trial courts.
- Court structures must support the independence of the judicial branch.
- The mission of the trial courts is to resolve disputes under the law; they are not self-funding nor meant as revenue generators.
- Trial courts are accountable for the funds appropriated to court operations.

The problem defined

The functions of Washington trial courts have been delineated within the broader contexts of the judicial branch, the justice system, and the public to include judicial decision-making, decision-making support, staff support, court records (county clerks), and juvenile court operations. The actual expenditures for trial court functions were calculated at \$417 million in 2000. A carefully crafted formula used for projecting adequate funding (needed judicial and staff positions, and non-personnel costs funded) was applied to 2000 figures to demonstrate a current estimate of the 2003 need for \$452 million — a \$60 million gap.

In response to the growing gap between current and adequate funding of the trial courts, the Board for Judicial Administration created the Court Funding Task Force.

Funding alternatives

With the known gap of \$60 million, the search for a viable revenue source and equitable state/local funding formula is proceeding. Right now, the state of Washington pays 10.9 percent of the cost of operating our trial courts — the lowest state contribution to trial courts in the nation. A workgroup is exploring Washington's tax structure, current and possible court-revenue sources, the viability of the public safety and education account, and other states' experience with court funding to develop recommendations for stable and adequate future funding. The task force recognizes that there may not be enough state general-fund revenue to meet the needs of education, health care, and general government, and that the hard choices may come down to the "I" word, but citizens have demonstrated a willingness to fund public-safety and justice-system functions before.

A surreal painting of a man in a suit holding a briefcase, standing in a cave with large animal heads and a tiger.

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Courts of limited jurisdiction (CLJ) structure

The search for a CLJ structure that satisfies citizen access, judicial independence, and the interests of cities and counties has been daunting, and is not yet finished. Issues regarding the election/selection of judges, existing jurisdictional options, and inter-court contracting options are being examined with CLJ judiciary, cities and counties, and local elected officials.

Implementation strategy

The task force is planning to have the funding strategy ready for the 2005 legislative session. Details of the plan will be disseminated and discussed as they are developed in the coming year. No one doubts that implementing a new trial-court-funding plan will be hard fought and long term, but we also know that adequate funding of the trial courts is a must, and that the current mechanisms, if allowed to continue, will not be able to assure fair and equitable justice. Adequate, stable funding must start with a plan.

Education

To move to adequate funding of the trial courts, we need grassroots citizen, bar association, legislative, judicial, and state and local elected-official support. The task force has a huge array of compelling anecdotes and documentation about what happens to justice and citizens when the courts are not inadequately funded — these need to be put to use as education tools. The story is so much more than cold calculations and dollar figures!

Conclusion

So back to justice in jeopardy. Not adequately funding the trial courts over the long-term is a danger to our democracy. We joke about being "Californificated" with pop-culture values and movie-star surrealism, but we could also be "Oregonized" with court closures, non-prosecution of misdemeanors, and years-long waits for a "day in court." We cannot let inadequate funding jeopardize our democracy. Let's not let this happen in Washington! 🐼

Child Abuse Cases

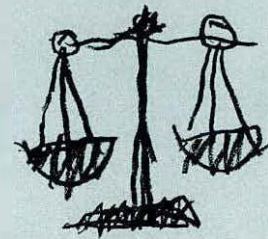
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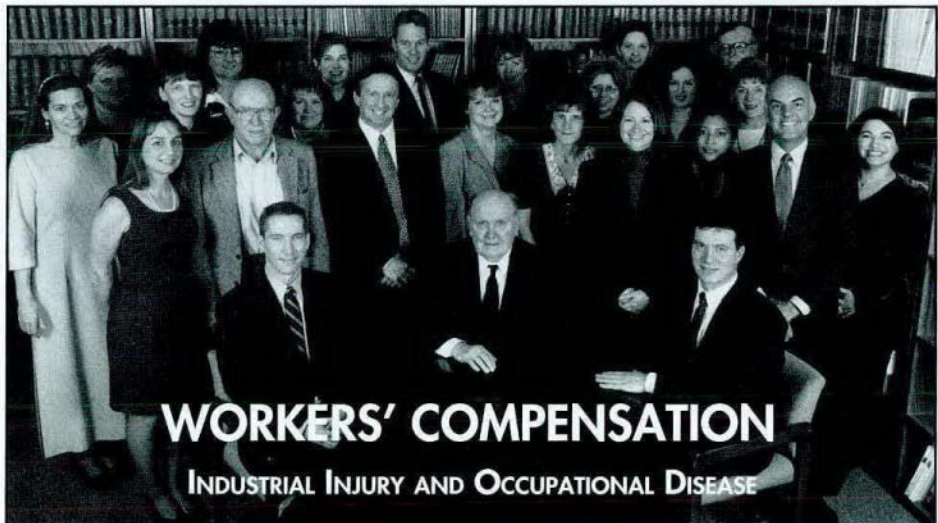
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ond Anecdotes:

The Washington State Civil Legal Needs Study

by Justice Charles W. Johnson and Judge Mary Kay Becker

The study is a
wakeup call
for all of us
who believe in
our democracy's
promise of
equal justice
under the law.

We are privileged to have co-chaired our state Supreme Court's Task Force on Civil Equal Justice Funding since its establishment on November 1, 2001. The task force is charged with finding solutions to the difficult and continuing problem of inadequate funding for the programs that provide civil legal services to low-income and vulnerable people in our state. The task force oversees completion of a Civil Legal Needs Study; establishes an appropriate level of funding for civil equal justice services; makes recommendations for funding strategies; and makes recommendations for funding administration and oversight.

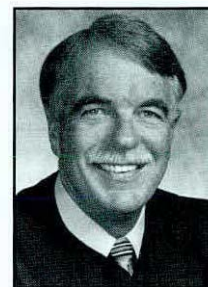
This challenge is a new one for this Court, and one that we are deeply committed to addressing. But while there is general understanding and agreement by the members of the Court and the task force that the need for these services has reached critical levels, none of us was prepared for the alarming results of the task force's recently released Washington State Civil Legal Needs Study. The findings are disturbing, not only in terms of the extent of the problem, but also in terms of the tragic and heartbreaking impact on individuals and families when they cannot get legal assistance for the most basic of human needs. The study is a wakeup call for all of us who believe in our democracy's promise of equal justice under the law. As documented by the study, that promise is elusive for many.

Why do we need a civil legal needs study?

It is undisputed that the civil equal justice services in our state are inadequate to serve the need. Staffed legal-services programs and programs that utilize volunteer attorneys to provide civil legal services to low-income people can address only a small fraction of the needs of the poor, which for most programs include only those clients with incomes at or below 125 percent of the federal poverty level (FPL).

It also is undisputed that the poverty population continues to increase. Washington state has approximately 1,039,000 low-income residents living at or below 125 percent of the FPL. Washington ranked third in poverty growth rate over the past decade, with a 46 percent increase in the number of people living in poverty since 1990. Statewide, 13.2 percent of Washington state's census-based population is low-income.

That said, financial support for civil equal justice services continues to erode. We know how many low-income people receive ser-



Charles W. Johnson

is a member of the Washington State Supreme Court and served as co-chair of the Task Force on Civil Equal Justice Funding.



Mary Kay Becker

is a judge of the Washington Court of Appeals and served as co-chair of the Task Force on Civil Equal Justice Funding.

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services and which services they receive; and we also have a good idea of the number of people who are turned away. Indeed, the civil equal justice programs in our state estimate that over the past decade they have turned away four out of every five eligible low-income clients. Given this continuing crisis, proposals for conducting a civil legal needs study in this state historically have been rejected as being an unnecessary use of scarce resources — resources that could better be utilized to pay for legal services for low-income clients.

The Task Force on Civil Equal Justice Funding is charged with taking a fresh and long-term approach to recommending solutions to the problem of inadequate funding for these services. To do that effectively, we need solid documentation of the extent of the need to enable us to establish an appropriate level of funding for state-supported civil equal justice services. The Washington State Civil Legal Needs Study is the first comprehensive effort in our state's history to provide this documentation of the types of civil legal needs experienced by low-income people, and the first study to explore the consequences for low-income people and the justice system.

The task force adopted a three-part approach to collecting this data, drawing on the best practices of two previous major legal-needs studies — a national study conducted by the American Bar Association in 1994, and a study conducted in Oregon in 2000. We commissioned a field survey of in-depth interviews of members of 15 "demographic cluster groups," similar to that of Oregon, and simultaneously commissioned a telephone survey of randomly chosen households, similar to that used by the American Bar Association. To these were added a new survey, one seeking anecdotal input from a broad array of legal and social-services professionals.

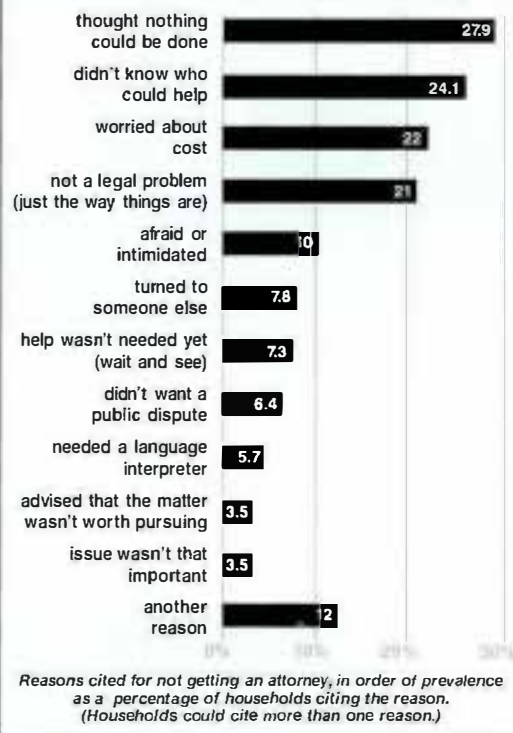
What do the findings tell us?

The data from the nearly 2,100 face-to-face and telephone interviews was analyzed and compiled into 12 key findings, followed by a discussion of supporting data.

These findings paint a troubling picture. Many thousands of our state's most vulnerable residents have serious legal problems and cannot get any help in resolving them. Many don't even realize their situations have a legal dimension. Others don't know where to seek help or are too overwhelmed to try. Meanwhile, they are systematically denied the ability to assert and enforce fundamental legal rights, and forced to live with the consequences. The findings are predictable in many ways but also contain some surprises. Following are some of the study's salient points.

How great is the need in Washington state? Approximately 87 percent of low-income households experienced at least one civil legal need during the previous year, resulting in an aggregate of more than one million important problems annually.

Reasons for Not Getting an Attorney



Who gets assistance and who doesn't?

Only 12 percent of low-income people were able to secure advice or representation from an attorney. Even problems characterized as "extremely important" by the households themselves, which usually involved housing conditions, access to or conditions of employment, or other basic needs, got attention only 15 percent of the time.

Voices from the Task Force

Cowlitz-Wahkiakum Legal Aid was formed in 1999. It runs 20 hours per week with volunteer attorneys providing legal services. Our area had a legal-services office before funding cutbacks in the mid-90s, and I think the survey highlights just how desperate the need for legal services is for fundamental legal needs, such as prevention of eviction, access to health and welfare benefits, and protection from domestic violence.

— Angela Warning, *Longview*

As judges, we have been aware how dire the situation has been for low-income persons with civil legal needs, especially women with young children. With this report, we now have specific information, not just anecdotal stories, that we can use to verify that our low-income citizens are in desperate need of legal help.



Our counties, Island and San Juan, are small and isolated, yet we experience the same problems, although in smaller numbers, as the larger counties do. We have fewer resources, however, to address these

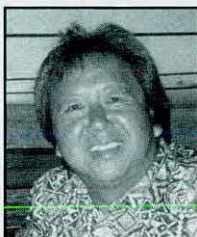
problems. I firmly believe that people want to help. This report gives us the tools that we can use to ask for that help from our county and city government, our Navy community, and our citizens. We plan to gather leaders from these areas into a task force to address these issues, using the Civil Legal Needs Study as a guide. Thank you for this invaluable tool.

— Vickie I. Churchill, *Judge, Island/San Juan County Superior Court*

The Civil Legal Needs Study is important, because it shows how big the problem is and documents the needs for funding. At the Office of Administrative Hearings, we handled more than 65,000 appeals last year on issues such as unemployment, child support, or types of public assistance. Most appellants appear *pro se*. While many cases do not require legal representation, it is essential to have civil legal-services organizations available to screen and provide assistance in the cases where lawyers are needed. The study makes the case for funding civil legal services. While we may have known this anecdotally, now we have documentation.

But the study also was full of surprises. The conventional wisdom was that the greatest needs would be in family law. Instead, we were surprised to learn that the greatest need for representation is in hous-

ing, and that needs for employment law were almost as high as family law. Many findings have strong implications for how



we should structure services to best reach people and meet their needs.

The study also has implications for the credibility of the overall justice system in America. For those low-income households who got help from an attorney, 54 percent were positive and only 28 percent were negative about the justice system. But if they sought help from an attorney and didn't get it, 70 percent were negative and only 20 percent positive. Unless we can do a better job of providing access to attorneys, we will destroy respect for the justice system.

— Art Wang, *Chief Judge, Office of Administrative Hearings*

Legal Services for seniors and the associated practice of elder law have become specialized and more necessary than ever. As we get older, there is more personal involvement with civil legal services through interactions with government rules, programs, and our healthcare needs. It ain't easy growing old. I get any phone call that comes to the agency in which people use the term law, lawsuit, probate, will, estate, and so on. So I know the need exists.

Being able to demonstrate it has been a harder problem. With the Civil Legal Needs Study, I will be able to defend and hopefully increase the time and expenditure of Older Americans Act money on legal services.

In addition, it gives us leverage to continue to work on the guardianship system, the physical access to the courts, and the impact of agency rules on long term care for seniors.

— Hank Hibbard, *Legal Services Developer under the Older Americans Act*

The Civil Legal Needs Study presents a dramatic description of the extent to which legal services are not reaching many of the people in our state. This study is important, because it confirms what many of us have sensed for a long time but have been unable to document in a coherent format.

The trial courts struggle each day to provide a forum for the resolution of disputes, the enforcement of our laws, and the protection of our people. That struggle is made more difficult by the constant reduction in resources, and the significant in-

crease in cases that come into the courts without the involvement of lawyers, such as domestic violence and family matters. In the less populated and more rural counties, such as Yakima, the situation is complicated even further by the lack of transportation and communication systems that would permit greater access to justice, and by the existence of transient populations that make service delivery more problematic and challenging. Furthermore, the rural areas receive less publicity and attention on a statewide basis and traditionally are



underfunded, even though the needs are as great as those of bigger cities and counties.

With the completion of the Civil Legal Needs Study, we now have a credible tool that we can use to determine

how we should allocate our existing resources, and how we can make the case for receiving an increase in resources from the public and private sectors.

— Mike Schwab, *Judge, Yakima County Superior Court*

The question has been raised, should we regard the provision of civil legal services for the poor as part of the central mission of state courts? My answer is, how can we not? We have progressive statutes providing legal remedies for many of the problems experienced by people who responded to our survey — for example, landlord-tenant disputes, domestic violence, and consumer fraud. We have fine courts with honest judges who try hard to reach just results in the cases that come before them. The people identified in our survey pay their share of taxes to support the salaries of court personnel and for facilities in which the courts operate. How do they benefit in return if their poverty prevents them from enforcing their rights under the statutes, and from bringing their cases before the court?

In earlier eras, poverty, lack of educational opportunity, gender, or ethnic background would have blocked many of us from achieving our present positions as judges and lawyers. We are here now because of the collective efforts of others in the past to make equal justice under the law a reality. To assure reliable access to the courts for the poor is one way we can carry on that tradition in our own time.

— Judge Mary Kay Becker, remarks to the Board for Judicial Administration.
October 17, 2003

Do legal needs differ among women, minorities, and other groups? Domestic-abuse survivors, the vast majority of whom are women, have the highest per-capita rate of legal problems among all demographic cluster groups (5.6 percent vs. 3.3 percent for all households with a legal problem).

What kinds of legal needs do low-income people have? The greatest number of legal issues experienced by low-income people involve matters relating to housing. The overriding perception among the legal and social services pro-

fessionals surveyed was that family law was the most prevalent. While the study confirms that family law is one of the areas of significant legal need, it accounts for only 13-14 percent of legal issues. And significantly, low-income people are more likely to get an attorney's help for family issues (30 percent) than for any other issue (less than 10 percent).

How do the legal needs of different income groups compare? There are significant differences in the number of legal problems experienced by low-income people as compared to higher-in-

come households. For example, low-income households experience nearly three times as many issues relating to substandard housing conditions, at least twice as many issues relating to the ability to secure and maintain essential utilities, and four times as many discrimination-related issues.

How often is discrimination part of the problem? Discrimination is pervasive — one in four legal problems is perceived to have a discrimination component. Discrimination appears in nearly every category of legal problems, and accounts for half of employment and health issues, and nearly 15 percent of housing-related issues. (It should be noted that only those claims that appeared to the reviewing attorney for this study to meet applicable legal standards for one or more types of actionable discrimination were entered into the database.)

Do legal needs differ based on where people live? The field survey allowed for comparative analysis of responses by region and by urban and rural residency. Although there was general consistency across the regions, there were some notable differences, including the fact that households in the North Central region report nearly twice the percentage of immigration-related problems as households in other regions. This finding reflects the changing demographics of this area, particularly immigration of Latinos.

Does knowledge of, and access to, legal resources differ by where people live? Even though legal problems do not vary significantly between urban and rural low-income households, urban residents are nearly 30 percent more likely than rural residents to know of free legal services in their areas, including various toll-free telephone "hotlines" for legal assistance. This is particularly true of households in the North Central and South Central regions, which have the highest percentages of households where English is not the primary language.

What happens to those who don't get legal help? Of those who were not able to get legal assistance and look elsewhere for help, 55.5 percent turn to or-

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ganizations that cannot provide legal advice or assistance. Surprisingly, only 2.6 percent went to law libraries and only 1.3 percent consulted court staff.

Can technology make a difference?

The surprising statistic is that nearly half of low-income people have access to computer technology and that 40 percent have the ability to use the Internet. However, only 19 percent of those households know of a website where they can get information or help with civil legal problems.

What are the consequences for low-income people and the justice system?

Among those who seek but do not get an attorney's help, only 21 percent feel positively toward the justice system. By contrast, more than half of those who are able to get an attorney's help — whether from legal services or a private attorney — have positive attitudes toward the justice system.

Where do we go from here?

This Task Force on Civil Equal Justice Funding, the Washington State Supreme Court, and others will be examining these findings in the coming months to inform discussions about policy, service delivery, and funding. The study provides stark documentation of the need to increase the capacity of Washington state's legal-services delivery system to address these overwhelming needs. Despite the best efforts of our state's civil legal-services programs and programs that utilize thousands of volunteer attorneys to provide free legal assistance to low-income people throughout the state, less than 15 percent of low-income people are able to get help with their civil legal problems. And the problem is about to get worse. In the past 36 months, stagnant funding has caused Columbia Legal Services and the Northwest Justice Project, Washington's two statewide staffed legal-services providers, to effectively downsize by 18 full-time attorneys between them (from a starting point of 105 attorneys). Last year, the Legal Foundation of Washington was forced to reduce funding for a number of volunteer attorney programs and other providers of civil legal assistance due to reduced IOLTA income. Finally, Co-

lumbia Legal Services and Northwest Justice Project face a \$2 million combined deficit by the end of 2004 and are consequently unable to maintain their already-reduced capacity to deliver critically needed legal assistance. The programs have begun a process to initiate involuntary downsizing (i.e., layoffs) to take effect in the first quarter of 2004.

Every lawyer, judge, and court clerk, and anyone else who serves as a steward of our state's justice system, should read the Washington State Civil Legal Needs Study. It also has important

messages for those in our legislative and executive branches of government, for funders, for those who run social- and human-services programs, and for those who develop technologies. It should be featured prominently in all media outlets in our state so that members of the public can better understand the challenges facing our justice system. It should be a tool for us all to use as we work toward the promise of equal justice for all. *✍*

The study, in pdf format, can be found online at www.courts.wa.gov/newsinfo/CivilLegalNeeds%20093003.pdf.

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The Right to Counsel: Every Accused Person's Right

by Robert C. Boruchowitz

Every day in Washington courts, hundreds of people face criminal charges without lawyers, and many of them plead guilty and go to jail, sometimes unaware they have a right to a lawyer.

Forty years ago, in *Gideon v. Wainwright*, the U.S. Supreme Court said accused persons in state courts were entitled to court-appointed lawyers. Over 30 years have passed since the Court applied that right to misdemeanor cases in state courts in *Argersinger v. Hamlin*. Yet the holdings of those cases are frequently ignored.

The scope of the problem is enormous. In Washington's limited jurisdiction courts in 2002, there were 272,548 arraignments on 357,954 charges in 300,442 complaints and citations. There were only 9,349 trials. 167,563 charges resulted in a guilty finding. This article will review the law, demonstrate examples of the failure to follow court rules, outline how some courts manage to enforce the right to counsel, and discuss changes which some courts have made and others could make to ensure the integrity of the courts in which hundreds of thousands of people are heard every year.

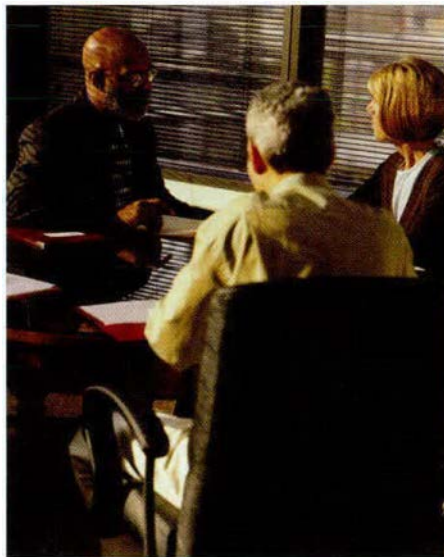
Courts Across the State Violate the Right to Counsel

During my observations as a Soros senior fellow this past year, I documented violations of the right to counsel in three of the largest counties in the state and in one rural one. These problems occur in affluent suburban areas as well as in large cities.

- I have seen a judge continue a video arraignment for an in-custody Spanish-speaking defendant for four days because an interpreter was not available, keeping the bail at \$3,000.
- I have seen a prosecutor advise the defendants that it would be in the defen-

dants' interest to discuss their cases with the prosecutor, who would let them know if he felt that they needed an attorney, all before the judge entered the courtroom (that prosecutor agreed when I asked him to alter that speech and since then has made efforts to help protect the right to counsel).

- I have seen two courts in which prosecutors approached unrepresented, shackled defendants to discuss pleas with



them. Negotiating directly with uncounseled defendants violates American Bar Association Prosecution Function Standard 3-3.10 Role in First Appearance and Preliminary Hearing:

(a) A prosecutor . . . should not communicate with the accused unless a waiver of counsel has been entered, except for the purpose of aiding in obtaining counsel or in arranging for the pretrial release of the accused. A prosecutor should not fail to make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel.

- Some judges order cash-only bail, perhaps because they want to make sure the accused person does not get released. This is a violation of *City of Yakima v. Mollett*, 63 P.3d 177 (2003), in which Division III held that the rule does not permit cash-only bail.
- I have seen two judges in Spokane advise defendants of their rights, including right to jury and right to call witnesses, and never mention the right to have a lawyer.
- In a Kittitas County court, a judge routinely denies counsel for college students, saying that "there is a limit to the definition of indigent contained in RCW 10.101.010(e); that limit is reached when an able-bodied, employable young person with no dependents and virtually no debt chooses to forgo available employment so that he can attain a college degree." That view of indigence is totally unsupported by the statute and is at odds with case law. In that case, the defendant had an annual income of \$3,600, which is well below the federal poverty guidelines.
- I helped get a client out of jail whose entire probation revocation hearing occupied two-and-a-half pages of transcript. The judge never advised the defendant of his right to an attorney, and when the defendant asked what was going on, the judge told him he was going to jail in Yakima for three years.
- One woman in a Snohomish County municipal court stipulated to facts sufficient to convict her, and received a suspended jail sentence, a \$500 fine, and a conviction on her record, all without the advice of counsel and without waiving that right. The judge did not inquire whether she knew she had rights to waive. In the arraignment, stipulation, and sentencing, all of which together lasted one minute and 47 seconds, the judge's only question concerning the

defendant's understanding of her right to counsel was, "Have you had a chance to talk with a defense lawyer about [the stipulation]?" to which she answered, "Yes I have." Yet the accused appeared in court without an attorney; she was unrepresented. There was no indication that she had ever spoken with a defense attorney.

Despite the existence of strong public-defender programs, and able individual assigned counsel and contract defenders in Washington, there are many cities and counties where the lawyers are totally overwhelmed by crushing caseloads; lack investigator or social-work support; lack adequate office space, equipment, or research capacity; or lack the experience or training to handle the cases they are assigned. Often, they are coping with their caseloads, but do not have the resources to send lawyers to arraignment hearings.

- Some courts try to recognize defendants' rights without providing counsel. In district court in Redmond, the judge begins arraignment with a lengthy explanation of the defendant's rights, and he offers his opinion that if defendants wish to plead guilty at arraignment, they are better off doing so after speaking with an attorney. The court admonishes defendants to plead not guilty and seek advice of counsel. Yet there is no lawyer present for those who want one at that time.
- On its website, Redmond Municipal Court advises people that to have a public defender, they should apply "immediately after arraignment," implying that having a defender at arraignment is not possible. The website also includes information on where to go "to pay for my Public Defender," which could discourage and confuse defendants.
- In a King County municipal court, an in-custody defendant told the judge that his lawyer was not able to come that day. The judge said the lawyer could attend later proceedings, and demanded to know whether the defendant would represent himself at the plea he was about to enter. The defendant said he had no choice, as he needed to get out of jail, and pled guilty. I worked with the defendant's lawyer on a successful motion to set aside the plea.

In many courts, there is a culture that accepts the routine denial of counsel in order to facilitate the rapid movement of cases through a calendar, what John Cleary of the San Diego Federal Defender used to call the "Rawhide" style of justice.

This must change.

Juvenile Cases Are Affected, Too

The problem is not limited to adults. In at least one Eastern Washington county, juveniles often plead guilty without counsel. One probation officer told me that about half of the children facing incarceration for truancy-contempt charges go to court

without a lawyer.

An ABA report released last October on six states' juvenile justice programs (including Washington's) found that "[m]any youths do not have counsel at critical stages of the juvenile justice process, despite the law's clear mandate and the harmful consequences of not having a lawyer." The Washington segment reported: "In Washington state, children are represented by counsel at most juvenile court proceedings. However, some counties do not ever provide counsel at probable-cause hearings, and, in some counties, young people go forward in a vari-

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ety of hearings without the assistance of counsel.”

The Washington report recommended that children should be represented by effective counsel at all court hearings, and that Washington law should be changed to conform to national standards prohibiting children from waiving the right to counsel. Until the law is changed, the report recommended, “The judicial inquiry with youth regarding their decisions to waive counsel should be thorough, comprehensive, and easily understood.” As one law review put it, “No doubt the denial of counsel comes as a jolt to most Americans,

including the legal profession, who share the mistaken belief that every accused person currently receives the benefits of a lawyer’s advocacy when liberty is threatened.”¹ And given the collateral consequences of a conviction, including preclusion from certain jobs and benefits, as well as the prospect of incarceration, “[m]aking an indigent — and perhaps addicted, mentally impaired, uneducated or illiterate — person plead guilty without some effort to convey this complex raft of consequences, seems almost sadistic — whatever the cost.”²

In some courts, there is no prosecutor

at all, and the courts take pleas without written plea forms. In some courts, the defendants are in jail on video, and the judge is blocks or miles away in an empty courtroom. In some courts, the judges advise the defendants of their rights but never mention that there is a right to counsel at arraignment. In some courts that do use plea forms, the prosecutor fills them out in a conference with the unrepresented defendant. As Justice Black wrote in 1948 in *Von Moltke v. Gillies*, “The Constitution does not contemplate that prisoners shall be dependent upon government agents for legal counsel and aid, however conscientious and able those agents may be.”

Federal constitutional law, Washington case law, and Washington court rules all require counsel to be available

In some courts, the defendants are in jail on video, and the judge is blocks or miles away in an empty courtroom.

for people who cannot hire their own, and require judges to make a thorough inquiry before accepting a waiver of rights.

The Right to Counsel Is Guaranteed

As noted earlier, people charged with misdemeanors are entitled to counsel and may not be imprisoned for a misdemeanor unless they had counsel or knowingly, voluntarily, and intelligently waived counsel.

The 9th Circuit has held that “in order to knowingly and intelligently waive the right to counsel, the defendant must be made aware of (1) the nature of the charges against him; (2) the possible penalties; and (3) the dangers and disadvantages of self-representation.” *U.S. v. Akins*, 276 F.3d 1141, 1144 (9th Cir. 2002) (amended opinion, citations omitted). The court noted that a threat to the accuracy of a guilty plea entered without the assistance of counsel is the danger that “innocent men pitted against trained prosecutorial forces may waive counsel and plead guilty to crimes they have not committed, if they think that by doing so they will avoid the publicity of trial, secure a break at the sentencing stage, or simply get the whole thing over with.”

In October 2003, the 9th Circuit held

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that if the right to counsel has not been effectively waived, the defendant is entitled to an automatic reversal of the conviction.

Washington court rules are clear that a lawyer needs to be provided. CrRLJ 3.1 states:

- (2) A lawyer shall be provided at every critical stage of the proceedings.
- (d) Assignment of Lawyer.
- (1) Unless waived, a lawyer shall be provided to any person who is financially unable to obtain one without causing substantial hardship to the person or to the person's family.

CrRLJ 4.1(a)(2) provides, "The defendant shall not be required to plead to the complaint or the citation and notice until he or she shall have had a reasonable time to examine it and to consult with a lawyer, if requested."

The implications of that language, as well as the following paragraph (3) of CrRLJ 4.1, require the availability and appointment of counsel:

- (3) Advisement. At arraignment, unless the defendant appears with a lawyer, the court shall advise the defendant on the record:
 - (ii) of the right to be represented by a lawyer at arraignment and to have an appointed lawyer for arraignment if the defendant cannot afford one. The rule requires that appointed counsel be available for arraignment.

The rule on probation reviews requires the same. CrRLJ7.6(b) states, "The defendant is entitled to be represented by a lawyer. . . . A lawyer shall be appointed for a defendant financially unable to obtain one."

Unfortunately, in many courts no public defender is available and the judge does not conduct the thorough inquiry the case law contemplates to support a valid waiver.

In one King County municipal court I observed, the waiver colloquy took 42 seconds. In *State v. Chavis* (1982), the court of appeals said the court should question the accused in a manner designed to reveal *understanding*, rather than framing questions that call for a simple "yes" or "no" response.

Washington case law is clear that a court must accept a waiver of counsel only after a thorough inquiry. The court in *Chavis* held that "the accused should not be deemed to have waived the assistance of counsel until the entire process of offering counsel has been completed and a thorough inquiry into the accused's comprehension of the offer and capacity to make the choice intelligently and understandably has been made."

Other cases have held that the defendant's request to proceed *pro se* must be unequivocal. The court must establish that the defendant, in choosing to proceed

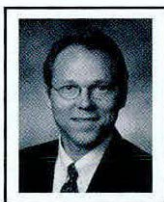
pro se, makes a knowing and intelligent waiver of the right to counsel. The court must determine that the defendant is competent and aware of the dangers and disadvantages of waiving his or her right to counsel. The defendant must be advised of the disadvantages of proceeding *pro se*. And the court must indulge every reasonable presumption against waiver.

In *VonMoltke*, the plurality opinion held that the right to counsel invokes "[t]he protection of a trial court, in which the accused — whose life or liberty is at stake — is without counsel." This protecting duty imposes the serious and weighty respon-

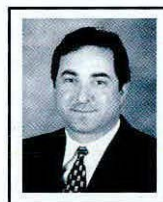
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sibility upon the trial judge of determining whether there is an intelligent and competent waiver by the accused. To discharge this duty properly in light of the strong presumption against waiver of the constitutional right to counsel, a judge must investigate as long and as thoroughly as the circumstances of the case before him demand. The fact that an accused may tell him that he is informed of his right to counsel and desires to waive this right does not automatically end the judge's responsibility. To be valid, such waiver must be made with an apprehension of the nature of the charges, the statutory offenses in-

cluded within them, the range of allowable punishments thereunder, possible defenses to the charges and circumstances in mitigation thereof, and all other facts essential to a broad understanding of the whole matter. A judge can make certain that an accused's professed waiver of counsel is understandingly and wisely made only from a penetrating and comprehensive examination of all the circumstances under which such a plea is tendered. . . . A mere routine inquiry — the asking of several standard questions followed by the signing of a standard written waiver of counsel — may leave a judge entirely un-

aware of the facts essential to an informed decision that an accused has executed a valid waiver of his right to counsel."

The *Von Moltke* case is of particular relevance today, as it involved accusations of collaboration with the enemy during wartime. No one imagined that a defendant so accused could be held without counsel or charges. And the Court wrote about the Sixth Amendment provision of legal services to such a defendant: "And nowhere is this service deemed more honorable than in case of appointment to represent an accused too poor to hire a lawyer, even though the accused may be a member of an unpopular or hated group, or may be charged with an offense which is peculiarly abhorrent."

Lawyers Make a Difference

During my fellowship, I worked on several cases involving guilty pleas or probation revocations without counsel. In each case, the involvement of a lawyer produced a more favorable result for the defendant, and in several cases also saved the local government thousands of dollars in jail costs when the judge released the defendant months or years earlier than had been ordered at a hearing without counsel.

A pilot project in Baltimore found the same results on a systematic basis. The "Lawyers at Bail Project" concluded that having a lawyer present at a bail hearing to provide more accurate and complete information has far-reaching consequences. The accused is considerably more likely to be released, to respect the system and comply with orders, to keep his job and his home, and to help prepare a meaningful defense. The public at large benefits too, from the unclogging of congested court systems and overcrowded jails and the resulting saving in taxpayer dollars.

Judges Face Discipline for Not Honoring Right to Counsel

In recent years, the Washington State Commission on Judicial Conduct began to discipline judges who ignore their obligations regarding counsel.

One municipal court judge, after being suspended by the Supreme Court, again was charged with misconduct. This included not advising defendants of their rights, consistently failing to advise defendants that they have a right to counsel, re-

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quiring defendants who pleaded not guilty to waive their right to counsel and to jury trial, and failing to appoint counsel. The judge stipulated to his ineligibility to hold office.

In *In re Hammermaster*, the Supreme Court's majority wrote:

For most citizens, appearing as witnesses, spectators, or defendants in municipal court is their only contact with the judicial system The impressions which individuals involved in court proceedings receive help form their opinion of our justice system People appearing pro se and without legal training are the ones least able to defend themselves against rude, intimidating, or incompetent judges. The conduct here denigrates the public view of municipal courts as places of justice.

The Washington State Supreme Court recently disciplined a judge for violating the basic responsibility to make sure eligible people have counsel. A local judge was acting as judge in cases involving defendants whom he had represented as the public defender. The court stressed several times that it would not tolerate shortcuts to due process. It emphasized the rights of an accused person and said, "Most fundamental of these rights include the right to an attorney and the right to be advised of your rights in a way to be able to make informed decisions regarding your case." The court condemned the judge's actions in 12 cases in which he pressed the defendant to proceed without a lawyer or go back to jail.

That decision, *In re Michels*, referred to *Hammermaster*, emphasizing, "we recognized that all courts must provide equal justice, regardless of size and situation." The court pointed out, "Courts of limited jurisdiction serve as the window to the judicial branch for many people who do not normally have contact with the judicial system."

The Court concluded: "The rights of the poor and indigent are the rights that often need the most protection. Each county or city operating a criminal court holds the responsibility of adopting certain standards for the delivery of public defense services, with the most basic right being that

counsel shall be provided."

Alternatives

What can be done? In Seattle Municipal Court, there are defenders at arraignment six days a week. They are able to challenge probable cause, argue for personal recognition release or low bail, and advise the clients on the advantages and disadvantages of plea offers from the city prosecutor. The defenders meet with their clients before appearing in front of the judge, negotiate pleas with prosecutors, and advocate for less-restrictive conditions of release after pleas of not guilty. It is not ideal,

because while the defenders can review the police reports and negotiate with the prosecutor, there is no time to investigate the case or to do research that could inform a plea decision. But they are able to advise clients and to help get the best possible resolution for those defendants who want to resolve the case that day.

In Snohomish County, I met with judges, prosecutors, and defenders, and they agreed to end video arraignments. They found funds for a pilot program for defenders and prosecutors to be present at arraignment. The court consolidated calendars so that lawyers would have

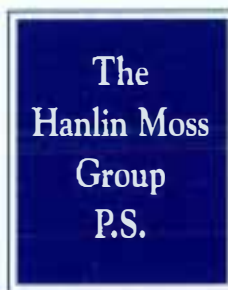
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fewer hearings to attend. The report from the lawyers who have participated is that they are providing an invaluable service to the accused, and that their presence is essential to ensure that justice is served.

According to Public Defender Bill Jaquette, people coming before the court simply do not understand the possible consequences of being accused of a crime or of the rights they have in dealing with those accusations. Because the prosecutor is there, willing to make some plea offers, some cases can be resolved at their inception, avoiding subsequent court hearings and unnecessary jail time. The

court saves time because the occasions where it has to permit withdrawal of an uncounseled guilty plea or waiver of jury are eliminated.

After I wrote a letter to Auburn Municipal Court, the judge changed the court's website to make it clear that counsel could be requested *before*, not just after, arraignment, and he has asked the city government to provide public defenders at arraignment. The judge decided not to accept guilty pleas without counsel available. He is considering establishing a diversion program.

In Spokane, I met with some judges,

prosecutors, and defenders who agreed to try to reschedule and consolidate Driving While License Suspended (DWLS) 3 cases in one court, with the goal of sending as many as possible to a relicensing program. This would reduce pressure on other courts, and could reduce the number of DWLS 3 cases assigned to the defenders. That would free up resources to be able to provide lawyers at arraignment.

In every court system, there are cases that can be diverted. Often the prosecutors don't review the police reports before complaints are filed. When they do read them, they often dismiss the cases or offer resolutions with lesser charges. If they reviewed them in advance, they could save resources. In juvenile court, greater use of diversion and alternatives to truancy prosecutions would reduce caseloads.

Defenders are in a good position to address the routine denial of counsel to defendants in misdemeanor courts with their local prosecutors and judges. When lack of resources is raised as a defense, there are two answers. First, lack of resources does not excuse complying with constitutional rights and rule requirements. Second, diverting cases, primarily DWLS 3 cases, would save more than enough money to fund lawyers at arraignments and probation hearings. DWLS 3 cases constitute as much as one-third of misdemeanor court cases. In the first eight months of 2003, there were 28,221 DUI filings in courts of limited jurisdiction, 85,276 "other traffic" offense filings, and 92,314 "non-traffic" offense filings.

Seattle Municipal Court has a relicensing program, which has netted the city money in formerly unpaid traffic fines, while helping people to get back their licenses and avoid further DWLS tickets.

King County District Court has a diversion plan for DWLS 3, which was developed by defenders and prosecutors working with the court and county government. It has saved hundreds of thousands of dollars a year in defender costs, jail costs, and court costs, and helped people to get their licenses. In 2002, the King County District Court launched a full-service relicensing program for defendants charged with DWLS 3 and No Valid Operator's License. Instead of filing charges, the Prosecutor's Office invites individuals to appear in court. If people appear in court, a variety of options are made available to them.

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They can have their previous fines and violations mitigated by the judge and pay them in full; have a payment plan developed by service providers present in the courtroom; or agree to do work crew or community service, which pay \$150 per day or \$10 per hour, respectively, toward the violations. If the payment plan is chosen, holds on the individual's license are removed as soon as the first payment is made.

Although as many as half of the defendants who receive invitations fail to appear, the relicensing system also allows for walk-in participants. This is perhaps the most accurate indication of the program's success in the community. On one recent day, the walk-in courtroom for relicensing at the King County District Court in Burien was filled to capacity. The program has had to cap the number of walk-ins. Not only are people spreading the word that fines are significantly reduced, but also there is none of the intimidation and fear that can surround normal court appearances. The relicensing coordinator calmly and clearly explains the program, there are no prosecutors present, and once the judge takes the bench and begins to mitigate fines, it becomes clear that the program's goal is to make fines more manageable and get people relicensed.

Thousands of jail days are saved because fewer people are held for DWLS 3 violations, attorney hours are saved for the prosecutor and the public defender, the underlying problem of the DWLS violations is addressed, and hundreds of participants regain their driving privileges.

Another alternative would be to decriminalize some minor offenses, including DWLS 3 for people whose licenses are suspended only for failing to pay tickets. That part of DWLS is a relatively recent statutory change. The King County Regional Justice Summit, sponsored by law enforcement officials last October, included decriminalization as one of seven priority areas in which to develop solutions.

Conclusion

Counsel must be provided to eligible Washington defendants. If a case is important enough to prosecute, it is important enough to provide counsel and due process. Courts should not take pleas from unrepresented defendants without thorough inquiries into their waiver of their

right to counsel. Prosecutors should not discourage people from exercising their right to a lawyer, and they should not be negotiating pleas with unrepresented, shackled defendants. Local governments must meet their obligations to pay for counsel.

And defense lawyers, judges, and prosecutors must not look the other way from these practices, which sacrifice individual rights and basic fairness. ✍

Robert C. Boruchowitz is director of The Defender Association, past president of the Washington Defender Association,

and a 2003 Soros senior fellow. Ben Goldsmith, a third-year student at the University of Michigan School of Law, assisted with research for this article.

NOTES

¹ Colbert, et. al., *Do Lawyers Really Matter? The Empirical and Legal Case for the Right of Counsel at Bail*, 23 *Cardozo Law Review* 1719, 1782-1783 (2002).

² Wallace, *Remarks at Indigent Defense Symposium* (2002); <http://www.nlada.org/DMS/Documents/1046801534.62/Georgia%20Indigent%20Defense%20Symposium,%20Remarks%20of%20Scott%20Walla%85.pdf>.

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A Primer for Attorneys: The Rules and Regulations Applicable to Washington Court Reporters and the Transcripts They Produce

by Susan Colard

The integrity of transcripts is of vital importance in the practice of most attorneys, yet most attorneys are unfamiliar with the rules and regulations governing certified court reporters and transcripts. This brief article will help WSBA members enforce your "rights" in relation to court reporters and the transcripts they produce.

In Washington, the Department of Licensing (DOL) is responsible for the regulation of the Court Reporting Practice Act under Chapter 18.145 RCW. A person may not represent himself or herself as a "shorthand reporter," "court reporter," "certified shorthand reporter," or "certified court reporter," or use any title or description of services that incorporates one or more of those terms, unless he or she has first obtained a certificate. RCW 18.145.010. Certification requires proof of proficiency. RCW 18.145.080.

Court reporters are governed by three different sets of statutes. RCW 2.32.180 through .310 govern *court-appointed* court reporters. These reporters work exclusively for superior or district courts, and are exempt from regulation by DOL under RCW 18.145.040. In contrast, court reporters who perform freelance services in addition to court services or who contract with the courts are subject to DOL's jurisdiction.

Two separate statutes govern the conduct of court reporters subject to DOL's jurisdiction. Chapter 18.145 RCW specifically governs court reporters; the newly enacted Uniform Regulation of Business and Professions Act (Chapter 18.235 RCW, 2003) governs most professions regulated by DOL, including court reporters. See RCW 235.020(2)(a)(vi).

DOL is responsible for investigating complaints against most individual court

reporters and issuing disciplinary charges if the result of the investigation warrants disciplinary action.

Like attorneys, court reporters must adhere to professional conduct requirements, including prohibitions on dishonest behavior, false advertising, incompetence, and violation of any statute or rules regulating the profession. RCW 18.235.130. A court reporter also engages in unprofessional conduct by failing to meet promised delivery dates, failing to disclose conflicts, failing to preserve confidentiality of information, and failing to notify all involved parties when a transcript is ordered by a person not involved in the case before furnishing a transcript to that person. WAC 308-14-130.

Court reporters must include their certified court reporter reference number on all transcripts, business cards, and advertisements, and preserve transcribed notes for no less than three years and untranscribed notes for no less than 10 years. WAC 308-14-130. Court reporters may be sanctioned for unprofessional conduct. Possible sanctions include revocation of a certificate, probation or suspension, practice restrictions, and remedial training. RCW 18.235.110.

The attorney or client purchasing a transcript should be aware that transcripts are typically charged on a per-page basis. The certified court reporter must comply with the following format when preparing the transcript:

1. No fewer than 25 typed lines on a standard 8-1/2 x 11-inch paper.
 2. No fewer than 10 characters to the typed inch.
 3. No fewer than 60 characters per standard line.
- WAC 308-14-135.

The 25 typed lines include only the transcript contents, not headers or footers. The "standard line" described by part (3) above is a line that does not include a "Q" or "A," but can be determined by looking at a full line of text and counting from the first letter, including punctuation and spaces, to the last letter of that line. The standard line does not include the numbers on the left side of the page. All court reporters under DOL's jurisdiction are required to comply with these transcript guidelines. Purchasing a transcript that does not meet the minimum character-per-line, font, or line-per-page requirements could result in the purchaser's paying more for a transcript.

Unlicensed practice is a problem with all professions regulated by DOL, and the court-reporting profession is no different. Until 2003, DOL had no authority to bring actions against unlicensed court reporters. Since the January 1, 2003, effective date of the Uniform Regulation of Business and Professions Act, however, DOL has had the authority to issue cease-and-desist orders against unlicensed practitioners. DOL can also assess a fine of up to \$1,000 for each day of unlicensed practice. See RCW 18.235.150. In addition to complaints against licensed practitioners, DOL accepts and investigates complaints into unlicensed practice. If attorneys or clients have a question about whether a particular court reporter is licensed, they can verify the reporter's status online at <https://www2.wa.gov/dol/profquery/LicenseeSearch.asp>, or by calling 360-664-6633.

Modern technology and evolving industry practices are having an impact on transcript production. For example, many court reporters now work as sub-

contractors for firms that arrange for the jobs and produce the final standard transcript, as well as other versions of the transcript, including "mini-transcripts" and electronic transcripts. Court reporters working in these arrangements may have less control over the final product but are still responsible for the transcripts they certify.

DOI strives to provide the best possible service to members of the regulated community and to consumers affected by industry practices. To that end, DOI has formed a workgroup for the purpose of reviewing DOI's rules. One of the rules being considered for change is WAC 308-14-135, related to the preparation and formatting of transcripts. Although the workgroup has not formulated a final recommendation regarding this or any other rule, the goal of DOI is to provide strong protections for consumers, along with standards that are easy for court reporters to understand. Since any changes to the rules will have a direct impact on consumers of court-reporting services, DOI is interested in receiving any early input you may have into this process. Written comments may be directed to me at P.O. Box 9026, Olympia, WA 98507. DOI will publish notice of its

proposed rules, at which point members of the public will be able to actively participate in the process by providing testimony at public hearings or submitting written comments that will become part of the agency's rulemaking file. However, if we receive input from consumers or the industry before we reach this formal "notice and comment" stage, we will be in the

best position to draft the proposed rules. If you have questions about this process, or about court reporting in general, please contact the Court Reporters Program at 360-664-6633. ✍

Susan Colard is program manager at the Department of Licensing's Court Reporter Section in Olympia.

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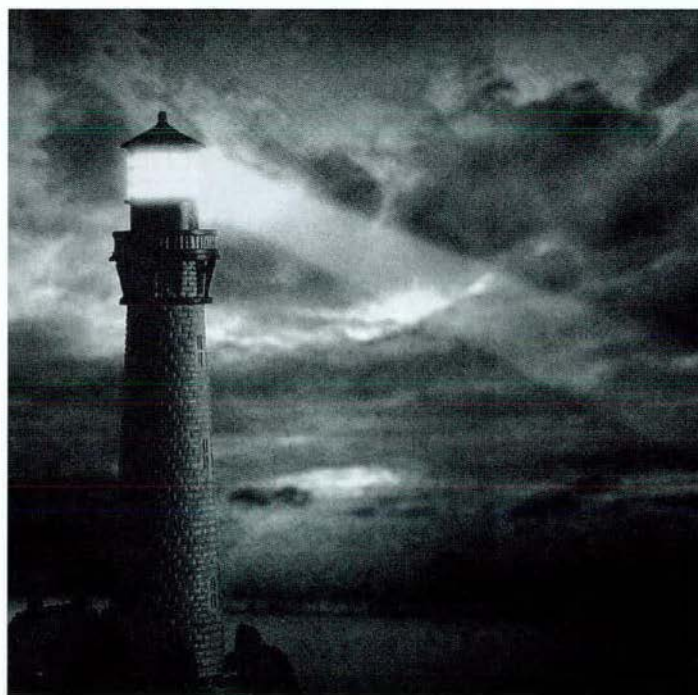
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This Wonderful World of Words

by Robert C. Cumbow



As Paul Shaffer sings on Letterman (stealing a march from the old Perry Como Show), “Letters, we get letters . . .” My last column (“Pet Peeves,” *Bar News*, September 2003, p. 35) generated a lot of letters—and even more e-mail—and boy, has it been a learning experience, a reaffirmation of how crazy and wonderful this world of words is.

In response to something I wrote about “the horns of a dilemma,” one reader advised me that the Greek “dilemma” is but one of a family of related words: *problemma* (one tough nut), di-

lemma (tough choice between two), *trilemma* (tough choice among three), and *polilemma* (tough choice among many). Who but the Greeks, with their great philosophers and their worry beads, would have so many precise classifications for problems?

Trying to alert readers that not every noun ending in *-er* or *-or* comes from a verb (a mentor doesn’t “ment,” so there is no such thing as a “mentee”), I went one example too far when I said, “a laser doesn’t lase.” Evidently it does. “Laser” is a coined word, and its inventor coined both the noun and verb form, which he had

every right to do. My apologies — and my thanks — to Raymond Takashi Swenson for the lesson.

My criticism of the term “identity theft” came in for a lot of criticism itself. A few people saw the dark humor in imagining what it would be like if we could truly have our identities stolen; but several wrote to defend the term, saying that the word “identity” in “identity theft” doesn’t describe what was stolen, but the means the thief used to steal it. I remain unpersuaded, but I have recently heard a term for this modern form of outrage that I prefer: “ID theft.” “ID” stands for “identification,” and that, not one’s “identity,” is what really gets “stolen” in these situations.

One reader argued through several e-mails that I was too hard on people who pronounce “lingerie” as if it were “lawnzheray.” (The French pronunciation is closer to “lanzheray.”) The upshot of the argument was that we’re American, not French, and our particular version of the English language is filled with words that came from other languages and are no longer pronounced the way they once were. I buy that, and I wouldn’t object if the accepted American pronunciation of the word were something like “lingeree,” with the first two syllables rhyming with “finger.” What really bothers me, I finally figured out, thanks to this stimulating e-mail dialogue, was not the mispronunciation, but that it was passed off not as an Anglicization but as the proper French pronunciation. The real French pronunciation of the word apparently didn’t sound French enough, so it had to have that “ay” sound transplanted onto it. I think department-store elevator operators did the foul deed. They’re a gone breed, but their revenge is still with us.

And they’re off and running . . .

My holding forth on the term “track record” evoked two kinds of responses. The first consisted of folks telling me that the phrase can actually mean either what I said it meant (the best performance in a particular event at a particular location) or what most people think it means (one individual’s past performance, good or bad). Some people sent me recent dictionary entries in support of this. Of course, dictionaries are good

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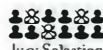
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reference resources, and some are better than others, but the vast majority of them are merely codifiers of popular usage. If people are using a word or phrase in a particular way, bang, into the dictionary that usage goes, right or wrong. The only dictionaries that are truly helpful are those that alert us to subtle—and sometimes profound—differences between the various meanings ascribed to a word or phrase, and let us decide for ourselves whether it is worthwhile to preserve an important meaning or distinction, or to adopt a popular new understanding or misunderstanding.

However, one reader provided a source showing that the term “track record” has been used — in the way I criticized — since at least the 1940s. That’s made me a little more tolerant of the popular usage. I’m still inclined to stick with the original meaning of “track record,” though, because I think we ought to preserve the distinction between a person’s “record” (history) of past performance and a true track “record” (achievement).

The second type of mail I received on this point took me to task for citing an incorrect answer to the question,

“What’s the track record at Emerald Downs for the four-and-a-half furlong?” On this point, I plead extenuating circumstances. It seems that a new track record was set between the time I wrote my column and the time it appeared in *Bar News*. Moreover, even the Emerald Downs website still had the incorrect information as of the publication of my last column.

Walking the line

Well, on the theory that I shouldn’t just recap correspondence provoked by my previous column, but ought to try to give you all something new to worry about, I’d like this time to say a little about balance and agreement. The heart of any kind of writing, and especially of legal writing, is well-balanced sentences — sentences that are easy to follow even when they are complex, because the writer understands the reader’s structural expectations.

With apologies to James J. Kilpatrick, I’m going to borrow his approach, provide you with examples of atrocious sentences, and then try to tell you why they’re atrocious. Here’s one from a recent piece of legal journalism (a genre that, by the way, is an excellent source of howlers): “The man was also ordered to pay \$5000 in restitution to Vivendi Universal, a \$2000 fine, and received three years of probation.”

Now you probably had no difficulty grasping the meaning of the sentence, and the information it sought to convey. But unless you are a very forgiving reader, that last phrase probably sounded like a pistol shot next to your ear. Why? Because your structural expectation was that the third item in the writer’s list would be, like the first two, an object of the verb “to pay.” Let’s go through it:

The sentence begins, “The man was also ordered to pay.” Pay what? you ask. The writer is going to tell you. The following phrase is “\$5000 in restitution to Vivendi Universal,” and if the sentence ended there, it would make perfect sense. But the writer instead gives you a comma, and provides a second element, “a \$2000 fine.” Now you’ve recognized the \$2000 fine as the second item on a list of items the man was “ordered to pay.” But

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now the gunshot goes off. You read “and,” and you’re all ready for a third item that the man was ordered to pay. Instead, you get the word “received.” Not only not a sum of money, like the \$5000 and the \$2000, but not even a noun! Suddenly there’s a verb to be dealt with, and your fevered brain has to go quickly back and discover the fact that there is a compound predicate here. You were ready for a sentence that would say, “The man was ordered to pay 1, 2, and 3,” but instead you get a sentence that means to say, “The man was ordered to pay 1 and 2, and received 3.” Where did the writer go wrong?

The heart of any kind of writing, and especially of legal writing, is well-balanced sentences — sentences that are easy to follow even when they are complex, because the writer understands the reader’s structural expectations.

The writer should have alerted you to the fact that the series of two items following the verb “to pay” is over, and that now a new verb—indicating an additional element of the court’s order—is about to follow. How should he have done that? By inserting the word “and” between the two payments. If there’d been an “and” there, you’d have known that the \$2000 was the end of the list of payments, and that the order also involved something else. The comma between the \$5000 phrase and the \$2000 phrase looks like a “serial comma”—so called because we use it to separate the elements in a series. But the important thing about the serial comma is to put the word “and” after the last one, so the reader knows that the next element ends the list.

Here’s what the writer should have

written: “The man was also ordered to pay \$5000 in restitution to Vivendi Universal and a \$2000 fine, and received three years of probation.” Still not a great sentence, but at least a grammatically correct one, and one that doesn’t make its reader take a sudden turn with no warning.

A better solution would be to recast the sentence to put the compound’s weight at the end: “The man received three years of probation, and was ordered to pay \$5000 in restitution to Vivendi Universal and a \$2000 fine.”

Running the gamut from G to L
 “The case had attracted much attention,” wrote Mike McKee in *The Recorder* this past April 25, “with *amici curiae* ranging from Attorney General Bill Lockyer and National Association of Consumer Advocates on the plaintiff’s side, and the American Association of Health Plans and the California Bankers Association among those on the defense side.” The phrase “ranging from” tells us we are being given a “range” of elements, and that range, like all ranges, is defined by its opposite extremes. Having read “ranging

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from.” we naturally expect to find the word “to” somewhere in the remainder of the sentence. In fact, it is our right. But this writer doesn’t give it to us. Instead, he connects the “plaintiff’s side” and the “defense side” with the word “and,” leaving us with the impression that he has, midsentence, completely forgotten that he was describing a range, and has begun instead to fill in a simple list.

So the “and” should have been a “to.” But that wouldn’t have been enough to save this disastrous sentence. Here we come to another of my pet peeves, the “fake range.” Too often, writers seek to

describe a “range” that doesn’t convey any real information to the reader. The sentence above tells us that the case’s *amici curiae* ranged from Mr. Lockyer and the NACA to the AAHP and the CBA. Have we actually learned anything about the range of *amici curiae* in the case? Does the range the writer has described include the ACLU? The AARP? The Academy of Motion Picture Arts and Sciences? Gerry Spence? We don’t know. The writer really hasn’t given us a sense of the “range” of the *amici curiae* at all; he’s simply listed who four of those *amici curiae* were.

The use of fake ranges in the form “everything from ___ to ___” reminds me of Dorothy Parker’s famous remark that a 1933 performance by Katherine Hepburn ran “the gamut of emotions from A to B.” That comment had meaning, because “A to Z” is a meaningful range—one that includes everything—and “A to B” is a range that includes a whole lot less. But the purported “range” from Mr. Lockyer and the NACA to the AAHP and the CBA defines no real discernible spectrum at all. All the writer wanted to do was to impress us with the diversity of the participating *amici curiae*. He should have said so by using a phrase such as “as varied as” instead of “ranging from.”

Digression: Note, by the way, that, in Mrs. Parker’s opinion, Hepburn’s acting ran the gamut from A to B — not the gauntlet. You often hear “ran the gauntlet from ___ to ___,” which is incorrect in two ways. First, as I’ve already noted, a range is a gamut. But secondly, when people speak correctly of something someone runs, they mean the gauntlet, not the gauntlet. Running the gauntlet was a form of punishment whereby the victim had to run between two rows of individuals, who struck him as he went past. So what’s a gauntlet, you ask? A gauntlet was a thick, armored glove, worn by knights in the Middle Ages. When a knight challenged another, he would remove one of his gloves and cast it to the ground in front of the adversary—hence the phrase “throw down the gauntlet.” So remember, you throw down the gauntlet, run the gauntlet, and run the gamut from A to whatever.

But we’re still not done with Mr. McKee’s sentence. Notice how he defines the first elements of his purported range as “on the plaintiff’s side,” but the second ones as “on the defense side.” There’s nothing grammatically wrong here, but a well-balanced sentence would have weighed “plaintiff’s” against “defendant’s,” not “defense.” Moreover, he has encumbered the second element with the extra baggage of “among those.” Let’s rewrite this sentence, using balance, agreement, and even a little economy:

“The case had attracted much attention, with *amici curiae* as diverse as Attorney General Bill Lockyer and National Association of Consumer Advocates for



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the plaintiff, and the American Association of Health Plans and the California Bankers Association for the defense." (By the way, what ever happened to the notion that *amici curiae* are friends of the court, rather than of the plaintiff or the defendant?')

A disagreeable disagreement

This is getting a bit long, but let's look at one more sentence. (After all, this has to hold us for another three months.) This one's not from the world of legal reportage, but it's typical of the kind of monstrosity you get when you try too hard to be politically correct: "If you are tasting wine with a professional, ask him or her to speak specifically about the flavors they perceive." (*The Seattle Times*, April 16, 2003.) Well, the "him or her" isn't grammatically incorrect, though it does make for clunky reading. Still, it's a well-intentioned effort to assure the reader that the writer knows that wine professionals can be either male or female, and certainly doesn't want to exclude anyone. Of course the well-intentioned effort is grounded not in a genuine desire not to offend but in an even more genuine desire to make the writer appear understanding and inoffensive. Thus it calls undue attention to something that any reader would have taken for granted.

But the real atrocity lies before us. Who is this "they" who perceives flavors in the sentence's concluding phrase? It certainly can't be the "professional," the "him," or the "her" we encountered earlier in the sentence, because all of those were singular, and "they" is most definitely plural. In his eagerness to impress the reader with his political correctness, the writer (or, to be charitable, perhaps his editor) ran slam into the problem of compounding the already cumbersome "him or her" with an even clunkier "he or she." But at least that would have agreed with the previous part of the sentence, even if it made for really annoying reading. Instead, we have the sudden appearance of a "they," which by definition refers to multiple persons, while we are in the company of only a single professional.

When all else fails, recast the sentence. There are always other ways to say it. How about this? "If you are tasting

wine with a professional, ask the taster to speak specifically about the wine's perceived flavors."

Agreement and balance are crucial in fulfilling the bargain that every writer implicitly makes with readers. Let's work on keeping them in mind when we write. ✍

Robert C. Cumbow is a shareholder with Graham & Dunn, Seattle, where he counsels clients in beverage, food, communications, entertainment, and other businesses on trademark, copyright, advertising, and

media law. He teaches at Seattle University Law School, has written widely on law, film, food, and language, and contributes this column quarterly to Bar News.

NOTE

¹ In her brilliant parody of judicial journalism, "Supreme Court Roundup," the late *New Yorker* writer Veronica Geng noted, "The Modern Language Association filed a brief of *amicus curiae* ('friendly curiosity')." Veronica Geng, *Love Trouble* (Houghton Mifflin, 1999). The editor tells me he always thought it meant "friends of Don Ameche."

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Voir Dire

by Greg Lawless

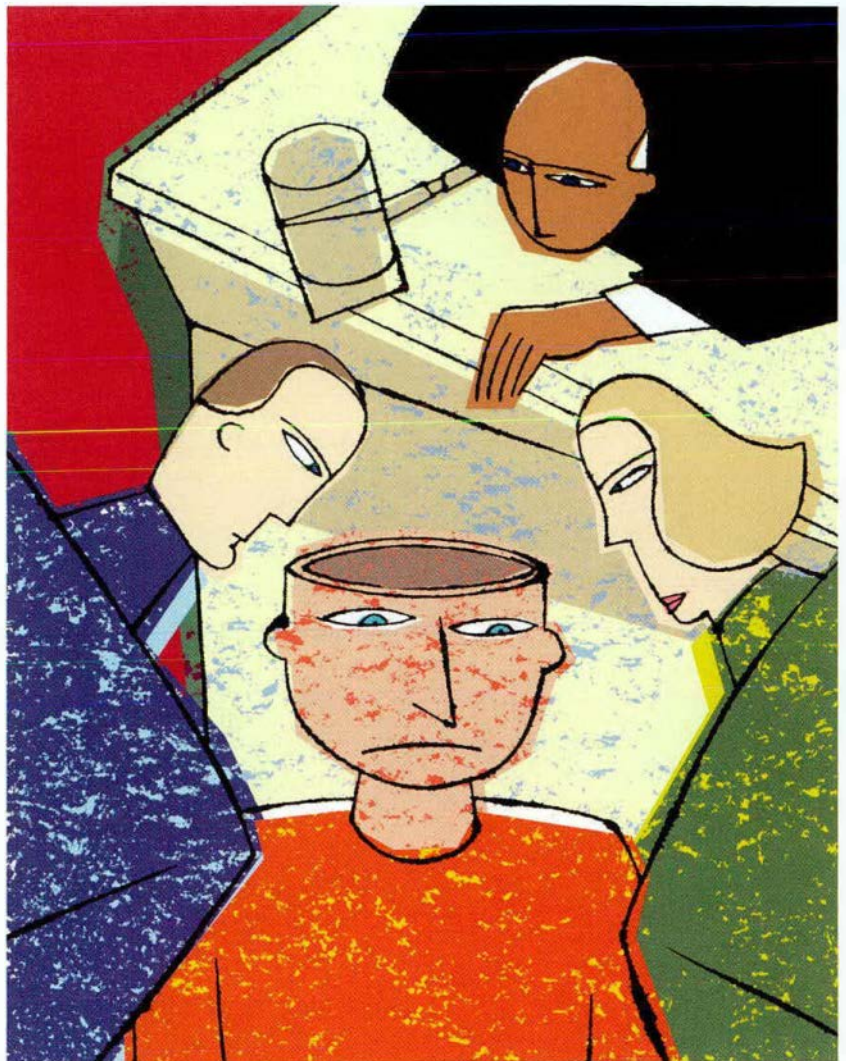
I was pleasantly surprised to receive the jury summons. Despite the assurance that selection is random, I felt the jury computer somehow sensed that I would make a fine juror. Pleased by the compliment, and knowing that I could decline because of my profession, I opened the envelope and was shocked to learn, *lawyers are no longer exempt!*

"There's something seriously wrong with our justice system," I complained to the wind, "when it requires lawyers to actually have to serve as jurors!"

Despite my well-justified outrage, it was clear: I had to do jury service.

I reported to the jury room and quickly learned that five other lawyers and a judge had been pressed into service. They were easy to spot: each one started the conversation with the clerk, "there's been a mistake here." After we had become acquainted, we wondered if our status as lawyers would be a hindrance to actually sitting on a jury.

We soon learned that "a hindrance" was an understatement. Impenetrable,



insurmountable tangle of poisoned barbed wire would have been a better description.

At first we made light of the number of times we were "recycled" back to the jury room, but as the week progressed the rejections started getting to us. It wouldn't be so bad if you didn't have to suffer through *voir dire* before being rejected, but it didn't work that way. Not only did you have to sit through *voir dire*, but the questions seemed virtually identical from one case to the next.

Start of the Rebellion

"John," a retired corporate lawyer, was the first one to snap. During John's fifth *voir dire* of the week, the prosecutor was, once again, asking John if he would fol-

low the laws of the State of Washington (they always ask you that, apparently worried that you might have brought your own set of laws and intended using those instead). John, the sorry victim of repeated rejection, unfortunately picked that question to lose it. It was the proverbial straw. The dialog went like this:

Prosecutor: "Now juror number 236, the judge will instruct you to follow the law of the State of Washington. Will you do that?"

John: "I'd rather not. I'd prefer to use the laws of Portugal."

Prosecutor (some what flustered): "Why is that?"

John: "I find the Portuguese understand them better."

Prosecutor: "Are you Portuguese?"

John: "No."

Prosecutor: "I see."

John was positively gleeful over the rejection that followed. "At least this time it wasn't because I'm a lawyer. It was because I am a jerk."

In our emotionally fragile states, John's point actually made perfect sense to us. We each took up the unspoken challenge, thus giving rise to some of the most unique *voir dire* sessions recorded in Seattle Municipal Court.

Intoxication

The majority of Seattle Municipal Court cases are DUIs. Expect to be asked about your drinking habits, your spouse's drinking habits, your friends' drinking habits, and your dog's drinking habits. "Bill" handled the issue masterfully:

Prosecutor: "Juror 244, do you occasionally have something to drink?"

Bill: "Yes sir, I do."

Prosecutor: "And how do you know when you've had enough to drink?"

Bill: "I see the pink monkeys."

Prosecutor: "Juror 244, when was the last time you were intoxicated?"

Bill: "May I ask a question?"

Prosecutor: "Yes."

Bill: "Are there pink monkeys in the jury box?"

Prosecutor: "No."

Bill: "The last time was today."

The Role of the Police

Another frequent theme in *voir dire* is the attempt by defense counsel to get jurors to agree they won't give more weight to a police officer's testimony than to a defendant's (a previously convicted felon addicted to heroin, manacled to his chair, and wearing a Western State Hospital sweatshirt with a bull's-eye and the words "Shoot to Kill" on it). "Amy" was frankly brilliant dealing with the situation:

Defense: "Juror 217, will you give more credibility to a police officer than to my client, the gentleman sitting next to me poking himself in the eye?"

Amy: "Of course not. Who do you think I am? Some kind of moron?"

Defense: "No, not at all. It's just that a lot of people might favor a police officer."

Amy: "And you thought I was one of those pinheads, didn't you? Officer, put

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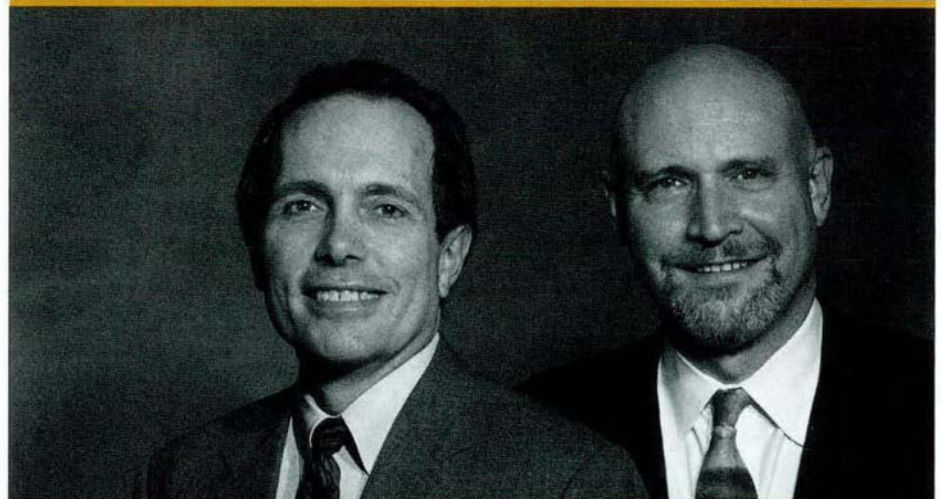
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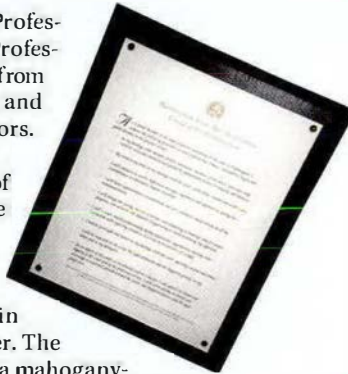
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The WSBA's aspirational Creed of Professionalism was developed by the Professionalism Committee with input from many members around the state, and approved by the Board of Governors.

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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.



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me in handcuffs before I hurt someone!"

Defense: "I'm not trying to insult you. It makes perfect sense to trust a police officer more. Everyone does, especially compared to someone like my client."

Amy: "I see your point. Maybe you're right. I *will* believe the police officer more."

Presumed Innocent

A *voir dire* can't go by without a dialog on how wonderful it is to be presumed innocent, and that it is harder to prove "beyond a reasonable doubt" than it is to get a teenager to stop saying "um." "Dan" expertly handled those inquiries:

Defense: "Juror 292, you're an attorney, aren't you?"

Dan: "I am a patent lawyer."

Defense: "Could you explain, then, what is meant by the presumption of innocence?"

Dan: "Patent lawyers don't really deal with criminal law very much."

Defense: "In your own words, then."

Dan: "OK. As I understand it, the defendant is guilty until proven innocent beyond a reasonable doubt."

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Defense: "You've got it backwards. They're innocent until proven guilty beyond a reasonable doubt."

Dan: "No way."

Defense: "That is the law."

Dan: "You wish."

Defense: "Judge, will you instruct the juror on the law?"

Court: "Counsel, jury instructions are given after the closing of the case, not during *voir dire*"

Dan: "See, I told you."

Do You Know Any of the Parties?

One of my favorite questions — always asked — was whether we had been influenced by pretrial publicity. For a misdemeanor? Someday, I hope, for the benefit of the poor judges who have to ask that question, a juror will acknowledge: "I've been following this driving-while-license-suspended case pretty closely on CNN and have some pretty strong opinions about it." It didn't happen during our *voir dire*, but "Andy" came close.

Court: "If anyone knows any of the parties, attorneys, or court personnel, please raise your hand. Juror number 204."

Andy: "Your Honor, we've never met, but for years now I have been stalking your bailiff."

Court: "That's disgusting, I don't know what to say. Do you feel this will affect your abilities as a juror?"

Andy: "No, I am actually looking forward to serving, especially if we are sequestered."

Conclusion

Sometimes it takes the bold actions of a few to pave the way for the many. We, the Muni Court 6, have done just that. We have set in motion the means for jury duty exemptions for lawyers not only to return, but to become mandatory. After the dust has settled, after the bar complaints have been adjudicated, after the contempt sanctions have been served, we know that our brothers and sisters in the bar will look at us and say just two words, "Garsh, thanks." ✍

Greg Lawless practices in Seattle's Ballard neighborhood and is a past Bar News contributor. He has changed the names above to protect both the guilty and the innocent. He has also let literary license run amuck.

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

Cowlitz County Report

by Our Local Correspondent

Heidi Heywood was featured in an article in *Washington Law & Politics* that addressed the issues facing attorneys in small towns.

Cowlitz County Prosecuting Attorney **Sue Baur** presented **Dustin Richardson** in a ceremony during which Hon. **James Warne** swore him in as a member of the Washington State Bar Association. Dustin solemnly declared that he would "abstain from all offensive personalities," causing fellow attorney **Alyssa Zacht** to wonder whether he would still be working at the prosecutor's office.

Gary Bashor is finalizing the CWBA website. Look for it up and running as of this printing. Gary is a total computer junkie. He has spent many an evening up to the wee hours of the morning (i.e., 3:00 a.m.) working on the page.

Ian Northrip just logged his 200,000th mile on his 1986 Subaru wagon. As he does filing motions, Ian is waiting to the very last minute before trading it in for a new model.

Craig McReary is in his seventh year

as Castle Rock municipal prosecutor. On the second Wednesday of each month starting at 7:00 p.m., the judge, counsel, and the clerk join in the back hall for brownies. It tends to sweeten up the proceedings. Craig has accrued many brownie points.

Information and any additional bad puns for the March issue must be received by January 15 at CWBAnews@hotmail.com.

The Judiciary

In November Governor **Gary Locke** announced the appointment of **Michael P. Price** to the Spokane County Superior Court bench, to succeed Judge **Richard Schroeder**, who retired December 31 after serving 13 years. Price commented, "It is a rare occasion indeed when all the right personal traits and ideals come together to produce a judicial officer as outstanding as Richard J. Schroeder." Price has more than 13 years of legal experience. He has focused on family law in his private practice, handling many complex dissolution proceedings. He has trial experience, as well as background as a mediator and arbitrator. Price has also worked as a commissioner *pro tem* in the Spokane County Superior Court since 1997. He currently serves as the president of the Spokane County Bar Association. "I'm deeply honored by the governor's appointment, and I look forward to serving the citizens of Spokane and Spokane County," Price said. Price received his bachelor's degree in music and his law degree from Gonzaga University. He was admitted to practice in 1990.

Oregon News

Mark Manulik, partner at Schwabe, Williamson & Wyatt P.C. and chair of the firm's real estate practice, was elected to a one-year term as treasurer of the American College of Mortgage Attorneys (ACMA) board of regents at its annual meeting October 23-25 in White Sulphur Springs, West Virginia.

ACMA is an organization of approximately 500 lawyers nationwide, representing institutional real estate-mortgage lenders. Members have distinguished themselves in the practice of

mortgage-lending law and related fields.

Manulik represents a broad range of real estate development companies, investors and mortgage lenders in complicated commercial real estate transactions. He is a member of the Real Estate, Probate and Trust Law sections of the Oregon and Washington state bar associations, the Oregon Mortgage Bankers Association, and the International Council of Shopping Centers.

Portland's Landye Bennett Blumstein LLP is pleased to welcome **Kyle Sciuchetti** and **J.D. Williams** as associates with the law firm.

Sciuchetti, a former prosecutor, will focus his practice on civil litigation and corporate, administrative, and employment law. He is a 1992 graduate of the University of Washington with double degrees in political science and psychology. In 1996, he received his J.D. from the Northwestern School of Law of Lewis and Clark College. He is a member of the Oregon State Bar, Washington State Bar Association, and American Bar Association.

Williams will work on energy law: Indian corporate, business, and commercial formations and transactions; federal Indian law, including gaming and housing; and tribal law and policy. Previously, he was the managing attorney for the Umatilla Tribes of Oregon. Williams graduated from American University in 1985 and obtained his law degree from the Northwestern School of Law of Lewis and Clark College in 1994. In between, he served in the Peace Corps as an agricultural extension agent. His affiliations include the Energy Bar Association, the Oregon State Bar, the Washington State Bar Association, the American Bar Association, and the Northwest Indian Bar Association.

South King County Bar Association Report

by Tom Campbell

Meetings for the South King County Bar Association have become more fun than chasing the greased pig around the barnyard. I know that most folks think that all the lawyers around the south end of the county don't know how to practice law in the big city, but some south-end

lawyers just can't help themselves. At our most recent meeting, we were graced with the presence of Justice **Bobbe Bridge**. She told us about her early years and the inspiration that she received from former Justice **Charles Z. Smith**. The meeting occurred at the Regional Justice Center during the induction ceremonies for new Bar admittees.

New admittees were invited to join our association free of charge in their first year. The first taker was **Eric Eisinger**. He was immediately introduced to Justice Bridge, a handful of District and Superior Court judges, and **Phil Dunlap** (who just had to have his name in print). **Jean Bouffard** stopped in to join the festivities, and **John Greaney** came along as well.

I am short of hard news this month. Members of the South King County Bar are welcome to contact me with news about new locations and firm happenings.

Washington Defense Trial Lawyers

One-hundred-thirty judges and defense and plaintiff attorneys gathered mid-October in Seattle for the annual WDTL Judges Reception.

Awards were given for Outstanding Defense Attorney and Outstanding Plaintiff Attorney. WDTL gives these awards each year to encourage civility and professionalism on both sides of the bar. The Outstanding Defense Trial Lawyer was given to **Edward S. Winskill** of Davies Pearson, P.C. in Tacoma. A Tacoma native, Winskill clerked for Judge **Vernon Pearson** in the Court of Appeals. In 1974 he joined Davies Pearson. He has been president of the Puget Sound Inn of Court and a member of the Board of Directors of Tacoma Actors Guild and Jesse Dyslin Boys Ranch. He has served as a trustee of the Washington Defense Trial Lawyers and the Pierce County Bar Association.

The 2003 Outstanding Plaintiff Trial Lawyer is **Patrick H. LePley** of LePley & Koehler, Bellevue. LePley has been a plaintiffs' lawyer since 1975 and is a past or present member of the Washington State Bar Association, the Association of Trial Lawyers of America, the Washington State Bar Association's Task Force on

Governance, the American College of Barristers, and the National Board of Trial Advocacy. He is a past president of the Washington State Trial Lawyers Association and was awarded the WSTLA Trial Lawyer of the Year Award in 2002. The Washington Defense Trial Lawyers is a statewide organization of 750 trial lawyers who concentrate their work in civil litigation defense.

In Memoriam

Remembering our colleagues and friends

Robert Blair

Former legislator

Robert E. Blair took his law degree from Harvard and practiced municipal bond law. He joined the Washington State Bar Association in 1940. Blair also represented Spokane County in the Washington House of Representatives in the 1949-51 session. Survivors include a daughter, son-in-law, three grandchildren, and four great-grandchildren.

Robert Earnshaw Blair died in Spokane, September 16, 2003, aged 92.

Adam Dublin

Illness never cooled his enthusiasm for life

Adam Dublin was 17 when he was told he had a rare heart condition. He crammed a lot of life into the next 12 years, earning a history degree from Whitman College and law degree from UW, passing the bar exam in 2002, marrying Lisa Walden, seeing his daughter Clara born, and enduring two heart transplants. He spoke at schools about his illness and urged people to become organ donors, coached a Little League team, and delivered fresh flowers to his wife's desk every Monday.

His wife and daughter survive him, as do his grandfather, parents, sister, and a large extended family.

Adam Jacob Dublin, of Bothell, died October 24, 2003, aged 29.

William Goss

Longtime Spokane attorney

Bill Goss graduated from the University of Idaho before taking his law degree from UW, with honors, in 1967. He practiced first with Randall & Danskin, and

later with Turner Stoeve Gagliardi & Goss, where he practiced until he retired in 1992.

Survivors include his wife, two children, his mother, and two brothers.

William Winston Goss Jr. was born in 1942 and died October 18, 2003, aged 61.

William lunker

Retired Spokane lawyer

William lunker graduated from Gonzaga Law School and was admitted to practice in September 1949. He practiced in Spokane for 37 years, until his retirement nine years ago. lunker and his wife of 57 years, Beverly, lived in Sun City, Arizona. Survivors include a son and two granddaughters.

William Berry lunker died September 27, 2003, aged 79.

Timothy Kelley

Former JAG and corporate attorney

(This notice first appeared in the October 2003 Illinois State Bar Association News.)

Formerly of Peoria, Illinois, Timothy Kelley was general counsel for Nichols Brothers Boat Builders on Whidbey Island.

A graduate of the Georgetown University Law Center who was a lieutenant in the Navy Judge Advocate General Corps, Mr. Kelley practiced with law firms in San Diego and Salt Lake City. He was admitted in Washington in March 2002.

Timothy David Kelley died in Free-land, July 31, 2003, aged 54.

Hon. John J. Ripple

Spokane judge

Jack Ripple was ready to start law school at the University of Minnesota when World War II broke out. His plans went on hold for four years. After serving as a naval officer, he moved to Spokane — where his parents had moved during the war — and graduated from Gonzaga School of Law in 1950. He was appointed a judge by Governor Dixie Lee Ray in 1979 and retired in 1990. In a 1989 interview he recalled a 1984 death penalty case where the defendant was accused of killing a police detective, as his hard-

Disciplinary Notices

est. Lonnie Link, once convicted, was sentenced to life in prison by the jury, confirming what Ripple said was his "faith in just ordinary jurors." Judge Richard Schroeder, who was a student of Ripple's at Gonzaga Law School in 1961 and retired at the end of December, remembers Ripple as "a very kind and considerate person, both individually and as a judge. It was always a pleasure to try a case in front of him." Survivors include his wife, six children, and nine grandchildren.

John Joseph Ripple was born in Eveleth, Minnesota, and died October 16, 2003, in Spokane, aged 83.

Christine Shannon

Lawyer, educator, businessperson, and women's health advocate

The eldest of five children, Christine Shannon was a junior-high teacher on Mercer Island before tackling careers as a college administrator, lawyer, and business executive with Intercontinental Insurance Services in Seattle. She held a B.A., M.Ed., and J.D. from the University of Washington, and did additional study at Cambridge and Harvard Universities.

Survivors include her husband, parents, and three sisters.

Christine Marie Shannon was born in Ames, Iowa, February 22, 1948, and died October 13, 2003, aged 55.

Sylvia Thomas

Reno attorney

A 1998 Gonzaga law graduate and Thomas More Scholar, Sylvia Thomas is survived by her parents, a son, and two sisters.

Sylvia Thomas died in Reno, Nevada, September 21, 2003, aged 42.

Bar News has also been advised of the death of the following member:

Michael C. Arola of Eugene, Oregon, admitted May 17, 2002; died August 15, 2003.

Obituaries and remembrances of WSBA members are welcome. Please forward to the editor at the WSBA office or by e-mail at tradelaw@thompson-law.com.

These notices of imposition of disciplinary sanctions and actions are published pursuant to Rule 3.5(d) of the Washington State Supreme Court Rules for Enforcement of Lawyer Conduct, and pursuant to the February 18, 1995, policy statement of the WSBA Board of Governors.

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

Disbarred

Rolfy DeDamm (WSBA No. 20476, admitted 1991), of Snohomish, resigned from membership in the Washington State Bar Association in lieu of disbarment, effective March 31, 2003. This discipline was based on his conduct in 1998 involving failure to adequately supervise nonlawyer assistants in an insurance-fraud matter.

In 1998, Mr. DeDamm was the managing partner of a law firm. During 1998, the firm's nonlawyer office manager and two clients staged a burglary of one of the client's homes and submitted a false insurance claim. The office manager filed the fraudulent insurance claim on behalf of the firm. Mr. DeDamm learned of the fraudulent claim and told the client that the firm would no longer represent him. However, to protect the client's interests, Mr. DeDamm told the insurance company that the client had terminated the firm's services. The client later settled the claim and the funds were de-

posited into the firm's trust account. Mr. DeDamm signed a trust-account check disbursing \$5,220 of the settlement funds to himself for attorney's fees in an unrelated matter. In 2003, Mr. DeDamm paid restitution of this amount to the insurance company.

Mr. DeDamm's conduct violated RPC 5.3(b), requiring lawyers to supervise nonlawyer assistants; and RPC 8.4(d), prohibiting conduct prejudicial to the administration of justice.

Sachia Stonefeld Powell represented the Bar Association. Robert Chadwell represented Mr. DeDamm.

Disbarred

Robert Alan Wright (WSBA No. 19180, admitted 1989), of Tacoma, was disbarred, following a hearing, by order of the Supreme Court, effective March 26, 2003. This discipline was based on his conduct from 1998 through 2001, involving false statements to the tribunal, his client, and others; dismissing a lawsuit without the clients' consent; and lack of diligence in three client matters. (*Mr. Wright is to be distinguished from Robert A. Wright of Lakewood.*)

Matter 1: In 1998, Mr. Wright agreed to represent Mr. and Mrs. C in a lawsuit claiming the seller failed to disclose defects in the home they purchased. The case was scheduled for arbitration in January 2000. All of the parties and opposing counsel appeared for the arbitration, but Mr. Wright did not. He knew about the arbitration, but did not appear,

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because he was intoxicated. Mr. Wright told his client, the arbitrator, and his receptionist that he could not attend because his brother, a firefighter, had died in a fire. Mr. Wright had a separate trial set to begin the next day also. He told his receptionist he could not attend the trial either, because he was traveling to be with his sister-in-law due to his brother's death. Mr. Wright's law partner appeared in the second trial and obtained a continuance. On January 20, a firm associate learned that Mr. Wright's statements were not true. Mr. Wright eventually admitted the misrepresentations to his law partner, but stated he would not disclose them to the court until after the cases had settled. In February 2000, Mr. Wright admitted to the court his misrepresentation in the second matter. Mr. Wright agreed to a stipulation dismissing the Cs' lawsuit, without their authorization.

Matter 2: In September 2000, Mr. Wright decided to stop practicing law as soon as possible. In October 2000, he agreed to represent the parents in a claim in their daughter's estate. The parents believed they had an ownership claim in a modular home on the daughter's property. Mr. Wright filed a notice of appearance, but took no other action on the clients' case. Opposing counsel sent Mr. Wright letters about this issue, but he did not respond. In late December, the clients learned that Mr. Wright was leaving the practice of law, asked for their financial records, and learned that they had been lost. The personal representative mailed the rejection of the parents' claim to Mr. Wright, but he did not forward it to the clients. The firm refunded the clients' advance fee deposit.

Mr. Wright's conduct violated RPCs 1.2(a), requiring lawyers to abide by the client's decisions concerning the objectives of the representation; 1.3, requiring lawyers to diligently represent their clients; 1.4, requiring lawyers to keep their clients reasonably informed of the status of their matters; 3.3, prohibiting lawyers from making false statements of fact to the tribunal; 4.1, prohibiting knowingly making false statements of fact to

third parties; and 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation.

Anthony Butler represented the Bar Association. Mr. Wright represented himself. The hearing officer was Steven Hale.

Suspended

Douglas S. Snyder (WSBA No. 23762, admitted 1994), of Portland, Oregon, was suspended for one year, based on a suspension order from the Oregon Supreme Court. The Washington Supreme Court's order of reciprocal discipline was effective January 27, 2003. This discipline was based on his lack of diligence in a client matter and failure to cooperate with the disciplinary investigation in 2000.

Mr. Snyder represented the husband in a marriage-dissolution action. In February 2000, the parties reached an agreement during a court hearing and the judge ordered Mr. Snyder to prepare the agreed final pleadings. Mr. Snyder did not prepare the pleadings. In October 2000, the court notified Mr. Snyder that the dissolution would be dismissed if no further action was taken. Mr. Snyder failed to take action and the case was dismissed. Mr. Snyder failed to cooperate with the Oregon disciplinary investigation of this matter.

Mr. Snyder's conduct violated DR 1-102(a)(4), prohibiting conduct prejudicial to the administration of justice; DR 6-101(A), requiring lawyers to provide competent representation to a client; DR 6-101(B), prohibiting lawyers from neglecting legal matters entrusted to them; and DR 1-103(C), requiring a lawyer who is the subject of a disciplinary investigation to respond fully and truthfully to inquiries from, and comply with reasonable requests of, a tribunal or other authority empowered to investigate or act upon the conduct of lawyers, subject only to the exercise of any applicable right or privilege.

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

2004 Notice of Board of Governors Election

Deadline: March 1, 2004

Four positions on the WSBA Board of Governors will be up for election this year. These are the governors representing the 2nd, 4th, 7th-Central*, and 9th Congressional Districts. These positions are currently held by Jon E. Ostlund (2nd District), Robert M. Boggs (4th District), Carl J. Carlson (7th-Central District), and Bryce H. Dille (9th District).

The WSBA bylaws provide that any member in good standing, except a member previously elected to the Board of Governors, may be nominated for the office of governor from the congressional district (or geographical region within the 7th Congressional District*) in which such member is entitled to vote. Nominations are made by filing a statement of interest and a biographical statement of no more than 100 words.

Generally, members are entitled to vote in the congressional district in which the member resides. All active out-of-state WSBA members are eligible to vote in the district of the address of their agent within Washington for the purpose of receiving service of process as required by APR 5(e), or, if specifically designated to the executive director, within the district of their primary Washington practice.

Nomination forms are available from the Office of the Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; 206-727-8244; and the WSBA website at www.wsba.org/info/bog. The WSBA executive director must receive nomination forms by 5 p.m. March 1, 2004. The Board of Governors determines the official dates of the election. Ballots are mailed April 15 and counted approximately May 15.

Note: The biographical statements of nominated candidates will be published in the April issue of *Bar News*.

*The 7th Congressional District is divided into three subdistricts, East, Central, and West. These subdistricts are distinguished by zip codes, and each has one elected governor. For the coming year: the central subdistrict (zip codes 98101, 98102, 98103, 98104, 98108, 98109, 98112, 98134, and 98168) will elect a new governor.

Call for Applications for One of Two Board of Governors At-Large Seats

Deadline: March 1, 2004

To increase member representation on the Board of Governors, the WSBA bylaws provide for two at-large seats. The full text of the bylaws can be reviewed at www.wsba.org/bylaws. One of those seats is up for election to a three-year term commencing at the close of the annual meeting in September 2004.

Persons interested in filling an at-large position should submit a letter of application. The deadline for receipt of applications at the WSBA office is March 1, 2004. The Board of Governors will elect the at-large governor at their meeting on June 11, 2004. The application should include a statement addressing how the applicant believes he or she meets the intent specified in Article III, Section M. There is no intent that these seats are dedicated to or rotationally filled

by any one element of diversity or group of members.

(Excerpt from the WSBA Amended Bylaws, Article III, Section M)

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

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

Members interested in the at-large positions on the Board of Governors should submit a letter of application and résumé to the Office of the Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; oed@wsba.org.

Bench-Bar-Press Committee of Washington

Application Deadline: February 6, 2004

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a three-year term on the Bench-Bar-Press Committee of Washington (two positions). A written expression of interest and a résumé are also required for any incumbent seeking reappointment. The three-year terms will commence in February 2004.

The Bench-Bar-Press Committee was formed in 1963 to foster better understanding and working relationships among judges, lawyers, and journalists. Its mission is to seek to accommodate, as much as possible, the tension between the constitutional values of free press and fair trial through educational events and relationship building. The

committee is chaired by the Chief Justice of the Washington State Supreme Court and includes representatives from the legal profession, judiciary, law enforcement, and news media. The committee meets as a whole once or twice each year. Subcommittees of volunteers are organized on an ad hoc basis to plan and execute events. Further information about the committee can be found at www.wsba.org/media/benchbar.

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

MCLE Certification for Group 3 (2001-2003)

Due February 2, 2004

Active WSBA members in MCLE Reporting Group 3 (2001-2003) should have received Continuing Legal Education Certification (C2) forms in the license packets that were mailed to them in December. The deadline for returning the C2 forms to the WSBA is February 2, 2004. Members in Group 3 include those who were admitted to the WSBA in 1984 through 1990, or in 1993, 1996, or 1999. Members admitted in 2002 are also in Group 3 but will not be due to report until 2006.

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

If you are a Group 3 member, the following should have been completed by December 31, 2003, to meet the MCLE credit requirements for 2001-2003:

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

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

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

To make reporting easy, all courses listed in your online roster at <http://pro.wsba.org> as of November 1 were pre-printed on the back of your C2 form. You must list any additional WSBA-approved courses you have taken. (Course pre-approval for WSBA continuing legal education certification is an APR 11 regulation.) Ensure that you include the WSBA activity ID number for each course you list. In addition, be sure that you write the date(s) you lis-

tened to/viewed audio/visual courses on the C2 form.

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

YMCA Mock Trial Program Seeks Volunteers

The YMCA Youth & Government Mock Trial program allows high school students to participate in a "true-to-life" courtroom drama. Each team of attorneys and witnesses prepares the case for trial before a real judge in an actual courtroom. A "jury" of attorneys rates teams for their presentation, while the presiding judge rules on the motions, objections, and, ultimately, the merits. Participants develop critical-thinking and analytical skills, learn the art of oral advocacy, and gain respect for the role of law and the judiciary.

The state championship competitions will be held Friday, March 26, through Sunday, March 28, 2004, at the Thurston County Courthouse in Olympia. Volunteer attorney raters and judges are needed. To volunteer, please contact Kelley Flynn at 360-357-3475 or wamocktrial@earthlink.net. Please visit www.youthandgovernment.org for more details.

New Year Brings New Releases from WSBA-CLE Publications

The *Washington Legal Ethics Deskbook* and the *Washington Community Property Deskbook, Third Edition* will be available for purchase in January.

The *Washington Legal Ethics Deskbook* is the newest addition to the WSBA-CLE deskbook library and offers authoritative advice direct from the WSBA Rules of Professional Conduct Committee, including the former chief disciplinary counsel for the WSBA. Edited by Gail McMonagle, Professional Standards Counsel, Perkins Coie LLP, it's the essential guide for every lawyer practicing in Washington on responsibilities to clients, colleagues, and the courts. Also written by Washington authorities, the *Washington Community Property Deskbook* is a completely revised third edition of WSBA-CLE's best-selling title. Community property law has a pervasive influence on the day-to-day general practice of law. Make this one-volume, comprehensive treatise your complete reference on community property matters. More content and ordering information on both titles can be found at the WSBA online store (<http://store.yahoo.com/wsbastore>), by e-mailing questions@wsba.org, or by calling 800-945-WSBA or 206-727-8278.

National Legal Aid & Defender Association Thanks Conference Sponsors

The National Legal Aid & Defender Association gratefully acknowledges the following sponsors of its 2003 Annual

Conference in Seattle, who, through their generosity and commitment to justice for all, made the conference possible: GBS Realty; Lane Powell Spears Lubersky LLP; Orrick Herrington & Sutcliffe LLP; Preston Gates & Ellis LLP; Riddell Williams P.S.; Williams, Kastner & Gibbs PLLC; Carney Badley Spellman, P.S.; Davis Wright Tremaine LLP; Delay, Curran, Thompson, Pontarolo & Walker, P.S.; Helsell Fetterman LLP; Karr Tuttle Campbell; King County Bar Association; Luvera, Barnett, Brindley, Beninger & Cunningham; McKay Chadwell PLLC; Pierce County Washington Women Lawyers; Robin A. Schachter; Short Cressman & Burgess PLLC; Starbucks Coffee Company; Stritmatter Kessler Whelan Withey Coluccio; and Washington Defender Association.

2004 Licensing Packets

Licensing packets were mailed in early December. The packet includes your license-fee invoice, trust-account declaration form, and, if applicable, MCLE certification form. If you have not received your licensing packet by the first week in January, please call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions @wsba.org, to request a duplicate. Please note that it is your responsibility to pay your annual license fee, regardless of whether you receive the licensing packet.

Fees. We encourage you to pay your mandatory fees promptly to avoid penalties. A 20 percent late-payment penalty is imposed if the annual license fee remains unpaid on March 2, 2004. After April 2, 2004, a 50 percent late-payment penalty is imposed. If your license fee, penalty assessment, or Lawyers' Fund for Client Protection (LFCP) assessment (required by APR 15) remains unpaid after May 2004, the delinquency will be certified to the Supreme Court, which will enter an order of suspension from the practice of law. In order to be reinstated to your former status after suspension for nonpayment, you must pay *double* the amount of the combined fee and penalty (*triple* the original fee). For active members, nonpayment of the \$13 LFCP assessment is also cause for suspension.

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

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

More Information. For more information, please visit www.wsba.org/licensing, or contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or questions@wsba.org. Representatives are available Monday through Friday, 8 a.m. to 5 p.m.

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

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

A hearing on Huddleston's petition will be conducted before the Character and Fitness Committee on January 10, 2004. Not later than January 5, 2004, anyone wishing to do so may file with the Character and Fitness Committee a written statement for or against reinstatement, setting forth factual matters showing that the petitioner does or does not meet the requirements of Admission to Practice Rule (APR) 21.5(a). Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard orally by the Character and Fitness Committee.

Communications to the Character and Fitness Committee should be sent to Robert D. Welden, General Counsel, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330. This notice is published pursuant to APR 21.4(a).

Notice of Hearing on Petition for Reinstatement of Walter V. Waltz, WSBA No. 18787

A petition for reinstatement after disbarment has been filed on behalf of **Walter V. Waltz**, who was disbarred on April 3, 1998. At the time of his disbarment, Waltz practiced in Spokane County, Washington.

A hearing on Waltz's petition will be conducted before the Character and Fitness Committee on January 31, 2004. Not later than January 26, 2004, anyone wishing to do so may file with the Character and Fitness Committee a written statement for or against reinstatement, setting forth factual matters showing that the petitioner does or does not meet the requirements of Admission to Practice Rule 21.5(a). Except by its leave, no person other than the petitioner or petitioner's counsel shall be heard orally by the Character and Fitness Committee.

Communications to the Character and Fitness Committee should be sent to Robert D. Welden, General Counsel, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330. This notice is published pursuant to APR 21.4(a).

Emeritus Status for Lawyers

Are you paying for your active WSBA license but not practicing much these days? Are you thinking about changing your status to inactive for a reduced licensing fee? Consider the WSBA emeritus status. Emeritus is a limited license to practice with the same low licensing fee as inactive *without* the mandatory MCLE requirements. For more information please contact Sharlene Steele, WSBA access to justice liaison, at 206-727-8262 or sharlene@wsba.org.

New Child-Advocacy Information Resources

The Child Advocacy Clinic of the University of Washington School of Law announces the launch of two websites: Child Advocacy Central (www.childadcentral.org) and Fos-

ter Youth Central (www.fycentral.org). The goal of these web-based resources is to provide legal information about the child-welfare system and to make community resources available to people who need them most. For more information, contact Sean R. Murphy, marketing and web project coordinator, at srmurphy@u.washington.edu or 206-543-3434.

Keep in Touch

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

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

The WSBA's Lawyer-to-Lawyer Program matches newer admittees with experienced lawyers. The program is not a structured mentoring program and does not supplant any similar programs of local or specialty bars. We connect lawyers with similar practices in the same geographic area for mutual information-sharing and goodwill. We need experienced attorneys to serve as informal mentors, especially in King County. Help new lawyers get a head start on learning those lawyering skills not found in any textbook. Interested members may contact Pete Roberts (206-727-8237; peter@wsba.org) or Allison Durazzi (206-733-5914; allisond@wsba.org) in the Law Office Management Assistance Program. Program guidelines and sign-up forms are on the WSBA website at www.wsba.org/lawyers/services/lawyertolawyer.htm.

Upcoming Board of Governors Meetings

January 7-8 — Olympia (*Please note: The public session on January 7, from 3-5 p.m. has recently been added.*)
February 27-28 — Seattle
April 2-3 — Seattle

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

Ethics 2003 Committee Meetings

The WSBA Committee for the Evaluation of the Rules of Professional Conduct (Ethics 2003 Committee) was convened to review the revised ABA Model Rules of Professional Conduct; undertake a comprehensive study and evaluation of the ABA "Ethics 2000" revisions; consider the suitability of adopting the ABA revisions and commentary

in Washington; and consider other appropriate changes to Washington's Rules of Professional Conduct. Ethics 2003 Committee meetings are open to the public, and interested WSBA members are encouraged to attend and/or provide input about the committee's work. Information about the committee is on the WSBA website at www.wsba.org/lawyers/groups/ethics2003. Please direct questions or comments to Committee Reporter Douglas Ende at 206-733-5917 or ethics2003committee@wsba.org.

Upcoming Ethics 2003 Committee meetings:

January 14 — WSBA office
February 11 — WSBA office
March 10 — Seattle

Third-Party Liability Information

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

Establishment of New Armed Forces Section Awaiting Board of Governors Approval

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

Consumer-Information Pamphlets Available

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

For a complete list of pamphlets and pricing information, contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or go to www.wsba.org/con

sumer-information.

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

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in December 2003 was 1.053 percent. The maximum allowable interest rate for January is therefore 12 percent. Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills and past maximum interest rates for June 1988-June 1999 appear on page 53 of the June 1999 *Bar News*. Information from January 1987 to date is on the WSBA website at www.wsba.org/media/publications/barnews/usury.htm.

The WSBA Store Is Open

The WSBA online store is open. Go to www.wsba.org and click "WSBA Store" in the left navigation bar. Purchase Cutter & Buck polo shirts, twill baseball caps, ballpoint pens, and brass luggage tags emblazoned with the WSBA logo. The store features secure online credit-card ordering. You may also purchase logo merchandise by calling the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

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

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

Learn More about Case-Management Software

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

Website Links from Lawyer Directory

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

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

Law Week 2004

Law Week is an exciting opportunity for lawyers and judges to bring public legal education into the classroom. Each year, Law Week provides an enriching experience to youth through positive interactions with lawyers and judges. Law

Week 2004 will take place the week of April 26. To learn more about the program or to participate, visit www.lawweek.org or contact Lisa Harper at 206-733-5944 or lisak@wsba.org.

Fundraiser Established for Bremerton Attorney Fighting for His Life

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

Legal Foundation of Washington 18th Annual Goldmark Awards Luncheon

Friday, February 20, 2004

Noon to 1:30 p.m.

Red Lion Hotel, 1415 Fifth Ave., Seattle

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

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

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

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

___ NO, I cannot attend the luncheon, but I would like to support the luncheon with a donation of \$_____

Name(s): _____

Indicate if vegetarian meal preferred.

Show your support for access to justice by purchasing an individual ticket to the luncheon or accepting one of the other donation opportunities. Please clip out and return this coupon with your check payable to:

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

For more information, visit www.legalfoundation.org.

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

**DANIELSON HARRIGAN
LEYH & TOLLEFSON, LLP**

are pleased to announce that

Randall T. Thomsen

has become a partner in the firm

and

**Barbara A. Mahoney
Philip J. Havers and
Lisa M. Hasselman**

have joined the firm as associates.

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Seattle, Washington 98104
Telephone: 206-623-1700
Fax: 206-623-8717

**EDWARDS, SIEH, SMITH
& GOODFRIEND, PS**

is pleased to announce that

Carl T. Edwards

has become a member of the firm

and that

Devin T. Theriot-Orr

and

Valerie A. Villacin

have become associates.

Mr. Theriot-Orr will assist Mr. Goodfriend and Ms. Smith in complex civil appeals. Ms. Villacin will assist Ms. Smith and Mr. Edwards in complex domestic appellate and trial matters.

www.washingtonappeals.com

The law firm of

**BENNETT BIGELOW
& LEEDOM, PS**

is pleased to announce that

Linda Coleman

and

Roger Jansson

have joined the firm as associates.

Ms. Coleman graduated from Seattle University School of Law in 2001. Her practice focuses on health care law, including health care litigation, regulatory and reimbursement, and employment matters. Linda is also President and Founding Director of Education Access Network.

Mr. Jansson is a 2003 graduate of the University of Washington Law School. He has experience in community mental health, public health, and health policy analysis. Roger's practice focuses on regulatory and reimbursement issues and health care law.

BENNETT BIGELOW & LEEDOM, PS

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Announcing the formation of
HALLISKY LAW GROUP, PLLC

Former Christensen O'Connor
Johnson Kindness PLLC attorneys,

Seann W. Hallisky and Kristina Tung Kitts
have teamed up to form Hallisky Law Group, PLLC.

HLG provides a full range of legal services in the areas of intellectual property transactions; e-commerce and Internet law; privacy; trademark and domain name acquisition and management; copyright; unfair competition; sports; entertainment; advertising; and related litigation and dispute resolution. HLG also provides trademark investigation services through its experienced in-house investigator, **Julie Drummond**.

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www.hlglaw.com

Seann W. Hallisky, Esq. • managing member • seann@hlglaw.com
Kristina Tung Kitts, Esq. • managing member • kristina@hlglaw.com
Julie Drummond, J.D. • investigator • julie@hlglaw.com

DAVIES PEARSON, PC
ATTORNEYS AT LAW

is pleased to announce that

Daniel G. Wilmot

has become an associate of the firm,
practicing in business, estate planning,
and real estate

920 Fawcett Avenue
PO Box 1657
Tacoma, Washington 98401

Telephone: 253-620-1500

Toll-free: 800-439-1112

Fax: 253-572-3052

E-mail: dwilmot@daviespearson.com
www.dpearson.com

FLOYD & PFLUEGER, PS

is pleased to announce that

Sean E.M. Moore
and
Steven E. Knapp

have become partners in the firm.

The firm's litigation practice emphasizes complex civil litigation, including the defense of construction defect claims, claims of professional negligence, and toxic torts.

2505 Third Avenue, Suite 300
Seattle, Washington 98121-1445

Telephone: 206-441-4455
Fax: 206-441-8484

**THE KING COUNTY
BAR ASSOCIATION**
AND
**KING COUNTY
BAR FOUNDATION**

are pleased to announce
the relocation of their office to:

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1200 Fifth Avenue, Suite 600
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206-583-2745

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Robert A. Wright,

former senior counsel,

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E-mail: RWright@FJR-Law.com

APPEALS

Michael T. Schein
and

Douglas W. Ahrens

are available for referral, consultation, or association on all issues relating to appeals and the appellate process.

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206-624-6271

E-mail:

mschein@reedlongyearlaw.com

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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 first day of the month for placement in the following month's calendar.

Business Law

NW Securities Institute

February 27 & 28 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Elder Law

The New Essentials for Practicing Elder Law

January 30 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Employment Law

Government Benefits

February 18 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Estate Planning

Estate Planning for Retirement Benefits with Gair Petrie

January 23 — Seattle. 5.5 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Family Law

Darker Side of Divorce

February 27 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

General

Technology, Values, and the Justice System Symposium & Conference

January 16-17 — Seattle. 10 CLE credits, including 2 ethics. By UW-CLE; 800-CLE-UNIV.

Litigation

Demystifying Jury Selection and Voir Dire

January 22 — Seattle. 6.25 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

26th Annual Insurance Law Seminar

January 22 — Spokane; January 23 — Seattle. 5.25 CLE credits, including 1 ethics. By WSTLA; 206-464-1011.

Washington Civil Procedure and Ethical Issues

January 27 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Handling Expert Witnesses (a.m.)

Evidentiary Privileges (p.m.)

January 28 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Handling Motor Vehicle Accident Cases

February 5 — Spokane; February 6 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Subro & Suds: Subrogation Seminar

(followed by a networking reception)
February 11 — Seattle. 2 CLE credits. By WSTLA, 206-464-1011.

Cyber Sleuthing and Discovery

February 24 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

To Place a Classified Ad:

Rates: WSBA members: \$40/first 25 words; \$0.50 each additional word.

Nonmembers: \$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., November 1 for the December 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 amy@wsba.org.

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Positions available are also
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and online at www.wsba.org/jobs

For Sale

Washington estate-tax preparation software: Calculate Washington estate taxes and generate Department of Revenue REV 850046. estate, and transfer tax returns. Free trial use. www.wilsonsoftware.net.

Space Available

One or two law offices available in class-A space for rent in downtown Seattle. Rent \$1,000-1,200, includes phone answering, mail handling, conference room, library, fax, and copy machines. Contact Tim Pauley at 206-583-0050, ext. 107.

Professional Office Suites of Boise: Executive and virtual office suites available starting at \$245 per month! Instant telephone and high-speed Internet access; full administrative support services; receptionist/answering services; fully furnished executive suites; conference room access; and much more! Contact POS of Boise at 208-947-5895; officeinfo@officeidaho.com; or visit www.officeidaho.com.

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.

Gig Harbor: Office share with three established attorneys in a premier office building. Conference room and reception area with Sound view, kitchen, and storage. Opportunity for referrals. Terms and service negotiable. 253-858-0785.

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Forsublease: One office in small suite, 22nd fl. at 1111 3rd Ave., Seattle. Northern exposure (ideal for beginning lawyer). Reception, other amenities included. Contact Allen Bentley at 206-343-9391 or abentley@centric.net.

Downtown Seattle: Office (Logan Building — 5th/Union) for one attorney (no staff). Approximately 14x12; large windows; A/C. Receptionist, conference room, fax, and copier. \$850/month; first month free. Contact David Roth at 206-447-8665.

Pike Place Market area: Three offices in six-attorney office space. One large office with veranda, two smaller offices; all ample, all with water views. Salubrious proximity to Market, waterfront, and other indulgences. Conference room, receptionist, and amenities provided. Contact Charles Hamilton or Nicole Calvert at 206-623-6619 or cshamilton@qwest.net.

Positions Available

Small, established AV-rated firm in Seattle area seeks lawyer with at least three years' experience interested in real estate and litigation in contracts and torts. Send résumé to apriltr@kirklandlaw.com or PO Box 817, Kirkland, WA 98083.

Tonkon Torp LLP seeks a tax associate with at least one year of legal experience in business and/or tax. Excellent academic credentials (LLM preferred) and strong written and verbal communication skills are required. Tonkon Torp is a full-service downtown-Portland business-law firm. This is a unique opportunity to join a focused but friendly team, working with diverse clients in a broad spectrum of industries. Tonkon Torp offers an excellent salary and benefits package, training opportunities, and the opportunity to work with experienced practitioners in a collegial atmosphere. Send cover letter and résumé to Human Resources, Tonkon Torp LLP, 888 SW 5th Ave., Ste. 1600, Portland, OR 97204; fax 503-972-7413; e-mail HR@tonkon.com.

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TeamChild, civil legal services for high-risk youth, seeks full-time attorney for Pierce County. Send résumé to 1120 E. Terrace, Ste. 203, Seattle, 98122. For more information, call 206-381-1741.

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

Minzel and Associates, Inc. is a temporary and permanent-placement agency for lawyers and paralegals. We are looking for quality lawyers and paralegals who are willing to work on a contract and/or permanent basis for law firms, corporations, solo practitioners, and government agencies. If you are interested, please call 206-328-5100 or e-mail mail@minzel.com for an interview.

Risk manager: Seattle Public Schools is seeking a risk manager. This position is ideal for a lawyer looking for a career change. Responsibilities include: oversee the procurement, evaluation, and renewal of all insurance; review liability claims with insurance carriers and legal counsel; manage an effective formal loss-prevention program; promote corporate-wide awareness of risk management policies and procedures; manage self-insured workers' compensation program; and supervise risk-management staff, including a loss-control specialist. Requirements: JD degree and three years' legal work experience; demonstrated analytical, organizational, communication, and interpersonal skills; and a willingness to learn workers' compensation and OSHA regulations, and develop and implement safety programs. Salary range, \$4,992-6,895/mo., plus benefits. To apply, send a cover letter and résumé, with "2004-2211" in the upper-right corner of each document, to Seattle Public Schools; MS 33-367; PO Box 34165; Seattle, WA 98124. For more information call John at 206-252-0518, or Pat at 206-252-0614, or visit www.seattleschools.org/area/employment/cos.

Account manager: Applied Discovery, the leading provider of electronic discovery services, seeks an Account Manager in our Bellevue, WA, headquarters office, to be the primary point of contact with Applied Discovery's clients. This includes directing initial client setup, providing initial system training, and managing individual case setup for all assigned clients while ensuring consistently superior service standards in all client interactions. Other responsibilities include: providing ongoing user support and guidance regarding how best to manage the review of electronic evidence in a litigation or merger/acquisition; receiving and responding to client inquiries; gathering information necessary for troubleshooting client questions; and providing a link between the client and our production department. The

ideal candidate will have a minimum of two years' prior experience with direct client/customer contact in a professional environment, preferably in an attorney or paralegal position or as an account manager in a technical environment. Excellent verbal communication, critical thinking skills, and the ability to efficiently gather and process information are required. Proficiency with Microsoft Office applications and a bachelor's degree is strongly preferred. Must also be detail oriented, able to work independently and within a team in a fast-paced, technical environment. Applied Discovery offers a casual and creative environment filled with talented individuals from varying backgrounds. We are committed to rewarding our employees for their hard work, enthusiasm, and professional excellence. For more information, check us out at www.applieddiscovery.com. Please send résumés to careers@applieddiscovery.com.

Marketing programs manager: Applied Discovery, a member of the LexisNexis group and the leading provider of electronic discovery services, seeks a marketing programs manager for our Bellevue, WA, headquarters office. This position is responsible for creating and managing marketing programs designed to drive demand for Applied Discovery's products and services. This includes managing the execution of the company's public relations activities; developing marketing campaigns and strategies that align with Applied Discovery's market plan; gathering information and data from the company's clients and sales team; tracking industry news and trends; and working in conjunction with other members of the marketing department to design and execute marketing campaigns and public relations initiatives. The ideal candidate will have a minimum of five years' prior experience in a similar marketing role. Legal industry experience is strongly preferred and B2B experience is required. Must have excellent verbal and written communication skills. BA in marketing or similar field is also required. Advanced degree is preferred; JD is desirable. Strong project-management and computer skills (MS Office applications) are a must. Applied Discovery offers a casual and creative environment filled with talented individuals from varying backgrounds. We are committed to rewarding our employees for their hard work, enthusiasm, and professional excellence. For more information, check us out at www.applieddiscovery.com. Please send résumés to careers@applieddiscovery.com.

Employment law associate: Looking for junior to midlevel employment law associate with experience in employment advice and counseling, along with basic litigation

experience. Excellent research and writing skills a must. References required. Please e-mail résumé and cover letter to cheryl@michaelandalexander.com.

Oles Morrison Rinker & Baker LLP, the Northwest's premiere construction law firm, seeks an attorney with a minimum of five years' litigation experience in defending large construction/condominium defect cases for its Seattle office. Oles Morrison was established in 1895, and has been involved in some of the largest public and private construction projects since then. The firm offers competitive salaries, a rich benefit package, and the opportunity to grow and develop skills as an attorney serving the construction community. Interested applicants should forward a cover letter, résumé, and reference list to peaquin@oles.com; or 701 Pike St., Ste. 1700, Seattle, WA 98101.

Securities trial attorney: Small downtown Seattle law firm seeks trial attorney with a minimum of three years' experience. Broker-dealer, securities regulation, State DA, and/or AG background preferred. WSBA membership, and outstanding research and writing skills required. Send cover letter, résumé, and persuasive writing sample to Renee Walker at 1001 4th Ave., Ste. 2130, Seattle, WA 98154.

Short Cressman & Burgess PLLC seeks real estate transactional attorney. Short Cressman & Burgess is seeking a qualified attorney for its real estate practice section. Candidates should be energetic, highly motivated team players ready to assume responsibility for excellent service to clients in a well-respected, friendly, mid-sized firm. Candidates should have at least four years' experience handling real estate transactional matters in a private law firm setting. Excellent writing and verbal skills and a demonstrated desire to succeed are essential. Send résumé to Lateral Hiring Committee, 999 3rd Ave., Ste. 3000, Seattle, WA 98104, or e-mail bbell@scblaw.com. All inquiries will be kept confidential. We offer competitive salaries and benefits, and the opportunity to join a creative legal team. EOE.

ERISA/employee benefits attorney: Song Mondress P.L.L.C. seeks ERISA/employee benefits attorney for partnership-track position in its tax and technical compliance practice group. ERISA or tax experience is desirable. We will mentor the right candidate who has outstanding academic credentials and work references. We have a sophisticated ERISA tax, fiduciary, and litigation counseling practice in a small-firm environment, representing major corporate, multi-employer, and governmental benefit plans and institutional service providers. All inquiries will be kept

confidential. Please submit cover letter and résumé to Hiring Committee, Song Mondress PLLC, 720 3rd Ave., Ste. 1500, Seattle, WA 98104; or sm@songmondress.com.

Scheer & Zehnder LLP seeks 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 able to work independently. Scheer & Zehnder LLP is a small, dynamic downtown Seattle 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. Three years' experience preferred. We are looking for a lawyer with excellent academic credentials 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, 1325 4th Ave., Ste. 1410, Seattle, WA 98101.

Travelers Insurance Co. is seeking an attorney for its Seattle staff counsel office. Minimum two years' civil litigation experience. Seeking creative, motivated litigator with trial experience and strong desire to try cases. We offer an attractive salary and benefits package and emphasize incentive-based compensation. Join a strong company and enjoy a diverse, stimulating practice. Must be WSBA member. We are an equal employment/affirmative action employer, committed to workforce diversity. Fax résumés in confidence to 206-326-4220.

Commercial litigation: Schwabe Williamson & Wyatt, a Northwest regional law firm, seeks an attorney with an established commercial litigation practice for the expanding Seattle, WA, office. The successful candidate will have 10 plus years' experience in all aspects of commercial litigation, including representation of financial institutions and entities in bankruptcy proceedings. State and federal court experience required. Excellent working environment, plus competitive salary and benefits. Please forward inquiries and application materials, including cover letter, résumé, and references to Karen Kervin, Director of Legal Recruiting, Schwabe Williamson & Wyatt, 1420 5th Ave., Ste. 3010, Seattle, WA 98101; kkervin@schwabe.com.

Employment law: Schwabe Williamson & Wyatt, a Northwest regional law firm, seeks an attorney with an established employment

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Litigation attorney with at least five years' experience needed for small downtown Seattle law firm to work in our securities arbitration, intellectual property, and litigation practice. Solid litigation and excellent academic credentials a must. Very competitive salary plus full benefits. Send résumé to Rohde & Van Kampen, 1000 2nd Ave., Ste. 3110, Seattle, WA 98104, or myles@rohde law.com.

Real estate attorney: Small firm, Pike Place location. Looking for top-flight candidates with minimum two years' experience in commercial real estate transactions. Some general business background helpful. All responses kept in confidence. Send résumé and writing sample to McCullough Hill Fikso Kretschmer Smith, 2025 1st Ave., Ste. 1130, Seattle, WA 98121. No calls please. Website www.mhfs.com.

Seattle firm with strong emphasis on handling creditor rights and real estate related matters is seeking an associate to practice primarily in the areas of foreclosure and eviction. The successful applicant will have a minimum of two years' experience, preferably with matters concerning real estate. Admission to the Oregon Bar is preferred, but not required. Salary is competitive, plus benefits. Send résumé to Hiring Partner, Bishop, Lynch & White PS, 720 Olive Way, Ste. 1301, Seattle, WA 98101, or e-mail hr@bishoplynchwhite.com (Word format only).

Smyth & Mason PLLC, an established downtown Seattle business litigation firm, seeks an associate with a minimum of five years' litigation experience. Excellent academic qualifications required, commensurate with other firm members. Send résumé to 701 5th Ave., Ste. 7100, Seattle, WA 98104, Attn: Laura Kruger.

Bankruptcy attorney: Spokane, WA, AV-rated law firm is seeking a Washington licensed attorney with three or more years' experience in a bankruptcy practice. Ideal person will have some existing bankruptcy clients (creditor or debtor) and be available to support bankruptcy issues and clients from the firm's construction, tax, and busi-

ness practice groups. Persons interested please reply with résumé and cover letter to Winston & Cashatt PS Lawyers; R. Joe Alleman, Administrator; 601 W. Riverside, Ste. 1900, Spokane, WA 99201; fax 509-838-1416; e-mail rja@winstoncashatt.com.

New South King County partnership seeks attorneys with established practices to join our mid-sized firm. Maintain substantial independence in your practice while enjoying the shared resources and cross-referrals of a larger firm. We offer a congenial and professional work environment in a beautiful, brand-new office facility only one mile from the RJC. Preferred areas of practice include family, employment, creditor, and intellectual property. Please call Cynthia at 253-520-5000, or e-mail cirvine@hgzlaw.com for more information.

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The Anchorage, AK, office of Holmes Weddle & Barcott PC is seeking full-time associates to join a busy litigation practice that includes personal injury defense, education law, construction law, workers' compensation defense, and employment law. The ideal candidate will possess at least two years' experience or a minimum of two years' of service as a law clerk; membership in Alaska Bar Association is preferred but not required. Excellent benefits package; salary DOE. Please submit résumé and writing samples to Matthew D. Regan, Holmes Weddle & Barcott PC, 701 W. 8th Ave., Ste. 700 Anchorage, AK 99501, or via e-mail to ak hiring@hwb-law.com.

Contract attorney. Bellevue, minimum five years' insurance defense experience, need approximately 30 hrs/wk. Apply with résumé and writing sample to dbridges@danbridges-law.com.

Forsberg & Umlauf PS, a mid-sized Seattle law firm, seeks a lawyer with a minimum of four years' experience to work on a wide variety of general civil litigation defense matters. Developed writing ability and client relationship skills are required. Send résumé to 900 4th Ave., Ste. 1700, Seattle, WA 98164.

Associate attorney: AV-rated commercial litigation firm seeks associate with minimum two years' experience (preferably as civil litigator) to assist in defense work with an emphasis on professional liability. Must be hard-working team player dedicated to producing top-quality work. Strong legal writing, research, and analysis skills important. Mail résumé promptly to Firm Administrator, Eklund Rockey Stratton, 521 2nd Ave. W., Seattle, WA 98119-3927.

Litigation attorney with five years' experience needed for small downtown law firm to work in our securities arbitration, intellectual property, and litigation practice. Solid litigation and excellent academic credentials a must. Very competitive salary plus full benefits. Send résumé to Rohde & Van Kampen, 1000 2nd Ave., Ste. 3110, Seattle, WA 98104, or myles@rohdelaw.com.

Will Search

Seeking information regarding estate planning documents completed for V. Jeanne McClure, aka V. Jeanne Montreuil; dob 2/8/27; of Tumwater, WA. Contact John M. Anthony, 360-943-9892.

Services

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www.divoreelien.com: Divorce is tough. Divorce liens can ease the stress. One gets the house; the other gets a secured note. Learn more. Visit our new website at www.divoreelien.com; e-mail info@divoreelien.com. Larry Stevens or Lorelei Stevens, 800-423-2114. Wall Street Brokers, Inc.; 31 years' experience.

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Minzel and Associates, Inc. is a temporary- and permanent-placement agency for lawyers and paralegals. We provide highly qualified attorneys and paralegals on a contract and/or permanent basis to law firms, corporations, solo practitioners, and government agencies. For more information, please call us at 206-328-5100 or e-mail mail@minzel.com.

Contract attorney: Experienced, accomplished trial and appellate attorney available; 20-plus years' experience. Litigation and writing emphasized. References: reasonable rates. M. Scott Dutton, 206-324-2306; fax 206-324-0435.

Certified fraud examiner/investigator: Specializing in fraud, ethics, Wash. RICO, and liquor-liability cases. 28 years' experience. Expert witness. Kenneth Wilson, 360-956-1674; e-mail ken@wilsonis.com; www.wilsonis.com. UBI 602097-839.

Contract attorney at your service: Legal research and writing and document review for Washington lawyers; minutes from UW law library. Many satisfied clients. Elizabeth Dash Bottman, 206-526-5777; e-mail bjelizabeth@qwest.net.

Forensic pathologist: 20 years' experience as a medical examiner. Board-certified in anatomic and forensic pathology. Sigmund Menchel M.D., 425-401-2083 or sigmenchel@msn.com.

Computer forensic investigations, consulting: Expert civil and criminal high technology investigations. Expert witness, computer analysis, forensic discovery, data recovery. Contact Josh Scott at 360-888-5172, scottpfs@hotmail.com.

Real estate expert witness: Property management-brokerage-construction/consulting services. 30 years' experience. Paul Cahill, 206-909-2675; paul@cahillco.com; www.cahillco.com.

Contract attorney: All aspects of litigation and appeals, including research. Former name partner in small litigation firm. 11-plus years' experience. Have conducted numerous civil jury trials, including complex litigation. Reasonable rates; variable per type of work. Pete Fabish, 206-545-4818.

Case management and appropriate dispute resolution. Experienced litigation attorney/adjunct professor with 20 years' experience in educating attorneys and corporations in the full ADR spectrum is available to design and develop ADR departments; train staff and attorneys in all neutral ADR processes; evaluate cases; provide effective litigation management; conduct neutral employment investigations (MD-110 certified); and strategize for winning results. Donna L. Knifsend, 360-670-9406; e-mail lawsuitprevention@att.net.

Contract attorney: WSBA member with 15-years' experience as a contract attorney available for litigation support, with emphasis on efficient research and strong writing. Top academics, references. Temporary, part-time, or full-time. Contact Jim at 206-362-1919 or pattil@fsci.com.

Municipal law attorney: Snohomish County Prosecuting Attorney — Civil Division. The Civil Division of the Snohomish County Prosecuting Attorney's office seeks candidates for a position in its municipal law group. This group provides comprehensive legal services to county departments, boards, and commissions on a broad variety of legal issues, excluding land use and general litigation. Duties will include providing legal advice, contract review, legislative drafting, and some litigation. The successful candidate will have a strong interest in or aptitude for public and administrative law, and excellent research, analytic, and oral and written communication skills. The ability to work well with a team of attorneys, support staff, and county personnel and officials is also essential. Experience in computer-aided research and word processing is extremely desirable. Salary is dependent upon qualifications. Generous fringe benefits and leave package. Snohomish County is an equal opportunity employer that values and encourages diversity in its work force. The prosecuting attorney is committed to accomplishing this goal. To apply, please submit a letter of interest, résumé, writing sample, and references to Thomas H. (Rick) Robertson, Assistant Chief Civil Deputy, Snohomish County Prosecuting Attorney's Office, 2918 Colby Ave., Ste. 203, Everett, WA 98201. Position open until filled.

Miscellaneous

House-sitting: Meticulous, mature professional woman with exceptional organizational skills and sense of aesthetics seeks high-end residential or condominium house-sitting assignment. Short-term or long-term. Negotiable rates. Message 425-462-8285.

INDEX to 2003 Bar News (Vol. 57)

BY AUTHOR

Alexander, Gerry L.

The Courts of the Washington Territory: 1853-1889
NOV p20

Althoff, Barrie

Lawyers and the Art of Motorcycle Riding (Part Two)
JAN p42

Caryl, Michael R.

A Fresh Look at Attorney-Client Fee Disputes
SEP p28

Chavez, Maria

Overcoming Obstacles — and Involvement in the Community: The Story of Latino Lawyers in Washington State
AUG p17

Clarke, Tom

Justice at Web Speed
SEP p22

Cumbow, Robert C.

Book review: *The Future of Ideas*
JAN p37

Book review: *The Trials of Lenny Bruce*
FEB p46

Top 10 Writing Errors for Law Students (and Lawyers) to Improve Upon in 2003
MAR p21

Our Friend "That"
JUN p35

Pet Peeves
SEP p35

Dominic, Chris (w/Craig C. New)

What Washington Jurors Really Think
DEC p25

Dunne, John E.

Early Mediation — A Better Mousetrap?
NOV p34

Eichenhorn, Emily

Proactive Risk Management for Lawyers
JUL p35

Elder, Sam (w/Peter Roberts)

The Meaning of a Match: An Update on the WSBA's Lawyer-to-Lawyer Program
APR p42

Feldman, Leonard J.

The 9th Circuit Pro Bono Program: Public Service and Personal Satisfaction
DEC p22

Fields, Penny (w/Bob Free)

Representing the Most Vulnerable
DEC p14

Fine, Debra

Make the Most of Seasonal Mingling
DEC p31

Fleck, Deborah

Rethinking Our Court System: Judicial Initiatives
MAY p18

Free, Bob (w/Penny Fields)

Representing the Most Vulnerable
DEC p14

Garratt, Sally Gustafson

Dining at the King's Inns
JUL p26

Goche, James

The Tar Pit: Anatomy of a Parking Ticket
APR p30

Goodfriend, Howard

Book review: *The Washington State Constitution: A Reference Guide*; The Perfect Tim Eyman Birthday Present
MAY p38

Gould, Constance

2003 Fee-Arbitration Panel Training Seminar
MAY p40

Guy, Andrew A. (w/Gail Smith)

Ethics Rule Change Encourages Pro Bono Work on Behalf of Indigents
OCT p37

Meeting RPC 6.1's New Goals for Providing Pro Bono Services to Low-Income Persons
NOV p38

Guyer, Thad M.

Behind the Technology Curve: Affordable Solutions for Lawyers without Lots of Money
FEB p40

Hemmens, Craig

The U.S. Supreme Court and Criminal Law: 2001 Term (Part One)
JAN p21

The U.S. Supreme Court and Criminal Law: 2001 Term (Part Two)
FEB p29

Irvine, Mori

Some Do's and Don'ts of Mediation Advocacy
AUG p34

Jakeman, Kimberly (w/John Sullivan)

Enforcing Your Washington State Judgment in Canada
JUN p28

Karp, Adam

Lex Feles et Canis — Beyond *Ferae Naturae*: Practicing Animal Law in Washington
FEB p16

Kelley, Porter

The Parenting Act and Mediation, Fifteen Years On
NOV p28

Keyes, J. Michael

Has the Duration of Copyright Turned Wrong?
JUN p18

Krause, Catherine (w/Paul Sherfey and Barbara Miner)

Plans for Electronic Filing in King County
SEP p26

Lambe, Richard

New Appellate Rule for CD-ROM Briefs
JUL p28

Lantz, Michael

The Art of Negotiation
JUN p45

Leahy, Dan

Leadership in the Profession of Law
OCT p23

Leahy, Terrence A.

Mutant Lawyers
OCT p30

Liu, Gordon J.

China's "New Contract Law": A Practical Overview
JUL p18

Manning, Dick

Unflinching Resolve
JAN p13

A Time for Introspection: What's Wrong with the Civil Justice System?
FEB p13

The Crisis of Tort Reform — Let's Blame the Lawyers
MAR p13

The WSBA Foundation: What Shall We Do?
JUL p13

Time to Go Public? (Should We Invite Nonlawyers to Sit on the Board of Governors?)
AUG p13

Annual Report 2003: Washington State Bar Association
SEP p17

Maurer, Keith

Enforcing Consumers' and Employees' Legal Rights: 12 Myths about Arbitration
JAN p30

Mesenbrink, Drake

Your PDA: The Indispensable Law Office
SEP p42

Michels, Jan

"Two Things..."
JAN p19

"#%!?" Technology"
MAR p19

Scenario-building
APR p15

A Big, Hairy, Audacious Scenario for Court Funding
MAY p15

Does *Bar News* Have "Boof"?
JUN p17

Scoring Our Progress ...
JUL p15

Summer Daze
AUG p15

Settling the Last Frontiers
SEP p19

Broadening the Definition of "Us"
OCT p17

Miller, J. Scott

The Special Committee for the Evaluation of the Rules of Professional Conduct ("Ethics 2003 Committee")
NOV p15

Miner, Barbara (w/Paul Sherfey and Catherine Krause)

Plans for Electronic Filing in King County
SEP p26

Morrill, Howard R.

The Unintentional Franchise
MAR p27

New, Craig C. (w/Chris Dominic)

What Washington Jurors Really Think
DEC p25

Otake, Bryan

Statutory Vacations: Acquiring Title to Land Underlying Unused Public Roads, Streets and Alleys in Washington
MAY p26

Panitch, Mark

Two Cents' Worth
JAN p17

Prochnau, Kim

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
APR p17

Rabaut, Stella

Lawyers: Leading with Integrity
OCT p26

Roberts, Peter (w/Sam Elder)

The Meaning of a Match: An Update on the WSBA's Lawyer-to-Lawyer Program
APR p42

Law Office Management Assistance Program (LOMAP) Offers "Law Office in a Box"[™]
DEC p39

Rupp, John N.

The Douglas-Forstas Connection
MAY p31

Savage, David

Into the 21st Century: Honoring Our Obligation to All Members
OCT p15

Listening to Our Membership: Challenges and Opportunities
NOV p11

Shayne, David F.

It Can't Happen Here? A Look Back at a Sad

Chapter in the Law
AUG p26

Sherfey, Paul (w/Barbara Miner and Catherine Krause)

Plans for Electronic Filing in King County
SEP p26

Sideman, Mark

The Mission and Business of CLE
DEC p13

Smith, Gail (w/Andrew A. Guy)

Ethics Rule Change Encourages *Pro Bono* Work on Behalf of Indigents
OCT p37

Spitzer, Hugh D. (w/Robert F. Utter)

The Washington State Constitution: A Reference Guide
MAY p38

Steele, Sharlene

WSBA Emeritus Status: A Win-Win for WSBA Members and Low-Income Clients
JAN p36

Sullivan, John (w/Kimberly Jakeman)

Enforcing Your Washington State Judgment in Canada
JUN p28

Sutton, Christopher

The New *Washington Legal Ethics Deskbook*
AUG p41

Thompson, Lindsay T.

Redux All Over Again
FEB p64

Gertrude, Mr. Stevens and I Plan Some Picaresque Adventures
MAR p64

If You're So Smart, Why Aren't You Running Legal Services? A Challenge to Its Critics
APR p25

Sincerely Yours
APR p64

Anatomy of an Anecdote
MAY p30

Still Standing
MAY p64

"— but enough about me. What do you think of me?"
JUN p64

Breaking News from Goose Prairie
JUL p64

They Did *What?*
AUG p64

One of Eastern Washington's Own Is the WSBA's New President
OCT p20

Leadership, of a Sort
OCT p64

Act Two
NOV p64

Deck the Halls With Bah and Humbug
DEC p64

Tolman, Jeff

Law, the Musical
FEB p45

Things to Learn from a Lawyer with Files in Piles
JUN p47

The Internet: Changing Professionals' Lives
SEP p64

Utter, Robert F. (w/Hugh D. Spitzer)

The Washington State Constitution: A Reference Guide
MAY p38

Welden, Robert D.

The Practice of Law Board
AUG p42

Lawyers' Fund for Client Protection Recent Committee Actions and 2003 Annual Report
NOV p45

Wilson, Erika

The LAP/LaSD 6th Annual Statewide Conference: "The Whole Lawyer"
JUN p43

"May I Please Take a Copy of *Bar News*?"
Seattle University Law Students and the Committee for Diversity Get an inside Look at the WSBA
SEP p46

Young, Delton W.

Varieties of Thought Disorder in the Criminal Context
MAR p32

**INDEX
to 2003 Bar News
(Vol. 57)**

BY SUBJECT

Access to Justice

WSBA Emeritus Status: A Win-Win for WSBA Members and Low-Income Clients
JAN p36

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
APR p17

If You're So Smart, Why Aren't You Running Legal Services? A Challenge to Its Critics
APR p25

The Tar Pit: Anatomy of a Parking Ticket
APR p30

Ethics Rule Change Encourages *Pro Bono* Work on Behalf of Indigents
OCT p37

Meeting RPC 6.1's New Goals for Providing *Pro Bono* Services to Low-Income Persons
NOV p38

ADR

Enforcing Consumers' and Employees' Legal Rights: 12 Myths about Arbitration
JAN p30

2003 Fee-Arbitration Panel Training Seminar
MAY p40

Some Do's and Don'ts of Mediation Advocacy
AUG p34

Early Mediation — A Better Mousetrap?
NOV p34

Animal Law

Lex Feles et Canis — Beyond *Ferae Naturae*: Practicing Animal Law in Washington
FEB p16

Annual Report

WSBA Financial Report
MAR p38

Annual Report 2003
SEP p17

Around the State

MAR p43; APR p44; MAY p42; JUN p40; JUL p42; AUG p44; SEP p48; OCT p41; NOV p48; DEC p35

Awards

OCT p52

Bar Examination Pass List

JUL p53; DEC p22

Bar News on the Road

Garfield County
MAY p34

Board of Governors

"Two Things..."
JAN p19

Time to Go Public? (Should We Invite Nonlawyers to Sit on the Board of Governors?)
AUG p13

One of Eastern Washington's Own Is the WSBA's New President
OCT p20

Welcome to President-elect Ronald R. Ward and the New WSBA Governors
OCT p22

Listening to Our Membership: Challenges and Opportunities
NOV p11

Board's Work

JAN p35; MAR p41; APR p38; JUN p38; JUL p31; AUG p38; SEP p39; OCT p34; DEC p33

Book Reviews

The Future of Ideas
JAN p37

The Trials of Lenny Bruce
FEB p46

The Washington State Constitution: A Reference Guide; The Perfect Tim Eyman Birthday Present
MAY p38

Business Law

The Unintentional Franchise
MAR p27

Canada

Enforcing Your Washington State Judgment in Canada
JUN p28

CD-ROM Briefs

New Appellate Rule for CD-ROM Briefs
JUL p28

Changing Venues

JAN p40; FEB p48

China

China's "New Contract Law": A Practical Overview
JUL p18

CLE

The Mission and Business of CLE
DEC p13

Collaborative Law

A Time for Introspection: What's Wrong with the Civil Justice System?
FEB p13

Lawyers: Leading with Integrity
OCT p26

Contract Law

China's "New Contract Law": A Practical Overview
JUL p18

Copyrights

Has the Duration of Copyright Turned Wrong?
JUN p18

Courts

Rethinking Our Court System: Judicial Initiatives
MAY p18

A Big, Hairy, Audacious Scenario for Court Funding
MAY p15

New Appellate Rule for CD-ROM Briefs
JUL p28

Justice at Web Speed
SEP p22

Plans for Electronic Filing in King County
SEP p26

The Courts of the Washington Territory: 1853-1889
NOV p20

Criminal Law

The U.S. Supreme Court and Criminal Law: 2001 Term (Part One)
JAN p21

The U.S. Supreme Court and Criminal Law: 2001 Term (Part Two)
FEB p29

Varieties of Thought Disorder in the Criminal Context
MAR p32

Cross-Border Practice

Enforcing Your Washington State Judgment in Canada
JUN p28

Disciplinary Notices

JAN p45; FEB p53; MAR p47; MAY p46; JUN p48; JUL p45; AUG p47; OCT p48; DEC p43

Diversity

Overcoming Obstacles — and Involvement in the Community: The Story of Latino Lawyers in Washington State
AUG p17

"May I Please Take a Copy of *Bar News*?"

Seattle University Law Students and the Committee for Diversity Get an Inside Look at the WSBA
SEP p46

Broadening the Definition of "Us"

OCT p17

Domestic Violence

Representing the Most Vulnerable
DEC p14

Douglas, Justice William O.

Anatomy of an Anecdote
MAY p30

The Douglas-Fortas Connection
MAY p31

Breaking News from Goose Prairie
JUL p64

Editor's Page

Two Cents' Worth
JAN p17

Redux All Over Again
FEB p64

Gertrude, Mr. Stevens and I Plan Some Picaresque Adventures
MAR p64

Sincerely Yours
APR p64

Still Standing
MAY p64

"— but enough about me. What do *you* think of me?"
JUN p64

Breaking News from Goose Prairie
JUL p64

They Did *What*?
AUG p64

The Internet: Changing Professionals' Lives
SEP p64

Leadership, of a Sort
OCT p64

Act Two
NOV p64

Deck the Halls With Bah and Humbug
DEC p64

Electronic Filing

Justice at Web Speed
SEP p22

Plans for Electronic Filing in King County
SEP p26

Emeritus Status

WSBA Emeritus Status: A Win-Win for WSBA Members and Low-Income Clients
JAN p36

Ethics

Lawyers and the Art of Motorcycle Riding (Part Two)
JAN p42

The New *Washington Legal Ethics Deskbook*
AUG p41

Ethics 2003 Committee

The Special Committee for the Evaluation of the Rules of Professional Conduct ("Ethics 2003 Committee")
NOV p15

Executive's Report

"Two Things..."
JAN p19

"#?!* Technology"
MAR p19

Scenario-building
APR p15

A Big, Hairy, Audacious Scenario for Court Funding
MAY p15

Does *Bar News* Have "Boof"?
JUN p17

Scoring Our Progress...
JUL p15

Summer Daze
AUG p15

Settling the Last Frontiers
SEP p19

Broadening the Definition of "Us"
OCT p17

The Special Committee for the Evaluation of the Rules of Professional Conduct ("Ethics 2003 Committee")
NOV p15

The Mission and Business of CLE
DEC p13

Family Law

The Parenting Act and Mediation, Fifteen Years On
NOV p28

Fee Disputes

A Fresh Look at Attorney-Client Fee Disputes
SEP p28

50-Year Members

NOV p50

Financial Report

MAR p38

Future of the Practice of Law

"Two Things..."
JAN p19

Scenario-building
APR p15

FYI

JAN p49; FEB p53; MAR p51; APR p49; MAY p49; JUN p53; JUL p50; AUG p53; SEP p50; OCT p53; NOV p51; DEC p51

Gay Rights

They Did *What*?
AUG p64

Grammar

Top 10 Writing Errors for Law Students (*and Lawyers*) to Improve Upon in 2003
MAR p21

Our Friend "That"
JUN p35

Pet Peeves
SEP p35

History

Anatomy of an Anecdote
MAY p30

The Douglas-Fortas Connection
MAY p31

Breaking News from Goose Prairie
JUL p64

It Can't Happen Here? A Look Back at a Sad Chapter in the Law
AUG p26

The Courts of the Washington Territory: 1853-1889
NOV p20

Humor

Law, the Musical
FEB p45

Intellectual Property

Has the Duration of Copyright Turned Wrong?
JUN p18

Internet

The Internet: Changing Professionals' Lives
SEP p64

Ireland

Dining at the King's Inns
JUL p26

Japanese-American Internment in World War II

It Can't Happen Here? A Look Back at a Sad Chapter in the Law
AUG p26

Jurors

What Washington Jurors Really Think
DEC p25

Land Use Law

Statutory Vacations: Acquiring Title to Land Underlying Unused Public Roads, Streets and Alleys in Washington
MAY p26

Latino Lawyers

Overcoming Obstacles — and Involvement in the Community: The Story of Latino Lawyers in Washington State
AUG p17

Law Students

"May I Please Take a Copy of *Bar News*?"
Seattle University Law Students and the Committee for Diversity Get an Inside Look at the WSBA
SEP p46

Lawyer Services

The Meaning of a Match: An Update on the WSBA's Lawyer-to-Lawyer Program
APR p42

2003 Fee-Arbitration Panel Training Seminar
MAY p40

The LAP/LaSD 6th Annual Statewide Conference: "The Whole Lawyer"
JUN p43

Proactive Risk Management for Lawyers
JUL p35

The New *Washington Legal Ethics Deskbook*
AUG p41

"May I Please Take a Copy of *Bar News*?"
Seattle University Law Students and the Committee for Diversity Get an Inside Look at the WSBA
SEP p46

Law Office Management Assistance Program (LOMAP) Offers "Law Office in a Box"
DEC p39

Lawyer-to-Lawyer Program

The Meaning of a Match: An Update on the WSBA's Lawyer-to-Lawyer Program
APR p42

Lawyers' Fund for Client Protection

Quarterly Reports
APR p46; JUN p51

Recent Committee Actions and 2003 Annual Report
NOV p45

Leadership

Leadership in the Profession of Law
OCT p23

Lawyers: Leading with Integrity
OCT p26

Mutant Lawyers
OCT p30

Letters

JAN p7; FEB p7; MAR p7; APR p7; MAY p7; JUN p7; JUL p7; AUG p7; SEP p7; OCT p7; NOV p7; DEC p7

LOMAP (Law Office Management Assistance Program)

Law Office Management Assistance Program (LOMAP) Offers "Law Office in a Box"
DEC p39

Miscellaneous

Things to Learn from a Lawyer with Files in Piles
JUN p47

Dining at the King's Inns
JUL p26

Make the Most of Seasonal Mingling
DEC p31

My Turn

Things to Learn from a Lawyer with Files in Piles
JUN p47

PDAs (Personal Digital Assistants)

Your PDA: The Indispensable Law Office
SEP p42

Practice of Law Board

The Practice of Law Board
AUG p42

Practice Tips

The Art of Negotiation
JUN p45

Your PDA: The Indispensable Law Office
SEP p42

President's Corner

Unflinching Resolve
JAN p13

A Time for Introspection: What's Wrong with the Civil Justice System?
FEB p13

The Crisis of Tort Reform — Let's Blame the Lawyers
MAR p13

The WSBA Foundation: What Shall We Do?
JUL p13

Time to Go Public? (Should We Invite Nonlawyers to Sit on the Board of Governors?)
AUG p13

Annual Report 2003: Washington State Bar Association
SEP p17

Into the 21st Century: Honoring Our Obligation to All Members
OCT p15

Listening to Our Membership: Challenges and Opportunities
NOV p11

Pro Bono

Ethics Rule Change Encourages *Pro Bono* Work on Behalf of Indigents
OCT p37

Meeting RPC 6.1's New Goals for Providing *Pro Bono* Services to Low-Income Persons
NOV p38

Representing the Most Vulnerable
DEC p14

The 9th Circuit *Pro Bono* Program: Public Service and Personal Satisfaction
DEC p22

Reading Around

MAY p36; JUL p39; AUG p40; SEP p47; OCT p40

Risk Management

Proactive Risk Management for Lawyers
JUL p35

RPC 6.1, Pro Bono Publico Service

Ethics Rule Change Encourages *Pro Bono* Work on Behalf of Indigents
OCT p37

Meeting RPC 6.1's New Goals for Providing *Pro Bono* Services to Low-Income Persons
NOV p38

RPCs

The Special Committee for the Evaluation of the Rules of Professional Conduct ("Ethics 2003 Committee")
NOV p15

Survey

DEC p40

Technology

"#%!*? Technology"
MAR p19

Behind the Technology Curve: Affordable Solutions for Lawyers without Lots of Money
FEB p40

Justice at Web Speed
SEP p22

Your PDA: The Indispensable Law Office
SEP p42

Tort Reform

The Crisis of Tort Reform — Let's Blame the Lawyers
MAR p13

"Unbundled" Legal Services

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
APR p17

Washington State Bar Foundation

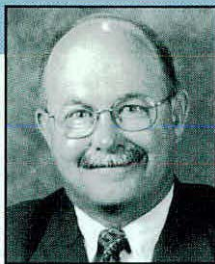
The WSBA Foundation: What Shall We Do?
JUL p13

Writing

Top 10 Writing Errors for Law Students (*and Lawyers*) to Improve Upon in 2003
MAR p21

Our Friend "That"
JUN p35

Pet Peeves
SEP p35



How to Say "No"

by Jeff Tolman

asked a mentor with 50-plus years at the bar, what's the main difference between lawyers who enjoy the practice of law and those who don't.

"That's easy," he said. "The ability to say 'no.'"

Our work, as a whole, is interesting, he explained. But bad clients and bad cases are the cancers in our practices. It is the unpaid, unappreciated work that discourages and, in the end, demoralizes attorneys.

Sure enough, nearly every client or case I had trouble with, I could have — should have — seen as a problem in our initial consultation. Unreachable expectations. Quibbles about fees. Arguments with, or second-guessing, everything I said.

Except for public defenders, the attorney-client relationship is consensual. Bad clients are mostly self-inflicted wounds.

But it's hard to say "no" to someone who has asked you to help with a problem. The client must trust us and believe that, through our education, experience, and innate intelligence, we can untie the knot causing discomfort. "Sure, I'll help!" we say.

Shortly, angst begins. The client isn't believable. If you were betting your kids on the outcome, you'd bet against the client. Looking at the case, and the client, with clear eyes, what do you do?

The art of referring cases is grossly underestimated. How we send away clients we don't want, and yet maintain them as potential referral sources, is an important part of any lawyer's practice.

I have found five effective methods of referring without offending the client:

1. There are lawyers with more experience in the area. "If I were the best lawyer for you I would take your case, but your need for the best lawyer is more important than my interest in having you as a client. Joe Jablonkenstein's a local lawyer who's had more cases in this field than I. Go to him. He'll take good care of you. But if you, or your family or friends, need assistance in other areas, please give me a call."

2. There are younger lawyers who can handle the problem cheaper. "I can certainly handle your case. You should consider, though, Mary McDonally, a fine young attorney down the road. Her hourly rate is less than mine, and she does good work. I think you can get a similar quality of work for less money. But if you, or your family or friends, need assistance in other areas, please give me a call."

3. The last client with a similar case didn't pay. "I had a case similar to yours a couple of years ago. My client left the

firm with a significant account receivable, despite my good work. Our policy on these cases now is to get all our anticipated fees up front so we don't end up in the same dilemma. Therefore, based on the firm policy, I will need you to deposit \$15,000 into our trust account before I can go forward. Of course, other firms may not have the same experience, or policy. In other areas we can be much more flexible regarding payment. In this type of case, though, as Jay Foonberg says, it's MUF — money up front. But if you, or your family or friends, need assistance in other areas, please give me a call."

4. I have a conflict of interest. "I would love to help you but Zandra Zlatos is a commonly used expert in this area, called by persons in your opponent's position. I've represented her. If they call her, I would have to withdraw, and you would have to retain another attorney. Rather than take that chance, I think you should see Morry Morrena right from the start. But if you, or your family or friends, need assistance in other areas, please give me a call."

5. I had a bad experience in this last case I took like this. "I had a case very much like yours a couple of years ago and did not fare well. Because of that — and having nothing to do with the merits of your case — I am hesitant to take another case in that area. You should see Jennifer Roof down the road. I understand she has had good results in this type of case. But if you, or your family or friends, need assistance in other areas, please give me a call."

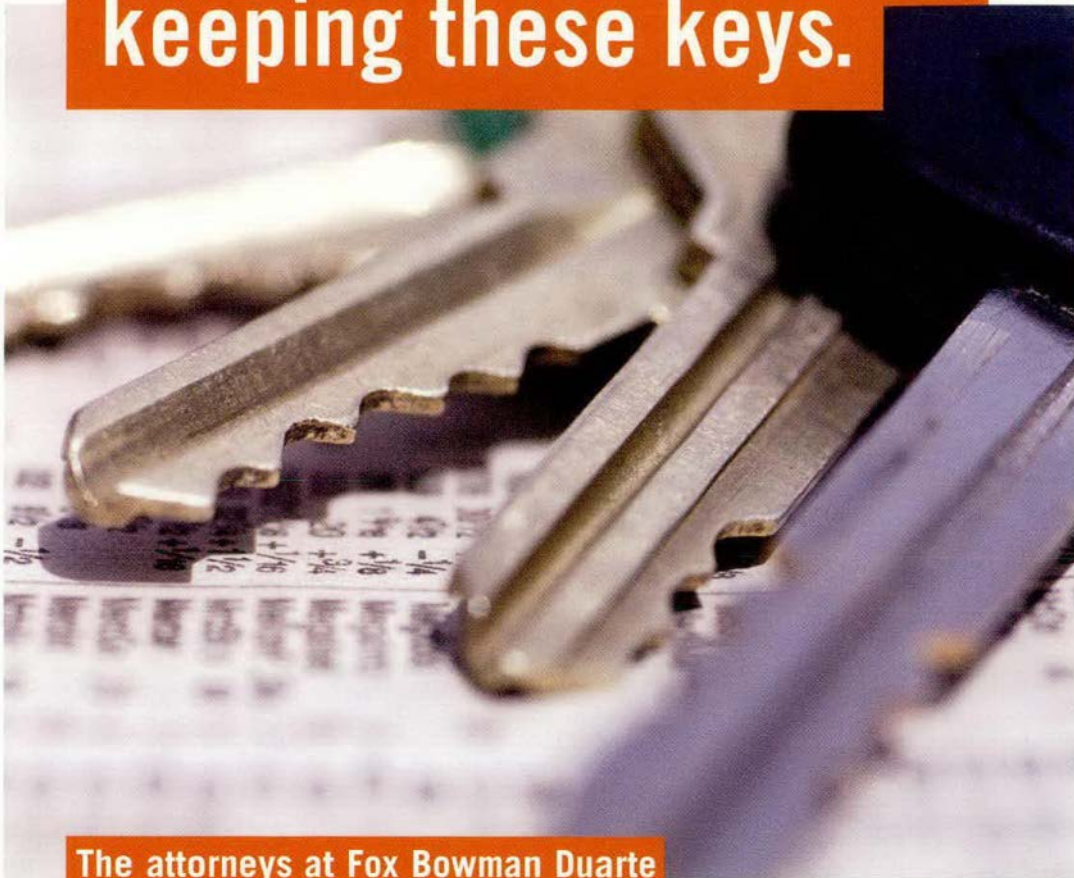
Certainly some moralist reading this will say, "be honest." Sure. I hear it now: "Potential Client, I don't believe a word you have said since we met. You have been perpetually whining that I may actually charge you the going rate for the work you want me to do. And I will. Though this may not have crossed your mind, that's how I pay my bills and feed my kids. Your case is mediocre. As a client you are less than that. Go away. Life is too short to take you as a client. See-ya, wouldn't want to be-ya."

I think not. Instead, lawyers should refer out such clients in a kind, gentle, generally truthful way that will get the clients a more empathetic counsel and allow them to refer their family and friends who may have better cases. By learning how to say "no" in a painless way, each of us can have practices and clients we enjoy.

What's the main difference between lawyers who enjoy the practice of law and those who don't?

Jeff Tolman practices in Poulsbo and is a former member of the Board of Governors. Editor Lindsay Thompson is recovering from Hogmanay.
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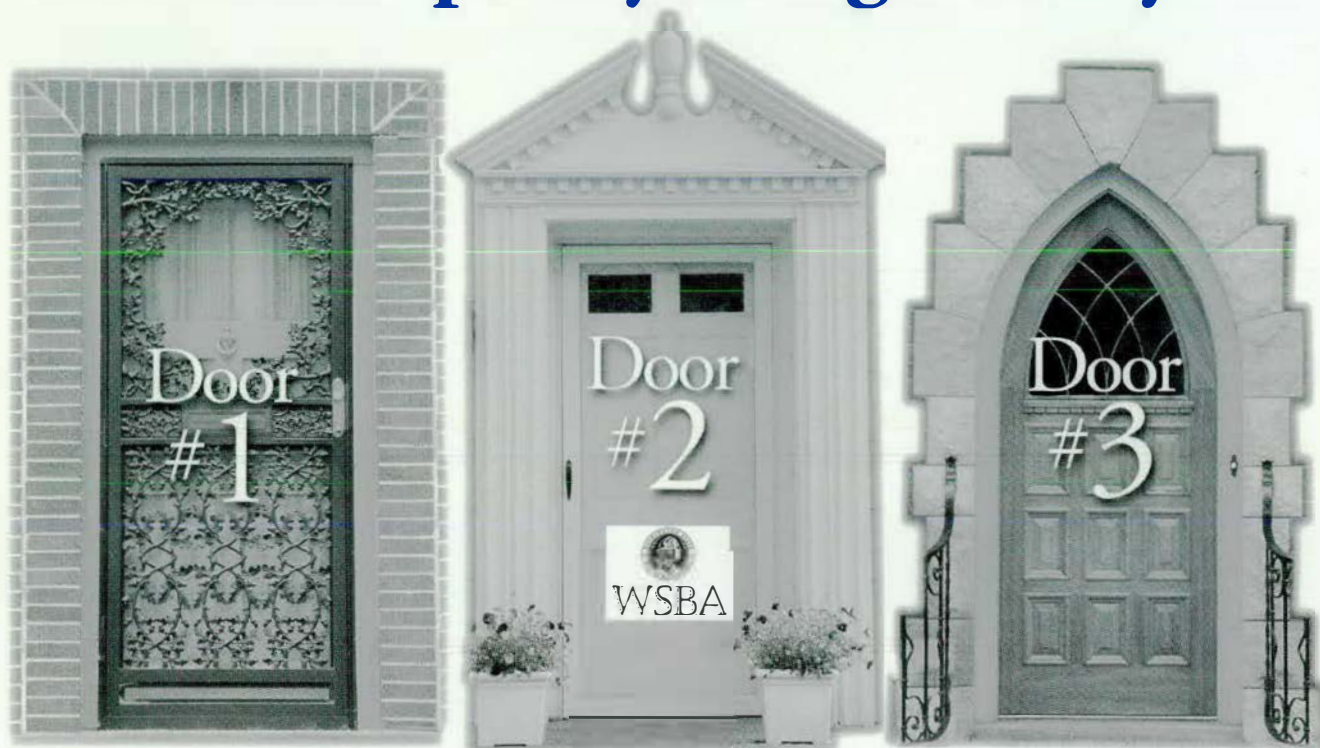
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