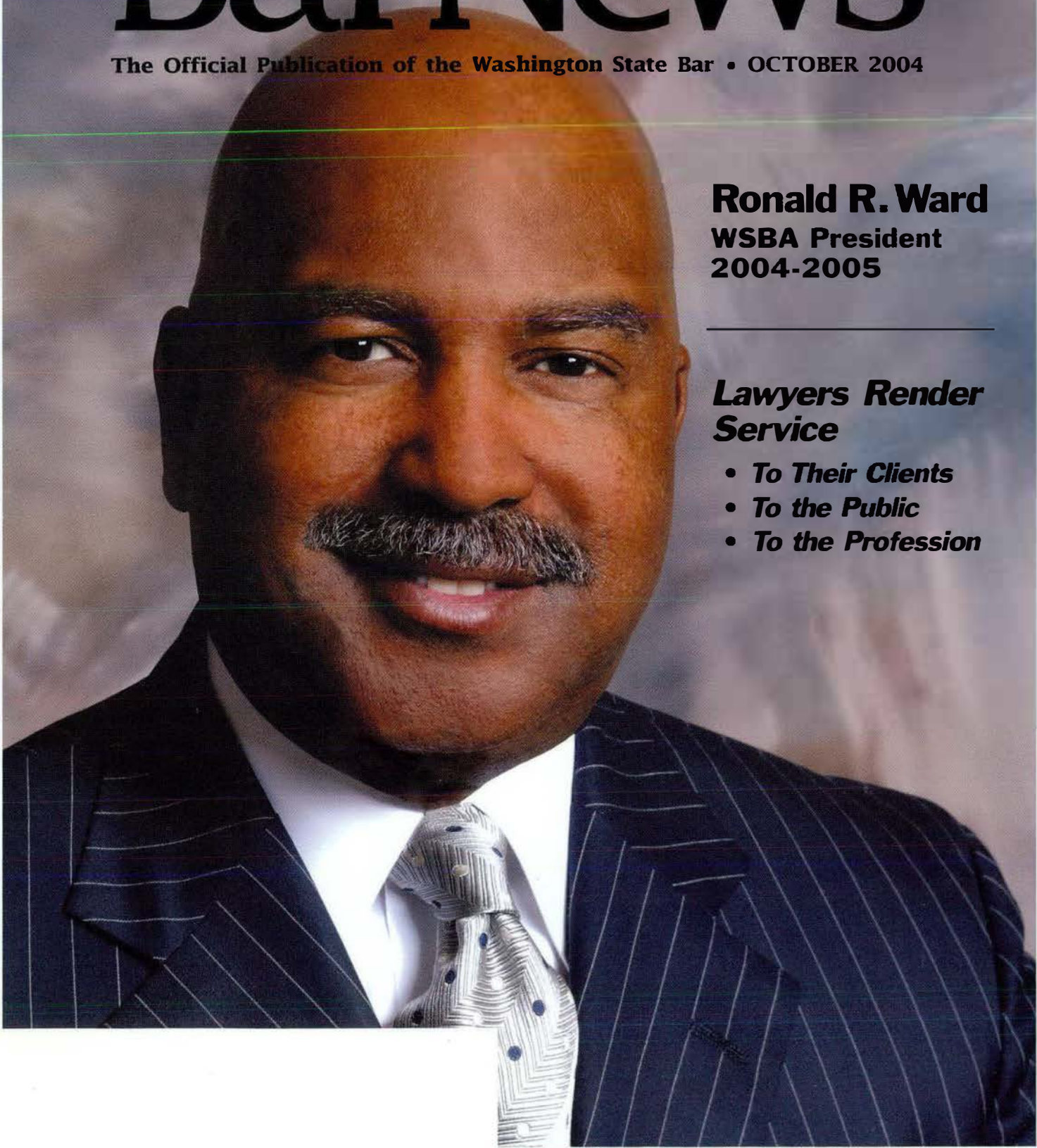


Washington State

BarNews

The Official Publication of the Washington State Bar • OCTOBER 2004

A close-up portrait of Ronald R. Ward, a bald man with a mustache, wearing a dark pinstriped suit jacket, a white shirt, and a patterned tie. He is smiling slightly and looking directly at the camera. The background is a soft, out-of-focus grey.

Ronald R. Ward
WSBA President
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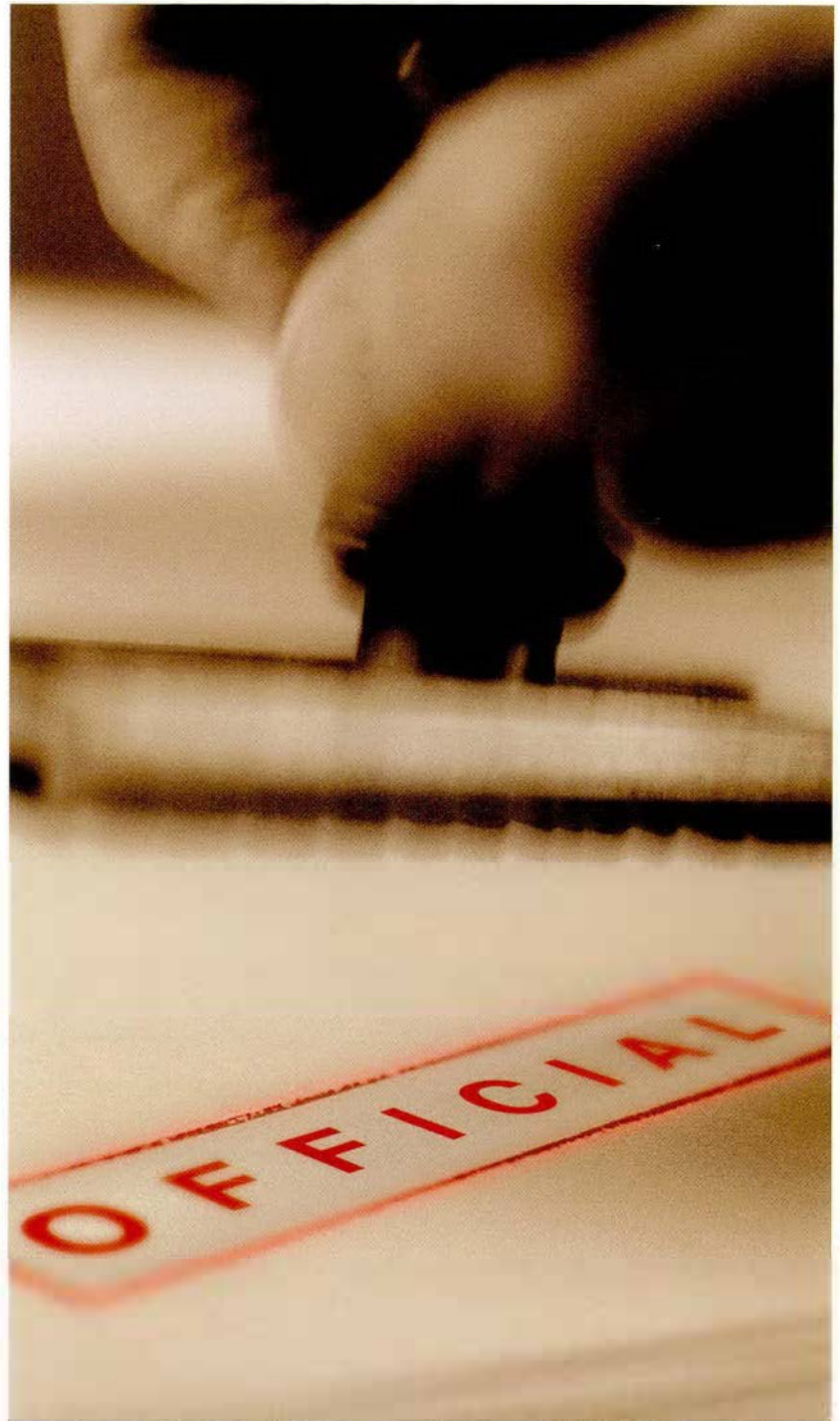


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October 2004



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(not pictured)

Public-records spigot still on

As one of the attorneys who successfully argued *Hangarter v. City of Seattle* before the Washington Supreme Court, I was surprised to see the cover of your September issue. It paired a precarious tower of papers in an "in" box with an empty "out" box under the banner: "The *Hangartner* Decision: The Supreme Court Limits Access to Public Records."

That's pretty dramatic stuff. To see that cover is to think that *Hangartner* shut the spigot on public records requests and converted the Public Disclosure Act ("PDA") into the documentary equivalent of the Roach Motel, where "records check in, but they don't check out." Unfortunately, this image finds no basis in reality.

Hangartner changes nothing. Neither of its holdings alters the existing flow of documents under the PDA.

First, *Hangartner's* affirmation of an attorney-client privilege exemption is consistent with what has occurred all along — Washington agencies have always withheld attorney-client privileged material in response to PDA requests. *Hangartner* also keeps Washington in line with the rest of the country. Attorney-client privileged material is exempt from disclosure under the federal Freedom of Information Act, on which the PDA was modeled, and under essentially every other state's public records laws (Florida being the only exception found by our opponents in *Hangartner*).

Second, *Hangartner's* holding that a request for "all" of an agency's records is unlawful will have no effect in the real world. Can anyone find another example of the PDA being used to request "all books, records, documents of every kind and the physical properties" of an agency, as was the case in *Hangartner*? I have not been able to. I'm not surprised, because both requesters and agencies have incentives to focus requests. Requesters would rather review a reasonable, responsive set of records than review, or pay for copies of, a warehouse of records that may or may not be relevant. Likewise, agencies would rather respond to a more focused request than to a broad, ambiguous one. That's why the PDA already allows agencies to ask a

requester for clarification. In most cases, a letter or a phone call to the requester usually results in a reasonable solution that's better for both sides.

Powerful interests — including those represented by some of the authors of the *Hangartner* articles in the September issue — are currently planning to storm the Legislature with shouts of "returning" the PDA to its pre-*Hangartner* state. I have no doubt that they will be waiving the cover of your September issue as proof of their claim that the Legislature must now fix what the Supreme

Court broke.

Hangartner did not alter the PDA, let alone break it. The PDA doesn't need fixing in response to *Hangartner*.

If you ever consider running a story on another Washington Supreme Court decision, I sincerely hope that you seek the input of those who know the case best—the ones who actually argued it. It might prevent you from painting the wrong picture on future covers.

Thank you very much.

Roger Wynn, Seattle



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Is what we are more important than who we are?

I have long admired Lindsay Thompson's work for the Bar Association, particularly his editorship of the *Bar News*, so I am hesitant to criticize his work in any regard. I consider, however, the matter of which I write here too significant to let pass without comment, even though I respect the writer.

Part of the Around the State section of the August 2004 *Bar News* is "The Judiciary," p. 47, updating news about judges in Washington. That report states that, "On June 15 the Senate voted 98-0 to confirm U.S. Magistrate Judge Ricardo S. Martinez, 52, as the state's first Hispanic federal judge." That statement is not only technically incorrect, it is also unfair to Judge Martinez and to those who pursued and obtained his appointment. The statement is technically incorrect because the appointment was not as an "Hispanic federal judge," but as a federal judge. I have not read the legislation but I would bet the farm that there is no category of federal judge called Hispanic. The unfairness is that it suggests (although subtly and, probably without meaning to) that his appointment is somehow different than other federal judge appointments and that the standards and criteria for his position may be different than for others. The message may be that he's not "a federal court judge"; he's "an Hispanic federal court judge."

This is not to suggest that the facts of Judge Martinez' heritage and ancestry are insignificant. I do not know Judge Martinez personally, but I'm sure he has much to be proud of relative to his own accomplishments and his cultural roots. The fact that there has never before been a federal judge in this state who is Hispanic is certainly of import, although it probably says more about this state than it says about Judge Martinez. Mentioning that he is the first Hispanic person in this state to be appointed to the federal bench is important, but that does not make him a different type of judge than all those who have gone before and should not define his appointment.

Gene Oliver, Seattle

The archaisms of legal drafting

Robert Cumbow's "Commonest Errors in Contract Drafting" (August 2004 *Bar News*) is full of good advice for lawyers drafting contracts. In abjuring strings of "whereas" recitals to open a contract,

however, he did not go far enough. Cumbow recommends a section captioned "Recitals" followed by a section captioned "Agreement." Such an approach, though, suggests that the parties do not agree about the recitals, only

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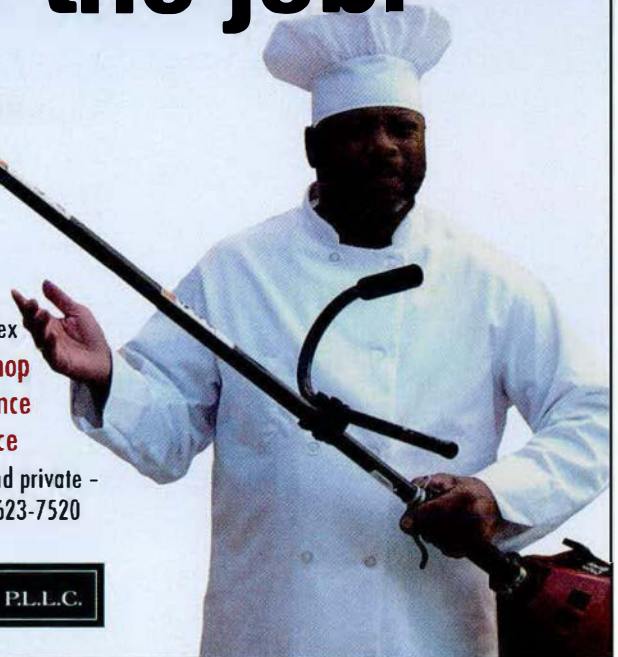
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about the provisions after "Agreement." Frequently, in preparing contracts, I find that it's important to assure all parties have a common understanding of the facts. If they don't agree about them, the contract is going to be in trouble down the road. My approach has long been to start my contracts with a section I caption "Background"; it's always section 1 of the contract, and as a contract section it's something to which the parties explicitly agree. To follow Cumbow's example in his article, I want

the parties to agree that Francine has written a children's book on the subject of bees — I don't want a dispute later on that as a mere recital, that statement was not binding on the illustrator on the question of authorship. So I would start his contract with a simple sentence: "The parties agree as follows," followed by a section 1 of "Background," and then the dispositive contractual provisions.

Cumbow's basic advice applies: say what you say in a contract for a reason,

don't just follow old boilerplate. I don't need recitals; I need the parties to agree on the facts. One guy's approach.

Jeff Sconyers, Seattle

More thoughts on random thoughts

I enjoyed reading the article "Random Thoughts from 20 Years on the Bench." Allow me to disagree with a small part of it. The writer claims that the practice of filing affidavits of prejudice "is demeaning, disrupts the flow of cases through the system, and is essentially useless." I suppose that it would seem that way to a judge who is "affidavited." It certainly doesn't seem that way to many practicing lawyers. Most judges are neutral, objective, and conscientious. A few are not, and routinely exhibit bias or behavior that hardly engenders confidence that a fair decision will be reached. Affidavits of prejudice are sometimes the only meaningful way for a party of limited means to get a fair shot without having to file an appeal. That is the unfortunate reality, and it should not be blamed on the lawyers.

Bruce Finlay, Shelton

A cautionary note

On page 48 of the August 2004 *Bar News*, Charles B. Allen's resignation in lieu of disbarment is reported. He made the mistake of contracting with an estate-planning company to review estate-planning documents prepared by the company (nonlawyers) without actually advising the clients of the legal and financial consequences of these documents. He was assisting nonlawyers in the practice of law among other RPC violations.

On page 62 of the same *Bar News* is an advertisement for an attorney to review trusts and wills by e-mail, call client to answer questions, and mail letter stating review is completed ... hmmm. I wonder if the unfortunate person answering this advertisement will find himself or herself eventually in the Disciplinary Notices.

Mary E. Kooistra, Kirkland

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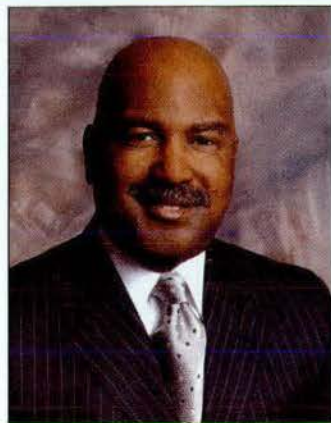
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First, Let's Bless All the Lawyers

Rendering Service and Exercising Responsibility

by Ron Ward, WSBA President

Thank you for the privilege and the opportunity to serve as the 114th President of the Washington State Bar Association, the first African-American lawyer to so serve in our history. I consider this the pinnacle of service to the profession, and I'll do my best to honor the tradition of those who have gone before me in this capacity.

Lawyers Render Service

I have chosen as my presidential year theme *Lawyers Render Service*, in tribute to Fred D. Gray, lawyer for Rosa Parks and Martin Luther King Jr., giant of the civil rights movement, first African-American president of the Alabama State Bar, American hero.

The chief thrust of my service will be in the areas of the court funding effort, access to justice, diversity, and the continued enhancement of member benefits.

Some believe the job of the Bar president and the Board of Governors is primarily to be a manager and an administrator. I agree that management and administration are important. It is why our Bar Association under the stewardship of Jan Michels, our gifted executive director, is an acknowledged leader in the country among state bar associations in the area of member benefits, reciprocal licensure, law-office-management assistance, the Lawyers' Assistance Pro-

gram, and finance; and why it will be a leader in technology and online legal research. Jan and her staff crunch the numbers and flesh out the myriad details, so that we who serve can make informed policy decisions and maintain good stewardship of our responsibilities to our Association.

The president and the Board of Governors, however, comprise a **POLICY-MAKING** body of leaders.

Lawyers have a special place in the hearts and minds of their fellow citizens and their communities. We have been given the gift of being allowed to practice law. It is a special and noble profession. With this special profession comes a special responsibility

Good policy is the result of a multifaceted effort on the part of all of us. In Washington, we have been blessed with dedicated governors who are possessed of a great work ethic, and a wealth of talent, ability, insight, and experience. Their accomplishments, in conjunction with those of the staff, speak for themselves.

Substance, meaning, and accomplishment, however, do not occur in a vacuum. We need you — each and every one of you. The Bar Association needs you. Management and administration are cooperative, collective efforts, not the product of one person's brilliance, or the fruit of an autocracy.

For me, the primary role and function of bar leadership transcends management and administration. It is more than just the bloodless exercise of the operational functioning of just another trade association. A president and the Board are the face of the Bar Association. They are a symbol of us all. They are leaders. They exhibit vision. They have the ability to communicate and to execute — with the fervor, with the credibility, and with the necessary charisma — to persuade and to get people from all areas of the profession, the Legislature, the sections, the business community, the courts, governmental entities, and all walks of life, to coalesce with regard to the great issues and challenges our legal system and our society presently confront. But this is not exclusively about who the president and the Board are, but who WE are, and who WE want to become, for the betterment of all of our constituents.

During this year, you may not agree with everything I have to say, but understand that in all things I will strive to appeal to the highest level of

our collective character, culture and calling, not the least common denominator. For me, the core values of this profession are truth, honesty, integrity, and service. If you deem me too idealistic, too altruistic, or even foolish, bear with me. The thoughts that follow are my vision of us: Lawyers.¹

In Shakespeare's *Henry VI, Part II*, in response to Cade's description of his reign as king, Dick says: "The first thing we do, let's kill all the lawyers."² He was wrong. First and foremost, **let's bless all the lawyers.**

Lawyers have a special place in the

hearts and minds of their fellow citizens and their communities. We have been given the gift of being allowed to practice law. It is a special and noble **profession**. With this special profession come a special responsibility and the requirement of a very special commitment. We — above all — are leaders, and we are an example for our clients and for our society.

I termed the practice of law a profession. It certainly requires business and management skills, but what it requires most is recognition of the distinct difference between the tools of our trade and

the essence of our calling. Most attain a level of competence with regard to the tools of the trade. I want to talk to you about the **essence of our calling.**

Have you ever paused to reflect on how most lawyers are looked on by those around them — in their offices, in the courts, in the town halls of their communities, in the forums of our democracy? Despite all of the sometimes ignorant, uninformed, and even mean-spirited "lawyer jokes," we are viewed as advocates, teachers, leaders, guardians, and protectors; in other words, as a profession which ultimately renders **SERVICE**. Service is the hallmark of this profession. Service to our clients, to our profession, and to our community. It is embodied in the very oath of an attorney, which we take on entry into the profession.

Lawyers ultimately should strive not to be *selfish*, but **selfless**.

Lawyers need to know that whatever their practice area, make no mistake about it — when people walk into your office, they are entrusting you with responsibility for their affairs, for their well being, for their legacy, in some cases, for their very lives.

Exercising responsibility

We have responsibilities. People look to us — above all — to be responsible.

In a time such as now, when war and rumors of war are in the air, people are looking to lawyers to see how they should react and to gauge what is **THEIR** responsibility. We cannot succumb to hysteria in the face of terror, or fear, or war talk. We have a special obligation to remind people not to yield to wholesale trampling of individual rights in the name of expediency, or jingoism, or politics.

Those rights have been earned dearly by the sacrifice and shedding of blood of many generations before us. If we too easily cede these freedoms for the crisis

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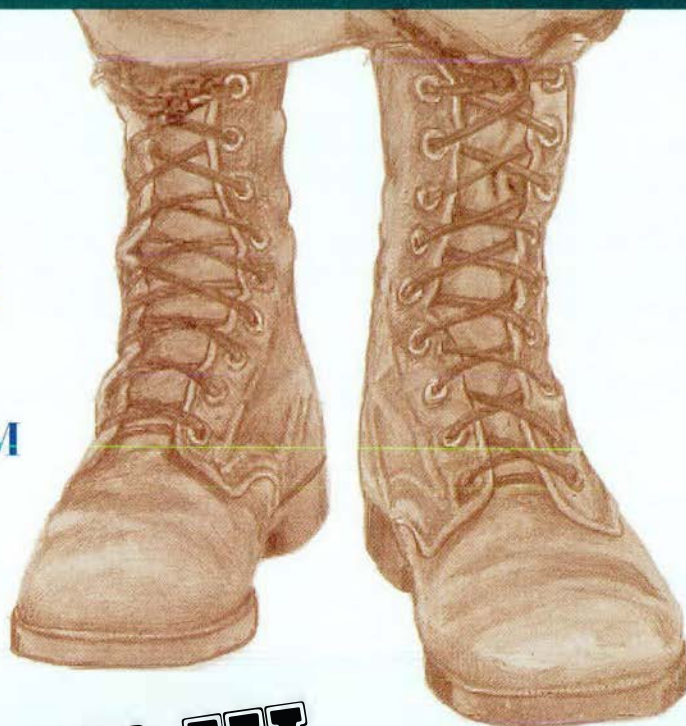
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of the moment, where do we draw the line in the future, and how do we ever get them back?

Pardon and look benignly on dissent. Dissent is the sound of freedom. You cannot claim to love liberty and democracy — I mean the **REAL** thing, not just the words — unless you are willing to listen to the voices that question a tune everyone else is marching to — whether you agree with those voices or not.

People have a certain image of lawyers. Be **PROUD** to be lawyers. Be **THANKFUL** to be lawyers. Lawyers, by any standard, make a good living. A good living is part of

the gift. But it is a present — not a right, not a privilege.

Lawyers need to know that whatever their practice area, make no mistake about it — when people walk into your office, they are entrusting you with responsibility for their affairs, for their well being, for their legacy, in some cases, **for their very lives**. This fiduciary trust is the most deadly serious business imaginable. People do — **AND SHOULD** — expect the very best of you in terms of your competence, your civility, and your humanity. And you should be ready to provide this. **NO LESS**.

Diversity as a strength

We as lawyers have a special obligation to lead in resisting bigotry fostered by fear and ignorance about those of a different color from us, who dress differently from us, who have different beliefs, who speak a foreign language, who are immigrants, who are naturalized citizens. With the exception of Native Americans/the First Nation of this country, all of our ancestors were foreigners when they arrived on these shores.

Diversity is a touchstone, a connection to let us know our possibilities. It is the visible, tangible actualization of not just our American commitment, but our very presence — and the conviction that we all matter; that we all have a say; that we are a community.

When will diversity become a true reality for us? There is a tendency for people to say of diversity: "We've done that. Let's move on to the next thing." I'm here to tell you, we haven't done that. Yes, we desire as wide a participation as possible for people of color, for gays and lesbians, for the disabled, and for women. However, in so doing we need to continue to strongly note that diversity without allusion to race is an oxymoron. We cannot lose sight of the goal to facilitate the ongoing presence of voices at the table that for too long have not been heard. Those for the most part have been the voices of persons of color. Women in this society have broken through the glass ceiling, but they can still bleed to death on the protruding shards of glass. We have made substantial progress, but we must continue opening doors. The playing field is not yet level, and no amount of self-delusion or denial will make it so. Only work, candor, and collective will are going to



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make it so.

Former President Bill Clinton stated that diversity is a strength, not a weakness. It is a significant advantage in the global marketplace, and a source of social and cultural creativity at home, without which we lose our special vibrancy and our special stability. Diversity is a touchstone, a connection to let us know our possibilities. It is the visible, tangible actualization of not just our American commitment, but our very presence — and the conviction that **we all matter**; that **we all have a say**; that **we are a community**. On this infinitesimally small speck of a planet in the vast universe, we are all in this together. We are all going to rise, or we all fall together. **TOGETHER**. Diversity is a vision — not just of who we are, but of who we want to become. People will continue to turn to lawyers to continue the job of ensuring complete equality in our society.

People turn to you!

LAWYERS — In times of turmoil and crisis, **PEOPLE TURN TO YOU**.

Whether it is financial upheaval involving our largest economic institutions — corporations, banks, accounting firms, the market, Enron, WorldCom, wherever the problem arises — **they turn to you**. Obtaining compensation without fee, for thousands of victims of the tragedy of 9-11; **they turn to you**. Ensuring that the innocent do not become victims of the death penalty because of a lack of due process or a system gone awry; **they turn to you**.

People turn to you to do all you can, individually and collectively, to ensure independent and stable funding for a court system that has the potential to grind to a halt. The justice system has been chronically under-funded. It has not been accorded the attention and priority appropriate to its crucial role in our society, except when another unfunded mandate is heaped on its already overburdened shoulders. Washington is 50th out of 50 states in the percentage of funding apportioned from the general fund to the trial courts. This is not something of which Washington citizens and Washington lawyers can be proud. In the area of the trial courts; in the area of preservation of the indepen-

dence of the judiciary; in the area of increasing demonstrably less-than-adequate judicial salaries (given the magnitude and gravity of the decisions judges make on a day-to-day basis involving property, liberty, and life and death); in the area of indigent criminal, civil, and dependent representation — there is much for us to do.

People turn to you to ensure continuance of a full-service system of legal services for the poor. The majority of legal-services offices serving 1.2 million low-income residents have closed in Washington state because of a lack of

funding. The remainder are in dire jeopardy. Nearly one million poor people in Washington with civil legal causes of action went unserved last year. The implications for lawyers in the state are plain, particularly with regard to our efforts and our involvement in *pro bono* cases and in educating and re-educating the public and our Legislature on the need to properly fund legal services.

Access to justice in this country is not a privilege of the well-to-do, but a right of us all. The stability and indeed the very existence of our system and our society are dependent on preserv-



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Douglas Weinmaster, J.D.

Medical Director

Alexandra McCafferty, M.D.

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ing that right — **FOR ALL**. And people are going to **turn to you** for its preservation.

People turn to you to ensure the preservation of fundamental rights in our civil justice system that have been part of the underpinnings of democracy in our society. "Reform" has been defined as: "To improve by removing defects or correcting errors." "A change for the better."³ Under this definition, what is euphemistically referred to as "reform" these days is emphatically not. Contemporarily, "reform" is the rubric being used in an attempt to establish a double

standard in the American legal system, i.e., a discriminatory one that applies to injury/negligence victims who seek redress in the courts, and another for everyone else. One of the most hallowed traditions in democracy and the American legal system is equal protection of the law. It is a legal standard. It is not based on partisan political cant, or dogma of various and sundry types. It applies to **ALL** elements of society. Anytime fundamental principles such as trial by jury, due process, the right to freely contract, and equal protection of the law are threatened or contravened, by what-

ever the artifice used, lawyers and bar associations must speak up — politics, or ideology, or economics notwithstanding. If we don't, who will? We cannot risk relevancy suicide by stating "we don't have a dog in this fight," not when the ultimate victims are fundamental rights and the justice system.

People turn to you to ensure the preservation of fundamental rights in our civil justice system that have been part of the underpinnings of democracy in our society.

Our obligations

Dennis Archer, Immediate Past President of the American Bar Association, stated:

In the practice of your profession in your career, remember why you went to law school and recognize your obligations:

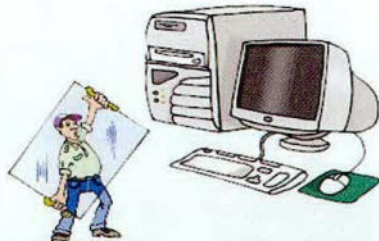
- Cherish the majesty of the law and the freedoms we have;
- Promote *pro bono* activities and the representation of the less privileged;
- Be dedicated to examining the law and improving the delivery of justice;
- Be a voice to help shape and improve the law for the public;
- Practice with professionalism and professional courtesy to your fellow lawyer and to the courts;
- At all times be conscious of your image and the imagery of the profession;
- Recognize and embrace your leadership role in our society and fulfill that commitment honorably.

Particularly with regard to our leadership role, the man has a point. We have a special ability to speak to the hearts and minds of our fellow lawyers and our fellow citizens about the issues that matter to us all.

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When you walk out of the courtroom or your office, whenever someone looks on you, learns what your profession is, becomes privy to how you go about it in your daily practice,

ASK YOURSELF — How am I going to appear?

ASK YOURSELF — In addition to making a buck, will I also make a difference?

ASK YOURSELF — In addition to being successful, will I also be significant?

ASK YOURSELF — Am I going to be someone people can believe in, trust in, even strive to emulate, or just someone else in this society that they hold in contempt?

How are you going to safeguard this special legacy with which you have been gifted?

You do that by being a professional — by being responsible — by rendering service — by touching someone else. There are people out there you don't even know, who are waiting — **BECAUSE THEY NEED YOU** — and the **SERVICE** you are capable of providing. ✍

The question is not whether we can; it is whether we will. We can and we will, because, working together, there is nothing we cannot change for the better.

Ron Ward may be reached at rrw@admiralty.com or 206-624-8844.

ENDNOTES

¹ These thoughts are derived from a number of sources, including immediate past president of the American Bar Association Dennis Archer, an anonymous letter to the editor of *The Seattle Times*, and myself.

² Act IV, Scene ii, line 71.

³ *Webster's II New Riverside Dictionary*, Berkley ed. (1985).

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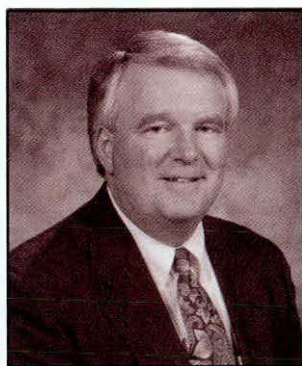
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Welcome to the WSBA's New President-elect and Governors



S. Brooke Taylor, President-elect

Brooke Taylor was born and raised in Port Angeles, where he has practiced law since his admission to the Bar in 1968. In 1965, Taylor earned a B.A. in political science from Stanford University, and in 1968 a J.D. from the University of Virginia School of Law.

From 1969 to 1970, Taylor was a deputy prosecuting attorney for Clallam County, and in 1970 was elected Clallam County prosecuting attorney. For 15 years, from 1975 to 1990, he was an owner and partner in Taylor & Taylor P.S. in Port Angeles. In 1991, the two oldest law firms in Clallam County merged to form Platt Irwin Taylor, where he is currently an owner/partner, with an emphasis on plaintiffs' personal injury, civil litigation, estate planning, and probate. The firm has offices in Port Angeles, Sequim, and Port Townsend.

Taylor was elected to the WSBA Board of Governors in 2000 and served a two-year term. He served as WSBA treasurer in 2001-2002. Since 2001, Taylor has been chairman of the WSBA Facilities Committee. He was 2003-2004 WSBA liaison to the District and Municipal Court Judges' Association, and

founder and co-chairman of the Washington State Trial Lawyers Association (WSTLA) Super Seminar. He is also a frequent WSTLA seminar presenter.

Taylor is well known for his commitment to serving the people of the North Olympic Peninsula. His community honored him in 1999 by naming him Clallam County "Citizen of the Year." Taylor's community involvement includes serving as member and director of the Port Angeles Kiwanis Club, director and president of the Clallam County Family YMCA (he is a recipient of the YMCA National Distinguished Service Award), director of the G.M. Lauridsen Foundation, director and president of the Clallam County Community Mental Health Center, member and director of the Port Angeles Chamber of Commerce, and director and president of the Peninsula College Foundation.

Throughout his WSBA leadership experience, Taylor has focused on the issues of diversity and relevance. He was instrumental in bringing about what the Board of Governors calls the "Diversity Amendment" to the WSBA Bylaws, leading to the creation of three governor at-large positions. In fact, the language that was finally adopted has been called "the Taylor draft," due to Taylor's efforts to make the definition of "diversity" as broad and inclusive as possible.

But he isn't stopping there. "While expanding the Board of Governors has been a very important step, it is not enough," he said. "Bar leaders must continue to reach out to all segments of our membership to inform regarding the WSBA services and programs available to them, and to involve our members in governance at

all levels. Reaching out will be a theme of my presidency. We must continue a special effort to reach out to those elements of our profession who have traditionally been unrepresented, and our profession will be the stronger for it."



Marcine Anderson, At-large

Marcine Anderson, who is Japanese-American, is believed to be the first Asian-American to serve on the Board of Governors.

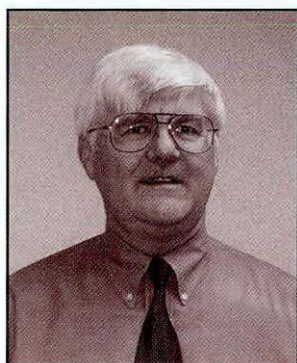
Ms. Anderson received a B.A. and Certificate in Ethnic Studies from the University of Oregon in 1977, and a J.D. from Suffolk University Law School in Boston in 1984. She joined the WSBA in 1990.

Since 1997, Ms. Anderson has been a judge *pro tempore*, first for the Municipal Court of Seattle and then for the King County District Court. For the past nine years, she has been a King County senior deputy prosecuting attorney. Prior to 1995, she was in private practice with law firms in Seattle. Before moving to Seattle, Ms. Anderson served as assistant general counsel and special assistant for the Massachusetts Bay Transportation Au-

thority in Boston, clerked for Hon. Joyce London Alexander in the U.S. District Court for the District of Massachusetts, and was a staff attorney for Southeastern Massachusetts Legal Assistance Corporation.

She has been a frequent CLE seminar presenter both in the Northwest and in New England on issues surrounding technology and the law.

Over the years, Ms. Anderson has volunteered her expertise and services in numerous community organizations, including Angeline's Legal Clinic, the Japanese American Citizens League, The Odessa Brown Children's Clinic, the International District Legal Clinic, and the Northwest Women's Law Center in Seattle.



James E. Baker, District 9

Jim Baker received his J.D. in 1979 from Gonzaga University School of Law. From 1980 to 1985, he practiced at Lyon, Beaulaurier, Weigand, Suko & Gustafson in Yakima. While living in Yakima, he began a monthly CLE program for members of the Yakima County Bar Association, served on the Washington Young Lawyers Division (WYLD) Board of Trustees, and edited the WYLD newsletter.

In 1985, Mr. Baker opened a law practice in Port Townsend, and one year later was hired by Miracle & Pruzan, where he continues to practice (the firm is now known as Miracle, Pruzan, Pruzan & Baker). A member of the Washington State Trial Lawyers Association (WSTLA) since 1982, he is a former editor of WSTLA's *Trial News* and served on WSTLA's Board of Governors. In 1987, he received WSTLA's Certificate of Appreciation.

Mr. Baker contributes a substantial

amount of his time to *pro bono* work, including the representation of disabled veterans before the Board of Veterans Appeals.

Currently serving on the Access to Justice Board's Impediments to Access to Justice Committee, Mr. Baker has also served on numerous other federal, state, and county bar committees and boards. He is also a member of the American Civil Liberties Union, Amnesty International, the Association of Trial Lawyers of America, the American Bar Association, Trial Lawyers for Public Justice, and the Democratic National Committee.



Stanley A. Bastian, District 4

Stan Bastian, a former public defender for the City of Renton and prosecutor for the City of Seattle, is a shareholder in the Wenatchee and Moses Lake firm of Jeffers, Danielson, Sonn & Aylward, P.S., which he joined in 1988. His practice focuses on civil litigation, employment law, labor negotiations, and insurance defense.

In 1980, he earned a B.S. from the University of Oregon, and in 1983 a J.D. from the University of Washington, where he graduated Phi Beta Kappa. He was admitted to both the Washington and the Oregon bars in 1983, and is the current president of the Chelan-Douglas County Bar Association. He is also a member of the American Bar Association.

From 1984 to 1985, Mr. Bastian served as the law clerk for Washington State Court of Appeals Judge Ward Williams. He also served as the Assistant City Attorney for the Seattle City Attorney's Office, Criminal Division, from 1985 to 1988.

Mr. Bastian is a former member of the Chelan-Douglas Counties United Way Board of Directors, and served as

the board's president from 1998 to 1999. Since 1992, he has been a member of the Board of Directors of Legal Aid for Washington (LAW) Fund, a nonprofit organization committed to ensuring the promise of equal justice for *all* in Washington state regardless of financial standing or position.



Eron M. Berg, District 2

Eron Berg received his J.D. in 1999 from the University of Washington School of Law. In 2000 he opened the Law Office of Eron M. Berg, PLLC, in Mount Vernon, where he focuses his practice on civil law.

A member of the WSBA since 1999, he is also a member of the Skagit County Bar Association, and is admitted to practice in the U.S. District Court for the Western District of Washington, all Washington superior and district courts, and the Washington State Court of Appeals.

Mr. Berg has an impressive record of community service that belies his young age. He has served as La Conner's planning commissioner and a member of the La Conner Town Council, and in 1999 he was elected to a four-year term as mayor of La Conner. From 2001 to 2003 he served as chairman of both the Skagit Council of Governments and the Skagit Regional Transportation Policy Organization, and for several years was a board member of the Skagit Emergency Management Council, the Skagit County Law and Justice Council, and the Skagit County Economic Development Public Facilities Program.

Currently he is vice president and president-elect of Youthnet, a nonprofit corporation that serves Skagit, Island, Whatcom, and Snohomish counties by providing youth and family services,

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**Lonnie G. Davis, District
7-Central**

Lonnie Davis received his J.D. from Gonzaga University School of Law in 1973. He worked with the Legal Services office in Everett as a Volunteers In Service To America (VISTA) volunteer, staff attorney, and directing attorney before joining the faculty at the University of Puget Sound School of Law's Disabilities Law Project (DLP), which is now a part of the Washington Coalition of Citizens with disabilities (www.wccd.org).

Mr. Davis is a technical advisor to the Washington State Supreme Court's Minority and Justice Commission, and an associate member of the Governor's Committee on Disability Issues and Employment. He also serves on several WSBA committees, including Civil Rights, Access to Justice (ATJ) Technology Bill of Rights, ATJ Conference Planning, and ATJ Impediments to Access to Justice. He is a past chair of the Civil Rights Committee, and has served on the Washington Young Lawyers Division Board of Trustees, as well as on the WSBA Corrections and Diversity Committees.

He has served on the Boards of Directors of the Seattle Community Services Center for the Deaf and Hard of Hearing, United Cerebral Palsy of King County, and VSAW (an organization of artists with disabilities); and he is a former consultant to the Washington Coalition of Sexual Assault Programs. He has also served as a member and chair of the Seattle Human Rights Commission.

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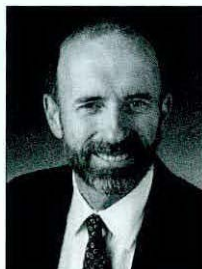
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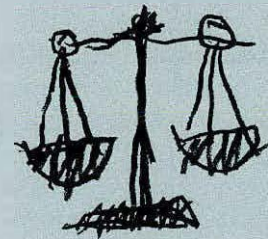
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History in the Making

Ron Ward: 114th President of the Washington State Bar Association, First President of Color

BY KATHY HENNING

When Washington State Supreme Court Chief Justice Gerry Alexander and King County Superior Court Judge Leroy McCullough swore in Ronald R. Ward as the 114th president of the Washington State Bar Association on the evening of September 16 at the WSBA's Annual Business Meeting and Awards Dinner, history was made: Ron Ward is the WSBA's first African-American president in its 116-year history.

Ron Ward's rise to the presidency of Washington's 28,400-member bar association was anything but a given. The oldest of 10 children, Ron Ward was born in Sacramento and grew up in the Hunters Point housing project in San Francisco. "We were 12 people living in about 1,000 square feet," he said. "To this day I think I'm still a little claustrophobic."

President Ward earned his J.D. from the University of California, Hastings College of the Law. Since 1982 he has been a shareholder in the Seattle firm of Levinson Friedman, with a practice focusing on personal-injury and maritime law. Before being elected president-elect, he served on the WSBA Board of Governors representing the 8th Congressional District. A former assistant attorney general, President Ward is licensed to practice law in California and Washington. Mr. Ward was vice president and a seven-term member of the Board of Governors of the Washington State Trial Lawyers Association (WSTLA), and co-chair of WSTLA's Seattle Downtown Roundtable. In 1994, he received the Distinguished Service Award, presented by Anheuser-Busch Companies, at the national convention of the National Bar Association. In 1995, he received the WSTLA Special President's Recognition Award. *Washing-*



From left: President Ward; his daughter, Sara; and his wife, Kiti; at a reception honoring the incoming president given by the Loren Miller Bar Association and Levinson Friedman, P.S., September 14, 2004.

ton Law & Politics magazine selected him as a Super Lawyer for 2003 and 2004.

President Ward does not take his position as the WSBA's first African-American president lightly. "I want to be a positive example to children and young people of color," he said, "because it can literally make the difference between life and death for them. It did for me. One reason I am here today is that as a young man I listened to a speech given by attorney Willie Brown, who later became Speaker of the California Assembly and then Mayor of San Francisco. My mother's example and his accomplishments inspired me to become a lawyer."

President Ward has chosen as the theme of his presidency "Lawyers Render Service: To Their Clients, To the Public, To the Profession" — a tribute, he says, to Fred Gray, lawyer for Rosa Parks and Martin Luther King Jr. "The chief thrust of my service will be in the areas

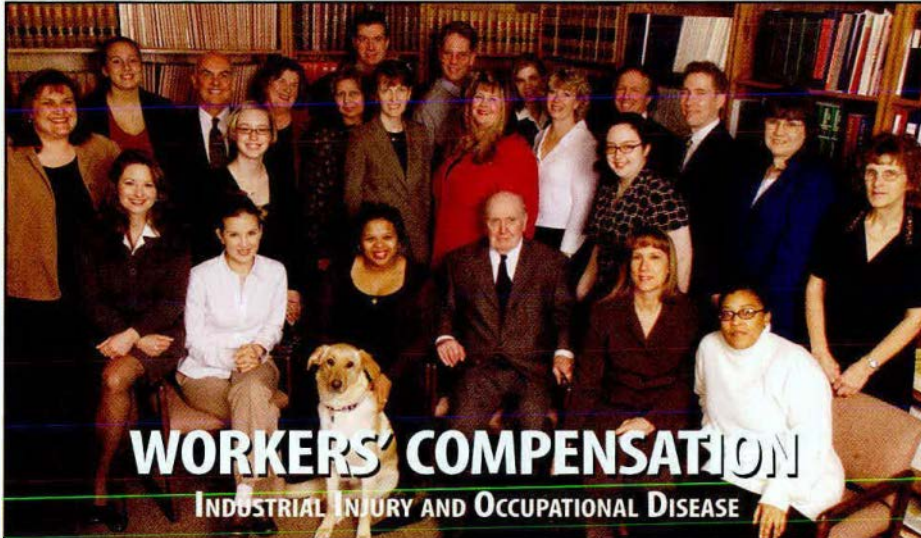
of the court funding effort, access to justice, diversity, and the continued enhancement of WSBA member benefits."

In addition to rendering service to his profession and his clients, Ron Ward has demonstrated his dedication to rendering service to the public through extensive community service. He has volunteered as a reading tutor and teaching assistant for first- and second-graders at Hawthorne School in Seattle. He is a past member of the Board of Trustees of the Northwest Chamber Orchestra.

"It's a long way from the projects in San Francisco to the presidency of the Washington State Bar," said President Ward, "and it's a tribute to what our country is all about."

It's also a tribute to what Ron Ward is all about. Well done, Mr. President.

Ron Ward can be reached at rrw@admiralty.com or 206-624-8844. ✍



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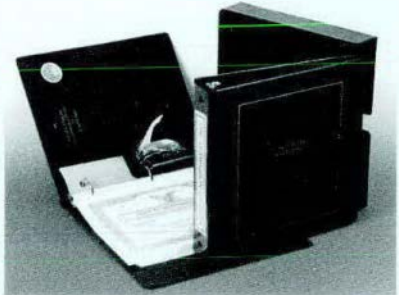
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Our Duty to Secure the Public's Right to Vote

BY RON WARD, WSBA PRESIDENT

No matter where we stand as lawyers and citizens on the political spectrum, all of us as members of the Bar have a vested interest and duty to do everything we can to secure the public's right to vote. This point was never made with greater clarity than by the razor-thin race in the 2000 presidential election and the abysmal performance of the election machinery in many states, which forever besmirched this campaign in the public consciousness. The 2004 election looms as perhaps the closest and (some believe) most important election in our nation's history.

With that in mind, I encourage all Washington lawyers to join me in playing an active role in ensuring that the 2004 election in our state is a model of participation and effective exercise of voting rights. There are many opportunities for volunteer service involvement, which will both do good and improve the image of the law profession. In my view, if it does not, this service should constitute "legal services . . . to individuals . . . seeking to secure or protect civil rights," RPC 6.1(b)(1), and ought to qualify for satisfaction of our *pro bono* obligations.

Washington is blessed with a sterling reputation for clean elections and for making it easy for citizens to register and vote. Notwithstanding this fact, there are still some systemic improvements to consider, which include restoring the franchise to ex-felons, facilitating registration and voting by those for whom English is not a first language, and increasing registration and suffrage across the board. Even if every systemic issue were addressed, there would still be a role for every Washington lawyer. There are excellent opportunities not just for lawyers in private practice, but for retired, corporate, and government law-

yers and law students. Most such roles require only a day or two of time, and no ongoing commitment or office support.

Some examples of how we can get involved:

- **Election Day lawyer.** Lawyers with a partisan interest should volunteer to assist their favored party or candidate as a poll watcher or Election Day lawyer.



Election Day volunteers explain ballots and voting procedures to loyal voters, watch for precinct-level problems (such as the infamous butterfly ballots and hanging chad), and challenge potentially ineligible voters and possible misconduct by polling-place officials. Because both major parties view Washington as a battleground state, they are particularly eager to find such volunteer lawyers.¹

- **Election Day inspectors.** Lawyers with a greater interest in fair application of the election laws than in the success of one party or candidate should volunteer as election inspectors and judges (RCW 29A.44.410).

- **Law firm voter registration.** Every law office can identify a person to sign up to register prospective voters. Make

that person available to your own staff, to your clients, and to your friends and neighbors.

Aside from actively participating, each of us should know some of the basics of Washington election law so that we can offer informed answers to questions that will undoubtedly be raised by friends, family, and acquaintances. For example:

- **How does one register to vote?** To register in Washington, you need only be a U.S. citizen who is at least 18 years old, who has not forfeited the right due to an undischarged felony, and who will have lived in Washington for 30 days prior to the next election (RCW 29A.08.230).² Almost any form of identification, from a passport to a paycheck, is sufficient, and election officials will attempt to confirm identification from available databases if it is not included in mail-in registration. Ex-felons who have completed all conditions of their sentence are entitled to a certificate of discharge, restoring the right to vote (RCW 29A.08.520; see www.acluwa.org/ExFelonVoting). It is easy to register and easy to sign up to vote absentee, even by telephone (RCW 29A.40.010-.060). Changing residence addresses is also easy and should not deter voting since it can be done even on Election Day.

- **How long are the polls open on Election Day?** Polls must be kept open from 7 a.m. to 8 p.m., and everyone in line at 8 p.m. must be allowed to vote (RCW 29A.44.070). Voters may take instructions and translations into the voting booth (RCW 29A.44.030); polling places must be accessible to the elderly and disabled (RCW 29A.16.010-.020); and a voter who declares a sensory or physical disability may bring a person to

assist the voter, but not electioneer others (RCW 29A.44.010, .240).

• *Was there any federal legislation enacted after the disputed 2000 presidential election?* Congress pushed the Help America Vote Act (HAVA) in the wake of investigations showing that 1.5 to 3 million voters did not cast an effective ballot in 2000, due to registration and other problems. HAVA seeks a level of national standardization in election equipment and procedures. Some commentators think Congress did not do all that it could to ensure national uniformity and to fund modern election equipment, satisfying strict standards of reliability and confidentiality. One of the main features of HAVA is the requirement of a provisional ballot for those whose vote is challenged on the basis of registration, residency, prior absentee voting, administrative errors, or other factors. Washington was one of the models for portions of the federal statute, since we have long had such a procedure, available on Election Day, even when the putative voter does not appear in the poll books or was purged from them for some reason.

No one wants Washington to be the Florida of 2004. Our officials are working hard to avoid that, but the legal profession can and should play a major role in ensuring that citizens register to vote and cast ballots that are counted. I hope you will join me in volunteering a day or two for this critical effort. The best thing that could happen would be for Election Day procedures in Washington to work so smoothly that our services that day will go largely unused, and our state will have a record number of votes cast and counted. 🍷

The question is not whether we can; it is whether we will. We can and we will, because, working together, there is nothing we cannot change for the better.

Ron Ward may be reached at rrw@admiralty.com or 206-624-8844.

ENDNOTES

¹ Please note that partisan vote promotion

and protection efforts cannot be treated as compensable time by your firm without potentially being regarded as a reportable campaign contribution.

² Registration by mail is relatively easy and must be postmarked by October 3, 2004 (the form can be found at www.secstate.wa.gov/elections/register.aspx).

In-person registration is easier and more reassuring for some people, and can be done at county election offices (or other designated official locations), or with a person who has agreed to act as a "Voter Registration Assistant," as late as October 18.

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Lessons Learned: Three Years on the Board of Governors

BY ZULEMA HINOJOS-FALL

The very definition of the term “diversity” (the otherness of those human qualities that are different from our own and outside the group to which we belong) requires us to conclude that each of us has a contribution to make in the arena of diversity. We are all diverse. We all enrich our Association and our society with our individuality and personal experiences.

Nevertheless, we should also consider that those of us who embody the primary dimensions of diversity, *which cannot be changed* — age, ethnicity, gender, physical abilities/qualities, race, and sexual orientation — are diverse in a manner which makes us unique and, for better or for worse, shapes our experiences, our lives, our future, and our place in the workplace and in society in quite a fundamentally different manner than those of us who may embody the secondary dimensions of diversity, *which can be changed* — educational background, geographic location, income, marital status, social status, military experience, parental status, religious beliefs, and experiences.

Only after reflecting on the fundamental differences between the primary and secondary dimensions of diversity did I seek to be elected to a seat on the Board of Governors (BOG) of the Washington State Bar Association. After presenting my credentials, competing for the

position among a large field of very well-qualified candidates, and being interviewed in open session, I was elected to become the first woman of color to be a governor in our Association’s 116-year history.¹



The first Hispanic woman on the Board. The only Hispanic woman on the Board. Dark. Ethnic. Believe me when I tell you, it is not easy to go where no woman of color has gone before. Nor did I seek this dubious honor for its own sake. I sought this position because I believed change was needed. Because

while I paid my dues to the WSBA, I saw no one in the top echelons of this Association’s governance and policy-setting body who embodied those primary diversity dimensions which cannot be changed. And I asked myself, why? Were those of us with primary dimensions of diversity marginalizing ourselves out of the leadership of the Association, or were we being marginalized? Or was the answer far more complex? I sought to answer the question by seeking one of two newly created diversity governor seats. I believed, not immodestly, that whatever the reason, I was the right person for the position and could serve as a catalyst for change.

Change was needed and change has come. When I was first elected to this position in September 2001, three other women served on the Board with me. No other person of color, male or female,

served on that 16-member Board during my 2001-2002 first-year term. By the 2002-2003 term, five women and two persons of color became an integral part of the total composition of the BOG, including the first Indian woman, Fawn Sharp, counsel for the Quinault Tribe, and Ron Ward, who this year assumes the leadership of the Washington State Bar Association as its first African-American president. The composition of the BOG during the 2003-2004 term included three attorneys of color and six women attorneys. That’s what I call progress. However, we must remember that progress requires continuous effort. The progress we have made in the past three years must not be taken for granted or lost. Let us not go back to the time when

Were those of us with primary dimensions of diversity marginalizing ourselves out of the leadership of the Association, or were we being marginalized?

no woman of color sat on the BOG and few women did. Let us not go back to the time when no person of color could hope to become president of our organization. Let us not forget that no woman has been elected president of the BOG since the Honorable Mary Fairhurst, justice of the Washington State Supreme Court, served in that capacity during the 1997-1998 term. Let us not forget that Seattle attorney Lem Howell

served on the BOG during the 1989-1992 term, becoming the first person of color to serve, the first African American to sit on the BOG, approximately 40 years after the enactment of the Civil Rights Act. And most of all, let us not forget that it wasn't until 12 years after Mr. Howell crossed that color barrier that I became the second person of color to take a seat at the Board of Governor's table of the Washington State Bar Association.

We must focus on diversity because one of this Association's goals is to make sure that each individual member of our attorney community feels that the Association is inclusive, respectful, and welcoming. We must focus on diversity because it is the right thing to do.

Some have asked, why focus on diversity? We must focus on diversity because one of this Association's goals is to make sure that each individual member of our attorney community feels that the Association is inclusive, respectful, and welcoming. We must focus on diversity because it is the right thing to do. Our profession requires it and our conscience demands it. Certainly, each of our members' experience is valuable and unique, because the attorney members of this organization are as diverse as the definition of diversity itself. But while those members who embody the secondary dimensions of diversity are well represented in the leadership positions of our Association, there is still plenty of room — and need — for leader members embodying the primary dimensions of diversity. The very existence of attorneys who embody the primary dimensions of diversity means that there are those in our organization whose experiences are fundamentally different, will always be different, from those members who embody only the secondary dimensions

of diversity. Because, like it or not, when one is regarded, first and foremost, in the context of our primary dimension of diversity, one is by definition being regarded as different. The pain a woman of color attorney feels when she walks into a courtroom and is immediately assumed to be (and treated like) the probation officer, the case worker, or a member of the defendant's family will never be experienced by a white male attorney, regardless of his religious views, class standing, or social upbringing. Regardless of our characteristics, we all share many pains: the death of family members, for example.

However, the particular searing pain that comes from bias because of our primary dimensions of diversity will never be one that attorneys who embody primary dimensions of diversity will ever have in common with attorneys who embody only the secondary dimensions of diversity. And the particular type of white searing pain that one feels when one experiences prejudice may be all the more painful because it is caused by nothing more than a stereotypical response to those characteristics in us which we cannot change and which others find offensive.



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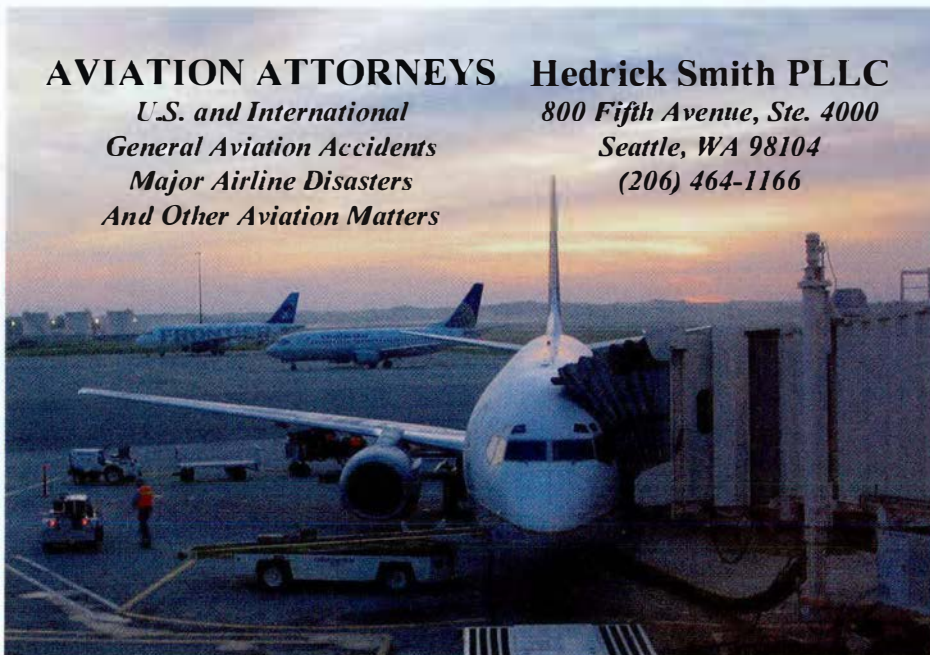
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In short, the significance of primary dimensions of diversity and its effects on a lawyer's practice cannot be denied. Although we share much in common, the voice of those of us who embody primary dimensions of diversity needs to be heard and considered with equal weight when this Association considers governance and policy matters which impact all of us in our practice of law. Issues of access to justice, legislative proposals, recommendations, and changes for court rules and procedures and model rules of professional conduct must be considered and adopted

in light of all of our members' personal and professional experiences. We need as many diverse voices at that 16-member Board of Governors' table as are qualified and are willing to serve. I urge each and every one of you to run for a Board position. I especially urge those of you whose voices have yet to be heard at the BOG to run for a Board position. And to seek the presidency of this Association. Make no mistake, it is hard work. Very long hours. No pay. But the rewards are immeasurable. You will be called upon to review and vote on proposals affecting every aspect of our

practice. You will help shape policy. You will actively participate in the governance of every aspect of our Association. And you will bear responsibility, along with your fellow Board members, for the long-term policies which will affect the way we practice law in the state of Washington in the foreseeable future.

So here's what I learned after serving on the BOG for three years. I learned that the leadership of the Washington State Bar Association means it when they ask you to join, participate, and assume leadership in every aspect of this Association's governance. I learned that Dave Savage, our outgoing president, means it when he talks of raising an umbrella of inclusivity over all members of our Association. President Savage, who was elected to the BOG's second diversity seat at the same time as I was, based on his embodiment of the second dimension of diversity, geography, since he is a lawyer from Eastern Washington, a geographic area not overly represented on the BOG, has delivered on his pledge for inclusivity in our Association. And, by the way, let me say, unequivocally, that it has been an honor to work with and for Dave Savage on the BOG. President Savage has proven to be as fine a leader as has ever led the WSBA. President Savage has been a true catalyst for change and progress within our Association. Ron Ward, who succeeds him this year, will make a great president, committed as he is to lead this Association forward towards further progress and representation for all. President-elect Brooke Taylor, another fine representative of the secondary dimension of diversity, geography, is poised to continue the tradition of outstanding leadership when he assumes the presidency in 2005.

Outgoing President Savage, President Ward, and President-elect Taylor have delivered on their promise to make the leadership of this Association responsive to the needs and interests of all of its members. I am confident that they will continue to deliver on their promise. I am also hopeful that many of you will join them and others in assuming your rightful place in the leadership of this Association. I am happy to report that Marcine Anderson, an Asian-American female King County senior deputy prosecutor, has been elected to

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my seat. In addition to high intelligence and drive, she will bring yet another unique perspective to the BOG table and a voice embodying primary dimensions of diversity that has never before been heard at the BOG. Next year, someone will have to step up to the plate and seek appointment to Fawn Sharp's seat. I urge all of you qualified attorneys who embody primary dimensions of diversity to do so. Please let me know if you need help. I'll be happy to lend whatever support I can.



Now, as I come to the end of my three-year term on the Board, I thank my fellow governors, past and present, for having elected me to a seat on the Board of Governors of the Washington State Bar Association. I thank them for having taught me the rules of the game, for having talked and listened to me, for having allowed me to make mistakes, for having given me greater responsibility within the organization, for supporting me, treating me as an equal, and, most of all, for appreciating and respecting our differences. ✍

Zulema Hinojos-Fall is an administrative judge for the U.S. Equal Employment Opportunity Commission and an outgoing governor-at-large of the Washington State Bar Association.

ENDNOTES

The Washington Bar Association was formed in January 1888, in the last year of the Washington Territory. In those days, all lawyers who had cases set for argument before the Supreme Court were required to be present at the beginning of the Court term in January. Sometimes, lawyers were required to wait for days or weeks for their cases to be called on the calendar. It was in this setting that a group of lawyers met in the Supreme Court chambers in Olympia, January 19, 1888, to form the Washington Bar Association. (The name was changed to the Washington State Bar Association in 1890.) The Association originally consisted of 35 lawyers, and membership cost \$5 per year. By 1913, there were about 600 members of the Bar. At that time, it was a purely voluntary organization and did not include all lawyers admitted to practice. For more on the history of the Association, visit www.wsba.org/info/history.htm.

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The Stressless Practice of Law

BY KARL ZEIGER

The law is manned (or is it womaned?) by an all-volunteer army. Those who have chosen to be involved should be able to achieve a large measure of satisfaction and enjoyment. The law can be pursued while experiencing inner peace. This is not a lazy, "hippy" concept. On the contrary, the stressless practice of law is a productivity concept. Productivity is more fulfilling and peaceful than laziness. Having one's responsibilities completed is less stressful than having unfinished duties screaming at you by night.

The stressless practice of law involves changing some attitudes and taking certain actions. The attitudes create a calm mind and are vital. This is a profession involving the mind. The actions eliminate stressors that would otherwise interfere with the mind.

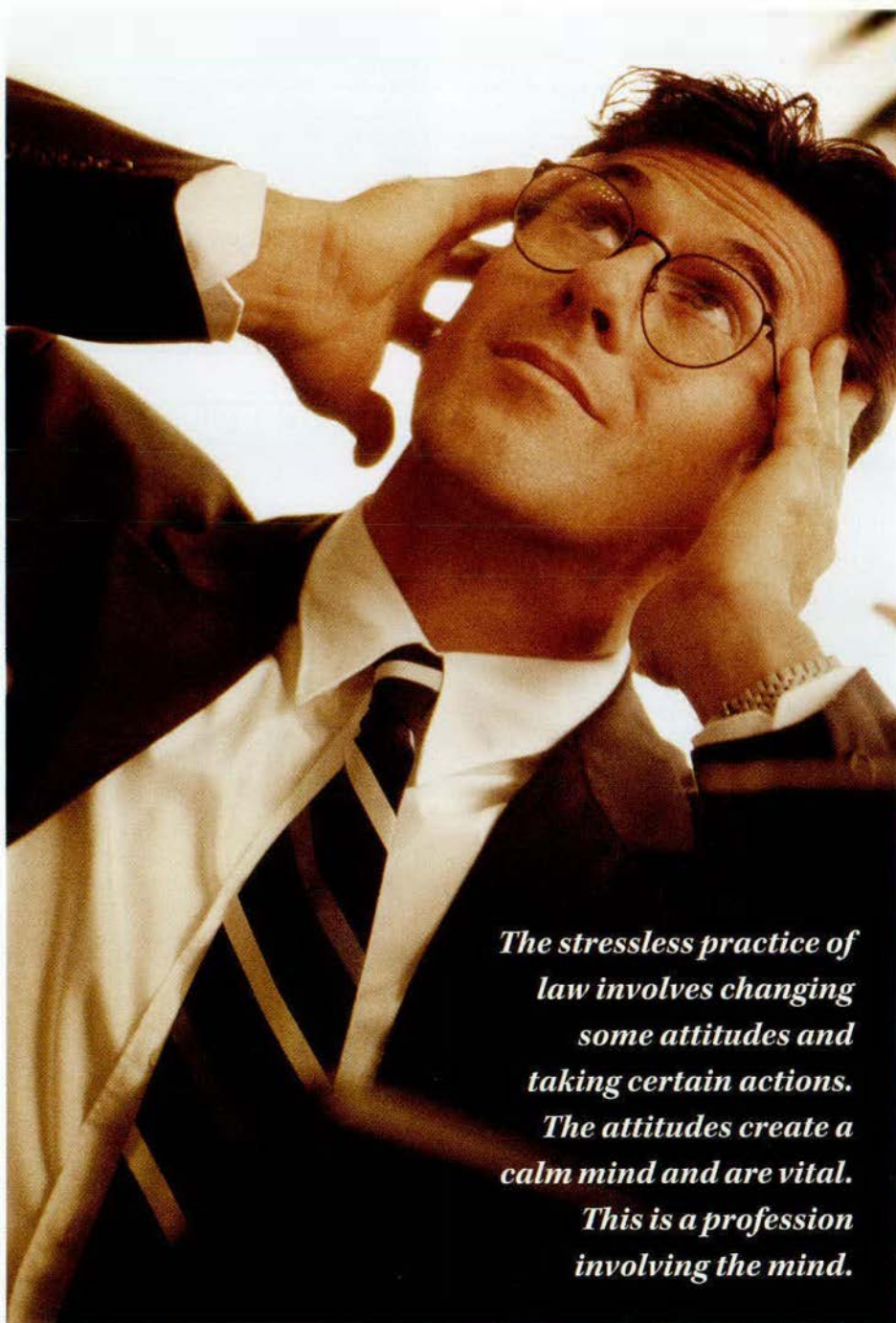
Attitudes for the Stressless Practice of Law

Be yourself.

Practice law in a manner that fits you. Be yourself. This is not an acting business. This is a credibility business. There are many who see this opposite. There are CLEs on acting for the jury. Sincerity and credibility will prevail over phoniness, and so it should be.

Take a nonstraining approach.

Flow with the work rather than straining and striving. Think of the law as an art form. It certainly is not science. A pilot does not strain. He does not struggle down the runway with the plane on his shoulders. He relaxes, focuses his mind, and pushes a few correct buttons. Great musicians and painters do not struggle and strain — they flow. So it should be in this field. It is okay to have adrenaline, to get excited, to get enthusiastic — just not stressed. You cannot get the load off your back by panicking; you can only make it heavier.



The stressless practice of law involves changing some attitudes and taking certain actions. The attitudes create a calm mind and are vital. This is a profession involving the mind.

Calmly deal with adversaries and clients.

The law may be the only major learned profession in which a practitioner often has an adversary. A surgeon does not have

an adversary at the operating table trying to block his every move and make him look like a fool. This is good, but it is not our plight. There are other learned professions and there are other adversarial

professions. The law has both dimensions. Accept this fact. Get comfortable with it. Get along with opposing counsel. Be courteous. Beat your adversary — beat them badly — but be courteous, calm, and fair.

Get along with clients. Be patient and kind to them. School them on realistic expectations. Call them with news before they call you for news. Don't work for clients you can't get along with. This is people work. Accept some people challenges but not ones that tear you up. Beware of clients who are pursuing the matter "for the principle of the thing," because they are really saying they are willing to take an irrational course of action to obtain vengeance.

Keep calm and stick to the issues when dealing with people, no matter how much of a buffoon the other person is being.

Be on or off duty.

Live in the moment. Focus entirely on what you are doing. This will produce good-quality work and make it impossible to worry about the future or feel guilty about the past. Don't bring your home life to work unless it makes you exceedingly happy. Don't take your work life home, *even* if it does make you happy. If you are at work, it is because you chose to be there. You could be anywhere else. If you are at work but your mind is elsewhere, leave and find your mind. If you are off duty and your mind is at work, leave and go to work. Don't muddle in the gray zone.

Avoid mental blocks.

Do not be intimidated by large stacks of paper, an adversary, a client, a massive work load, or anything else. This being a thinking job, your mind cannot afford to be intimidated or overwhelmed. Often a seemingly daunting project needs only one simple decision and significant progress has been made.

Be optimistic.

Expect good news. Make good things happen. Give yourself permission to have fun working.

Appreciate that this is easy work.

The law is difficult work in the sense that some people aren't capable of doing it. For those who are capable, a sense of gratefulness comes with realizing that it

is relatively easy work. It is done inside in a comfortable environment without the winter sleet or the overbearing summer sun. There is slim risk of injury. It is better than breathing black dust in an oxygen-starved coalmine, wrestling with vats of melted steel, breaking down drug dealers' doors, swallowing flaming swords, or being an assistant to yourself.

Do quality work.

If each day is a masterpiece, there is nothing to fret over. You have done everything that can be done, and there is a deep satisfaction that comes with that, win or lose.

Actions to Take for the Stressless Practice of Law

Schedule wisely.

There are a thousand things you could be doing. Spend your time on things that matter. Don't try to do everything at once. You can't do all the work today, so don't put it all on your schedule for today. That only produces anxiety.

Set aside uninterrupted blocks of time devoted to key matters. Consider using a teacher schedule. A good teacher goes into class and focuses solely on that subject that session. There is no worry about all

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the other matters which must be attended to. They will be handled in their time. Schedule loosely, getting a few major things done in a day. It is superior to spinning out of control in a quagmire of petty matters. Budget time. You budget money and you budget calories. The same discipline must be used with time. Do not let projects expand beyond what is appropriate. If you have more money than time, use some of the money to buy some time. Hire quality help. If you have more time than money, use some of the time to earn some money.

Insulate yourself from the phone

sometimes. This allows uninterrupted heavy work, not just phone scrambling. Do be available to the phone other times, especially at known hours. This helps prevent phone-tag inefficiencies.

Set aside time to think. This is a thinking profession. A lone good idea can be life altering. Don't let superficial scurrying take over and force you out of the quality analysis which must be done.

Take charge of your schedule. Control it, rather than allow it to control you.

Procrastinate negative matters such as worry and fear. When one of those rears its head, keep focused and promise your-

self a monumental fear session at some later time.

Schedule a freelance day where you can work on whatever you like. Or schedule a freelance hour every day where you can do that. Establish an hour each week to work on fish cases, no matter what. As John Grisham has pointed out, fish cases are those projects that sit in the corner and never get worked on. They begin to rot and smell. They do not get better with age. They are never going to rise high enough on the priority list to get worked on or they would have already done so. These cases are quite stressful because they produce considerable guilt and anxiety. A dedicated time for them will eliminate them.

Be early on deadlines so you can work on what you want to, not what you have to.

Use a short list.

Use a small to do list. This is relaxing and it forces you to select something important to work on. Button up your work at the end of each day so you are not carrying a sort of debt load into the next day which will destroy that day's productivity.

A small list takes pressure off. It provides a sense of ease. There is less paralysis. The feeling of being overwhelmed disappears. It forces focused work. One wise decision is better than frantic floundering. As basketball Hall of Fame coach John Wooden has pointed out, "Don't mistake activity for achievement."

Keep up with yourself.

Establish a proper pace. Estimate how long you will practice law and establish a fitting pace. You can work long hours with no vacation for a year or two. If you are going to last for 30 or 50 years, you must plan your pace accordingly. That, or you will expire before you retire.

Keep up with this day even if you can't get to your backlog. The work can be done much more quickly while it is fresh, rather than after it is rusty and dusty, and the issues, facts, and strategies have been forgotten.

Do something important early in the day.

Make one key call or one major decision early. It does not have to require a lot of work. Then you will be productive and happy. While you bask in the glow of vic-

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tory the rest of the day, the momentum creates more momentum.

Remove unpleasant tasks.

Deal with dreaded work as soon as possible so it doesn't fester and pester. Instead of carrying a daunting project for a year, complete it in two months. Instead of dreading a small action for the entire day, knock it out in the first 15 minutes. Then work on more pleasant tasks the rest of the day. If certain functions are unpleasant, work around them as much as possible. If you don't like the phone, send letters, have your assistant do some of the communication, have face-to-face meetings. There are alternate ways to accomplish most lawyerly functions.

Establish a purpose.

Meaningfulness gives peace. A sense that you are working on something significant provides fulfillment. Find a meaningful purpose. Making money, or even earning money, is not enough. Focus on serving people.

Minimize unfinished work.

Unfinished work screams at you, unless you don't care. Unfinished work is characteristic of this profession. Some work may be finalized today but the vast bulk of it continues until tomorrow or down the road. The work is never all finished at one time. It is a juggling act. It is not like being a truck driver who is done when his load has been delivered. It is not like being a waitress who has no unfinished work when the café closes for the night. Don't worry about the pile of unfinished work. Indeed, don't worry about anything. Instead, focus on the task at hand. Otherwise, the pile of unfinished work will get larger and you will have grounds to worry.

Identify your stressors.

If you feel anxiety or dread, identify where it is coming from, then remove it. Some examples are deadline pressure, burdensome workload, not knowing procedures, difficult clients, difficult adversaries, disorganization, unfinished work, ethical queasiness, boss problems, employee problems, unpleasant subject matter, schedule problems, excessive hours, personal problems, imaginary problems, baseless fears, meaninglessness, communication problems, etc. They can all be

eliminated successfully. Do not let the stress build. Defuse it immediately. Stress creates more stress.

Utilize momentum.

If you are working well, don't stop. Seize this opportunity. Match your moods to your work. If you feel like talking on the

phone, use this hour to knock out your calls. The deep analysis of the law needs to be done another time, when that mood strikes.

Establish a pleasant work niche.

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that there are so many niches; the law encompasses the full spectrum of life. There are a thousand types of legal jobs. Some are fitting for you and some are not. In finding the right niche, consider why you are in this profession.

Use premium staff.

Work with only the finest staff. Don't fool with fools.

Reward yourself.

When you have successfully completed some work, or even accomplished a significant step forward, reward yourself. Do

this in a manner that reduces your stress. This might be just a small break for some reading or a walk at the park. It costs a little time, but it will generate more success. It is cheaper than a nervous breakdown, a physical collapse, psychotherapy, or a dissolution. Celebrate even hidden victories, such as routine matters that you consider automatic. Celebrate victories of omission. There are negative activities and temptations from which you have refrained this day. Perhaps you have used no drugs today, nor did you during the previous 10,000 days. Just because you are good at this does not mean you aren't

achieving a daily victory.

Savor your successes but wallow in defeat only briefly. A boxer cannot mope in the corner after a devastating round but must quickly prepare for a successful next round. So it is with lawyers.

Exercise.

The mind can't outdo the body for long. If you are not a sports person, find some pleasant exercise and view it as an art form. Besides the health and emotional benefits, the self-discipline gained is immediately transferable to the practice of law.

Be organized.

Establish systems and actually use them. You can't live in peace and be in frantic disarray simultaneously. Allow the work to flow forward smoothly.

Establish boundaries.

Avoid taking on responsibilities that belong to others. Especially don't bear those burdens emotionally. Take care of your own responsibilities and let others handle theirs.

Don't say yes to commitments when you want to say no. Decline cases you know aren't viable, even though you feel sorry for the person and can't bear to say no. You will do more harm than good. As former U.S. Secretary of State Elihu Root said, "About half the practice of a decent lawyer is telling would-be clients they are damn fools and should stop."

Select your case load.

Accept only work that you can feasibly do. If you go to a restaurant where they give you a table but can never produce any food, you would be displeased.

Improve daily.

Every day you become a better person or a worse person. You appreciate or deprecate. Appreciate.

Appreciate your situation.

Many young people dream of a completed education, a good career, a house, and a spouse. Many have realized those dreams. But there is still no inner peace. Enjoy what you are doing. You are living your dreams. ☞

Karl Zeiger practices in Puyallup.

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Managing Conflicts

BY MARK J. FUCILE

In the summer installment of the Ethics Page, we looked at why conflicts matter. In this quarter's column, we'll examine two ways of managing conflicts to reduce civil and regulatory risk: (1) using conflict waivers effectively; and (2) structuring representations to eliminate conflicts in the first place.

Using Conflict Waivers Effectively

The recipe for an effective conflict waiver in Washington is drawn largely from the Rules of Professional Conduct. The WSBA and the Washington State Supreme Court are considering proposed amendments to the RPCs — including those regulating conflict waivers. Although some terminology will change if the proposed amendments are adopted, the key practical ingredients for an effective conflict waiver will remain the same.

Confirm client consent in writing. Both the present and the proposed versions of the current and former client conflict rules — respectively, RPCs 1.7 and 1.9 — require that conflict waivers be confirmed in writing. With both, it is the client's consent that is being confirmed in writing. When documenting the client's consent, however, it is also wise to confirm the disclosures that led to consent. For the client, it sets out in one place the nature of the conflict to which the client consented. For the lawyer, it is an important record if there are ever any questions later about what the client was told before granting the waiver. Although neither the current nor the proposed rules require that the client actually countersign the waiver to affirm consent, having the client do that is a good way to document consent. Oral disclosure and client consent are sufficient to start work on a matter. A written confirmation of the waiver, however, should follow shortly after

that — both to meet the requirement of the rule and to document consent at the time it is granted.

Explain the nature of the conflict. The current versions of RPCs 1.7 and 1.9 require that waivers be predicated on "consultation and a full disclosure of the material facts" and, in turn, define "consultation" as "communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question." The proposed amended versions (which are available on the WSBA's website at www.wsba.org/lawyers/groups/ethics2003) recast the predicate in terms of the client's "informed consent" and define that as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." Whether framed as "full disclosure" or "informed consent," the goal remains the same: you need to tell the client in a way the client will understand what the risks of granting the waiver will be.

Not all conflicts can be waived — even if the clients involved want to waive them. The classic example is that you can't be on both sides of the same litigation.

Remember that some conflicts can't be waived. Not all conflicts can be waived — even if the clients involved want to waive them. The classic example is that you can't be on both sides of the same litigation. Under the current version of RPC 1.7, multiple-client conflicts are waivable only when "[t]he lawyer reasonably believes that the representation will not adversely affect the relationship with the other client." Proposed amended RPC 1.7 retains this general limit and adds a specific prohibition against representing both sides in the same litigation.

The new WSBA *Legal Ethics Deskbook* contains sample conflict waivers cover-

ing a variety of situations. It's a great place to start when you are trying to blend the right ingredients into an effective waiver.

Eliminating Conflicts in the First Place

For there to be a conflict, there has to be *adversity* in the legal positions of the clients involved. If the adversity (or the potential for adversity) is eliminated, then the potential conflicts will likely be eliminated, too. Adversity can be eliminated by structuring a representation at the outset to handle only aspects of a matter where the positions of multiple clients are in concert.

Although this technique can be used in some instances to eliminate multiple-client conflicts in different matters, it is most commonly employed in situations where the same lawyer is handling a matter jointly for multiple clients. For example, in products-liability cases, it is common for dealers to tender the defense of a case to the manufacturer and for both to want to use the same lawyer to defend them. If the manufacturer and the dealer agree (without the defense lawyer acting as a broker between them) to reserve any claims and other liability-shifting issues between them to a later forum with other counsel, then the lawyer has no conflict in defending them in the primary action against the plaintiff, because their interests in that case are fully aligned.

Structuring or limiting representations won't eliminate all conflicts and can have practical constraints if the resulting scope is too narrow to represent the clients effectively. In many situations, however, it can be a very useful tool for managing conflicts. ✍

Mark J. Fucile is a partner with Stoel Rives LLP, where he handles legal ethics, regulatory, and attorney-client privilege matters for lawyers, law firms, and legal departments throughout the Northwest. He is past chair of the WSBA Rules of Professional Conduct Committee and co-editor of the WSBA Legal Ethics Deskbook, and contributes this column quarterly to Bar News.

OPPORTUNITIES FOR SERVICE

Northwest Justice Project Board of Directors**Application Deadline: November 19, 2004**

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a three-year term on the Northwest Justice Project Board of Directors (two positions). The three-year terms will commence January 1, 2005. A written expression of interest and résumé are also required for incumbents seeking reappointment.

The Northwest Justice Project is a not-for-profit organization that receives primary funding from the state and through the federal Legal Services Corporation to provide civil legal services to low-income people. Board members, who play an active role in setting program policy and ensuring adequate oversight of program operations, must have a demonstrated interest in, and knowledge of, the delivery of high-quality civil legal services to the poor. Further information about board member responsibilities is available on request by e-mail to mac@nwjustice.org.

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

Bench-Bar-Press Committee of Washington**Application Deadline: December 17, 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 incumbents seeking reappointment. The three-year terms will commence in February 2005.

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 regarding the committee can be found online at www.courts.wa.gov/programs_orgs/pos_bbp.

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

Limited Practice Officer Board**Application deadline: November 12, 2004**

The WSBA Board of Governors will be nominating two members who are appointed by the Supreme Court to serve four-year terms on the Limited Practice Officer Board. Terms will commence January 1, 2005. Incumbents are eligible for reappointment (up to two consecutive terms) and must also submit a letter of interest and résumé. The board oversees administration of and compliance with the Limited Practice Officer Rule (APR 12), and meets every other month.

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

WYLD Has Successful Year

J.D. Smith

Under the leadership of 2003-04 President J.D. Smith, the WYLD had a very successful year. Professionalism, quality-of-life issues, networking, career development, and skills training for young lawyers are among the WYLD's ongoing priorities. This year's accomplishments included notable progress in the following areas:

- Enhancing the use of *De Novo*
- Strengthening WYLD committees
- Developing better relationships with law students
- Performing more public service.

For more information about the WYLD, including a link to *De Novo*, see www.wsba.org/lawyers/groups/wyld.

The Washington Young Lawyers Division (WYLD) Announces the Recipients of the 2004 WYLD Awards

The WYLD Outstanding Young Lawyer of the Year Award was presented to Gabriel S. Galanda of Williams Kastner & Gibbs PLLC, for his exceptional leadership and contributions to the profession and his community. The nominating materials state: "He is greatly admired for his devotion to public service and strengthening the understanding between Indian tribes, businesses, and the state and local governments. He has clearly, forcefully, and persuasively demonstrated how the impact of Indian law has grown as Indian communities have increased their economic, legal, and political influence, and how it has contributed to that influence." WYLD President J.D. Smith presented the award to Mr. Galanda at the 17th Annual University of Washington Indian Law Symposium on September 9 at William H. Gates Hall, University of

Washington.

The WYLD Thomas Neville *Pro Bono* Award will be presented to Beth Colgan of Perkins Coie LLP. The nominating materials state that Ms. Colgan "provides her clients excellence in all forums of advocacy, critical strategic thinking, rock-solid judgment, and respect and compassion in manner and style. She is the rare lawyer who never assumes the limelight and works tirelessly to help clients who have been left behind and have no place to turn for hope."

The WYLD Professionalism Award will be presented to Jeffrey L. Fisher of Davis Wright Tremaine LLP for his "success in advocating important constitutional principles before the U.S. Supreme Court, his service to the community, and his contributions to legal education," and for courageously "placing himself squarely in the midst of great constitutional debates, advocating his clients' interests."

The WYLD Outstanding Affiliate Organization Award will be presented to the Loren Miller Bar Association for its month-long tribute to the *Brown v. Board of Education* decision(s), the effort of which "demonstrates professional development shaped by a systemic and unwavering commitment to public education as a means for ensuring justice for all."

The 2004 WYLD awards will be presented at various legal community events that are yet to be determined.

WYLD Welcomes Newest Law Student Trustees

According to the WYLD Bylaws, the membership of the WYLD Board of Trustees shall include three law students elected by their peers, with one law student representing each of the three Washington law schools.

We are pleased to announce that the following individuals will be representing Washington law students on the WYLD Board of Trustees from October 2004 to September 2005: Hunter Abell, Gonzaga University; Adam Chin, Seattle University; and Theresa Connor, University of Washington.

While the law student trustee positions are nonvoting, the law student trustees are otherwise entitled to full participation in the activities and discussions of the Board of Trustees.

WYLD Welcomes Newest Officer

At their August 21, 2004, meeting, the WYLD Board of Trustees unanimously appointed Christopher M. Veley, of the Vancouver office of Bullivant Houser Bailey PC, to represent the Southwest District. His term as trustee will commence October 1, 2004, and conclude September 30, 2007. Mr. Veley can be reached at Chris.Veley@bullivant.com or 360-737-2313. For more information about the WYLD, please visit www.wsba.org/lawyers/groups/wyld.

Alliance for Equal Justice Open House Project — October 27, 2004

The Alliance for Equal Justice of Washington State is launching its first-ever statewide Open House Project as part of the Washington State Supreme Court's Access to Justice

Board's effort to raise public awareness and political support for indigent civil legal aid. Nineteen open houses will be hosted in Washington on Wednesday, October 27, 2004. Please join us and other community members to recognize local volunteer and legal-aid attorneys who contribute their time and efforts to provide justice throughout our state. For more information about the Open House Project, please contact the Equal Justice Coalition at 206-447-8168 or equalj@ejc.org.

Bellevue • 4:30 p.m. • Eastside Legal Assistance Program, 1510 140th Ave. NE, Ste. 110 — featured speaker Michael McKay, Legal Services Corporation Trustee

Bellingham • 5:00 p.m. • Northwest Justice Project, 1814 Cornwall Ave. — featured speaker Hon. Mary Kay Becker

Bremerton • 5:30 p.m. • Kitsap Legal Services, 920 Park Ave. — featured speaker Hon. Russell Hartman

Chehalis • 5:00 p.m. • Lewis County Bar Legal Aid, 462 NW Park St. — featured speaker Hon. J. Dean Morgan

Ellensburg • 5:00 p.m. • Central Washington University Theatre, 400 E. University Way — featured speaker Justice Tom Chambers

Everett • 4:00 p.m. • 2731 Wetmore Ave., Ste. 410 — featured speaker John McKay, U.S. Attorney

Kennewick • 4:30 p.m. • Benton County Superior Court, 7122 W. Okanogan Pl., Courtroom B — featured speaker Hon. Edward Shea

Kent • 4:30 p.m. • King County Regional Justice Center, 401 Fourth Ave. N. — featured speaker Hon. Steven Gonzalez

Mount Vernon • Noon • Skagit County Admin Building, 700 S. Second St. — featured speaker Justice Mary Fairhurst

Oak Harbor • 11:00 a.m. • VLP of Island County, 745 SE Maylor — featured speaker Hon. John Coughenour

Olympia • 5:30 p.m. • Evergreen Plaza, 711 Capitol Way — featured speaker Chief Justice Gerry Alexander

Port Angeles • 4:00 p.m. • Clallam County Pro Bono Lawyers, 223 E. Fourth St. — featured speaker Justice Susan Owens

Seattle • 4:30 p.m. • King County Bar Association, 1200 Fifth Ave., Ste. 600 — featured speaker Hon. Richard Jones

Spokane • 4:30 p.m. • Gonzaga University School of Law, 721 N. Cinnati St. — featured speaker Magistrate Judge Cynthia Imbrogno

Tacoma • 4:30 p.m. • Access to Civil Justice Center, 715 Tacoma Ave. S. — featured speaker Justice Charles W. Johnson

Vancouver • 5:00 p.m. • Northwest Justice Project, 500 W. Eighth, Ste. 275 — featured speaker WSBA President Ron Ward

Walla Walla • Noon • First Congregational Church, Fellowship Hall, 73 S. Palouse

Wenatchee • Noon • Wenatchee Golf and Country Club, 1602 Country Club Dr., East Wenatchee

Yakima • 1:00 p.m. • William O. Douglas Federal Courthouse, 25 S. Third St. — featured speaker Justice Tom Chambers

King County Seeks Attorneys for Participation on Department of Community and Human Services (DCHS) Citizen Advisory Boards

The King County Department of Community and Human Services is a vital and important department of the King County government. DCHS has seven volunteer boards, which are listed below, and which provide advice and information that in forms essential King County human services policy decisions.

King County invites inquiries about participation on any of the following boards:

- Advisory Council on Aging and Disability Services
- Alcoholism and Substance Abuse Administrative Board
- Community Organizing Program Advisory Board
- Board for Developmental Disabilities
- Mental Health Advisory Board
- Veterans Advisory Board
- Women's Advisory Board

For more information on these boards, please visit the King County website at www.metrokc.gov/agencies.

WSBA Court Rules and Procedures Committee to Review Appellate Rules

In 2004-2005 the WSBA Court Rules and Procedures Committee is scheduled to review the Rules of Appellate Procedure (RAP) and the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ). The committee will also be reviewing the Mandatory Arbitration Rules (MAR). The first meeting of the committee is scheduled for October 18, 2004, at the WSBA office, commencing at 9:30 a.m. Please send any suggestions for adoption, amendment, or repeal of a court rule to the Supreme Court of Washington, Temple of Justice, PO Box 40929, Olympia, WA 98504-9029; or e-mail Lisa Bausch at Lisa.Bausch@courts.wa.gov. Questions about the work of the committee should be directed to Douglas Ende at 206-733-5917 or WSBACourtRules@wsba.org.

Senior Attorneys Discussion Group

We meet one Thursday a month to talk about issues important to senior attorneys who continue to be involved, creative, healthy, and active. October 21, Pete Roberts, WSBA LOMAP practice management advisor, will teach a hands-on class on PowerPoint. November 11, author Bonnie Genevay will discuss loss, resilience, grief, and aging. December 16, we will share our volunteer activities. Please join us from 4 to 5:40 p.m. at no cost in the WSBA 4th-floor conference room. For more information, call Jennifer Favell, Ph.D., at 206-727-8267.

Therapy Group for Attorneys Struggling with Depression

Research reports indicate that at least 20 percent of lawyers suffer from clinically significant levels of depression. If you or a colleague is among this group, you might consider the services of the Lawyers' Assistance Program. We

will offer a small, confidential therapy group for active members of the WSBA, meeting on Wednesdays, 4-5:30 p.m., beginning as soon as the group has formed. Cost will be on a sliding-scale basis. If you have questions or would like further information, please call Jennifer Favell, Ph.D., at 206-727-8267.

Coming Soon: 2005 Annual Publications Catalog

The 2005 edition of the Publications Catalog from WSBA-CLE Publications will be in the mail soon. Look for your convenient guide to outstanding products and services from the leader in innovative legal education this month. Save your catalog for the coming year to order our premier deskbooks, audiotapes, coursebooks, and more — whether online, or by phone, fax, or mail.

CLE Calendar Through December 2004 Now Online

To help you plan your schedule, WSBA-CLE is listing upcoming seminars through the end of the year at www.wsba.org/cle/seminars/seminarcalendar.htm. If the seminar is open for registration, you can register online. For later seminars, you can ask to be notified when registration opens.

MCLE Certification for Group 1 (2002-2004) — Complete Credits by December 31, 2004

Active WSBA members in MCLE Reporting Group 1 will be required to report compliance with MCLE credit requirements for 2002-2004 at the end of this year. Members in Group 1 include active members who were admitted to the WSBA in all years through 1975 or in 1991, 1994, 1997, or 2000. Members admitted in 2003 are also in Group 1 but are not due to report until the end of 2007. Their first reporting period will be 2005-2007, but any credits earned on or after the day of admittance to the WSBA may be counted for compliance.

If you are a Group 1 member, you will receive a Continuing Legal Education Certification (C2) form in the license packet that will be mailed to you at the beginning of December. This form is an affidavit that lists all the WSBA-approved courses that are listed in your MCLE online profile for the 2002-2004 reporting period. The C2 form, not your online profile, is the official record of MCLE compliance. You may, however, add other courses taken which are not listed to your MCLE profile, then print and attach the profile to the C2 form. Indicate on your C2 form that the attached profile is the true and correct record of the courses taken for the reporting period. Alternatively, you may simply add the additional courses you took by hand to the back of the C2 form (which is the C3 form). The deadline for completing the C2 form and returning it to the WSBA is February 1, 2005.

See the section that follows (MCLE Certification for Active Members — General Information) for further information about MCLE reporting period compliance.

MCLE Certification for Active Members — General Information

Due Date for MCLE Reporting. All WSBA members are divided into three MCLE reporting groups based upon year of admission:

Group 1: Admitted through 1975, 1991, 1994, 1997, 2000, or 2003.*

Group 2: Admitted in 1976 through 1983, 1992, 1995, 1998, 2001, or 2004.*

Group 3: Admitted in 1984 through 1990, 1993, 1996, 1999, or 2002.*

*New admittees (exempt); see "Newly Admitted Members," below.

Group 1 will be required to report for the 2002-2004 reporting period by March 1, 2005.

Group 2 will be required to report for the 2003-2005 reporting period by March 1, 2006.

Group 3 will be required to report for the 2004-2005 reporting period by March 1, 2007.

Credit Requirements. The following credit requirements must be met by December 31 of the last year of an active member's reporting period: Earn at least 45 total credits of WSBA-approved CLE activities, which must include a minimum of 30 live credits and a minimum of six ethics credits. A/V courses can be no more than five years old, except skills courses. No more than four *pro bono* credits can be earned per year.

Carryover CLE Credits. Carryover credits from the previous reporting period must be used to meet the requirements of the current reporting period. If your current reporting period total credits exceed 45, you may carry over a maximum combined total of 15 general and ethics credits. Only two ethics credits and five A/V credits may be carried over.

MCLE Late Fees. All active members who have not completed their credits by December 31 of the last year of their reporting period, or who submit their C2 reporting forms after March 1 of the following year, must pay a late fee of \$150. The late fee increases by \$300 for each consecutive three-year reporting period of noncompliance.

Newly Admitted Members. If you are a newly admitted member, you are exempt from reporting CLE credits for the year of your admission and the following calendar year. If you were admitted in 2003, you will not report this reporting period (2002-2004) even though you are in Group 1. You will first report at the end of 2007 for the 2005-2007 reporting period. When you report at the end of your first reporting period, you may claim all CLE credits earned on or after your date of admission to the WSBA.

MCLE Comity. If you are an active member of the WSBA and your primary practice is in Oregon, Idaho, or Utah, you may meet your mandatory CLE requirements by providing proof of current compliance. Only a Certificate of Compliance from your state bar will satisfy your MCLE requirements in Washington.

MCLE System — Course Listing and Member Profiles.

You can use the online MCLE system at <http://pro.wsba.org> to review courses taken and credits earned, apply for course approval, apply for writing credit or for prep-time credit, and search for approved courses being presented in the future.

To use the MCLE system, go to <http://pro.wsba.org>, click on the Member tab, 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 any questions about using the MCLE system or about the MCLE compliance requirements, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or questions@wsba.org.

Address Update Reminder

2005 license fee renewal packets are scheduled to be mailed in early December. Please update your address no later than October 15 to ensure your licensing packet will be mailed to the correct address. You can check your listing by going to the online lawyer directory at <http://pro.wsba.org>. If any of your contact information (name, address, phone number, or e-mail address) has changed, please update the information by e-mailing questions@wsba.org, faxing the change to 206-727-8319, or calling the WSBA Service Center at 800-945-WSBA (9722) or 206-443-WSBA (9722).

"Random Acts of Professionalism" Program

The WSBA Professionalism Committee has created a way for lawyers and judges to recognize their colleagues who have conducted themselves in a professional manner consistent with the Creed of Professionalism. Through the "Random Acts of Professionalism" Program, lawyers and judges may nominate their colleagues to receive the award. Nominating a lawyer or judge for the award is very easy — simply send his or her name, along with a brief description of why you are nominating the person, to Judy Berrett, staff liaison to the Professionalism Committee, at judithb@wsba.org, or fax to 206-727-8319. That's all there is to it! The nominated person will receive a letter, a certificate, and a copy of the WSBA Creed of Professionalism.

Free Workshop: Access for People with Disabilities to Lawyers and the Justice System, and Best Practices to Access the Deaf and Hard of Hearing

Do you know Washington and federal law regarding equal access to services for disabled people? Do you know how to arrange for a qualified sign-language interpreter or assistive technology needed to communicate with deaf or blind clients? Are there physical barriers to your facility? Do you know how to best represent a client with a cognitive impairment? This seminar is for you if you are a lawyer, paralegal, or other staff, or work in the justice system. Light lunch — first come, first served. Wednesday, Octo-

ber 20, 2004, 11 a.m. to 5 p.m. Eastern Washington Center for the Deaf and Hard of Hearing, 1206 N. Howard St., Spokane; 509-328-9220, 800-214-3323. Register: www.ewcdhh.org or ewcdhh@ewcdhh.org. Please contact the center by October 15 for accommodation requests. This seminar will be conducted in English and Sign Language. (Continuing Legal Education credits pending; Continuing Judicial Education credits 4.5 (.5 ethics).)

Law Day Fundraising Luncheon a Success

The Chelan-Douglas County Volunteer Attorney Services (VAS) received a total of \$10,630 in contributions as a result of a fundraising event on May 14. The mission of VAS is to achieve justice in the community by helping low-income people with civil legal problems receive quality, free legal services.



Pictured (left to right): VAS Board members Judith Lurie, Judge T.W. "Chip" Small, Kari Kube, and Robbie Scott; keynote speaker U.S. Attorney General John McKay; VAS Executive Director Javier Barajas; and VAS Board President Russ Speidel.

Starbucks Coffee Company Legal Department Receives Minority Corporate Counsel Association's (MCCA) Employer of Choice Award

MCCA has awarded the Starbucks Coffee Company Legal Department the 2004 Employer of Choice Award for contributions in furtherance of diversity in the legal profession. MCCA was founded in 1997 to advocate for the expanded hiring, retention, and promotion of minority attorneys in corporate law departments and the law firms that serve them. MCCA accomplishes its mission through the collection and dissemination of information on diversity in the legal profession. The award will be presented on October 5 at MCCA's Western Regional Diversity Dinner in Beverly Hills, CA.

Lawyers' Assistance Program Peer Counselor Statewide Network

We are attorneys who volunteer support to others who need someone to listen when times are tough. We are not professional mental-health counselors, but do receive training at our statewide conference in April and regional

trainings throughout the year. We seek to expand the diversity we represent and offer to WSBA members. Would you have time and interest in listening, recognizing when a peer needs referral for additional support, attending a training, educating the legal community about the healthy practice of law, and giving of yourself as your time allows? Please call Jennifer Favell, Ph.D., at 206-727-8267.

WSBA Mileage Reimbursement Rate

It is the WSBA's policy to adjust the mileage-reimbursement rate every October to the optional standard business rate set by the IRS. Effective October 1, 2004, the WSBA mileage reimbursement rate for meetings and travel on behalf of the WSBA will increase to \$0.375 per mile. For a summary of the WSBA Expense Policy, download the WSBA expense report form at www.wsba.org/info/operations/finance/expensereport.htm.

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) in the Law Office Management Assistance Program. Program guidelines and sign-up forms are available at www.wsba.org/lawyers/services/lawyer_tolawyer.htm.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in September 2004 was 1.903 percent. The maximum allowable interest rate for October 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 to 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.

Upcoming Board of Governors Meetings

October 22-23 — Richland
December 10-11 — Everett
January 20-21, 2005 — Olympia

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 com-

plete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/info/bog/schedule.htm.

Consumer-Information Pamphlets Available

Provide a valuable service to your clients by offering them consumer-information pamphlets! Published by the WSBA as a public service, these pamphlets educate consumers about their legal rights and responsibilities, answer frequently asked questions, and explain basic aspects of Washington law. The information 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/public/consumer. Note: A special discounted rate is available for qualified nonprofit organizations — contact the WSBA Service Center for details.

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 for 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.

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.

Creed of Professionalism

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



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

- Creed suitable for framing:
@ \$4 each (includes shipping) \$ _____
 - Creed mounted on a wooden plaque:
@ \$20 each (includes shipping) \$ _____
 - If in Washington, add sales tax
@ 8.8% \$ _____
- Total \$ _____

Check enclosed (payable to WSBA)

MasterCard Visa

No. _____

Exp. date _____

Name as it appears on card _____

Signature _____

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

Please send to:

Communications Division, WSBA
2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330

Name _____

Address _____

City _____ State _____

Zip Code _____

WSBA office use only: 44200 COMM

Date _____ Check no. _____ Amount _____



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.

U.S. Bankruptcy Bar Association, Eastern District of Washington

The Bankruptcy Bar Association of the Eastern District of Washington elected the following officers at the association's annual meeting at Sun Mountain Lodge: **Erik S. Bakke Sr.** of Davis, Arneil Law Firm, LLP, Wenatchee, president; **Mary Ellen Gaffney-Brown** of Lineberger & Gaffney-Brown, Spokane, president-elect; **Elizabeth Baker** of Carlson, McMahon & Sealby, Wenatchee, secretary; and **Ian Ledlin**, Spokane, secretary.

All members of the WSBA are eligible for membership. For further information about the Bankruptcy Bar Association or its work, please contact Erik S. Bakke Sr. at PO Box 2136, Wenatchee, WA 98807; or erikb@dadkjp.com.

Clallam County Report

by Cliff Tassie

High summer in Clallam County this August. One of the longest stretches of crystal-clear hot days I can remember just

returned to normal with two days of rain. It's a reminder of what we have to look forward to here from November through April. Most of us have had a chance to get away from the office for awhile and enjoy a change of scenery. Even though we live where quite a few people come to spend their vacations, the urge still exists to just get the heck out of town.

The filing period just closed with our two Superior Court judges, Hon. **Ken Williams** and Hon. **George Wood**, standing unopposed for re-election. Our other legal elected folks aren't running this year. Our big news is certainly that our very own **S. Brooke Taylor** will be the WSBA president for the 2005-2006 term. My favorite story about Brooke's time on the BOG was his choice of get-up at a costume party early in his term. He sported Carharts logger jeans, red suspenders, a tin shirt, and romeos (leather pull-on boots, for the uninitiated). Mingling in such attire in a room full of what we irreverently refer to as "elevator lawyers" is vintage Brooke.

Brian Coughenour earned standing ovations for his acting (and excellent singing) in the Port Angeles Light Opera Association's summer production of *Annie Get Your Gun*. He looked very comfortable and natural as the male lead, Frank Butler, in the end successfully balancing love and ego. He even grew a commendable handlebar mustache. We all look forward to his next theatrical outing.

The last few months have seen some personnel changes at the bar. Doubtless I will miss some, providing an opportunity for heartfelt *mea culpas* next time. Greenaway & Gay added **Carl Gay's** old friend **Rob Tulloch**. New firms **Basden & Hansen, PLLC**, and **Wolfley & Black** were formed out of the former firm with those members. **Jane Shefler** has left us all green with envy by entering a scandalously early retirement; she will be followed later this fall by **Grant Meiner**. **Craig Miller** and **Chris Shea** have opened a new firm with offices at the Windermere building. **Curtis Johnson**, with his dad "of counsel," is in solo practice on East 5th Street. **Carol Mortensen** passed the bar and is sharing offices with **Bob Strohmeyer**. Finally, **McMenamin**

& **McMenamin**, a husband-and-wife firm, kept it all in the family by adding their nephew, **Patrick McMenamin**.

Pierce County Judiciary Report

from Judge Stephanie Arend

Pierce County's Superior Court judges and commissioners painted the town red this summer. Well, not the whole town, just one house. And it was sand point rather than red. But participating in "Paint Tacoma-Pierce Beautiful" for the second consecutive year was rewarding for the jurists as well as the homeowners.

"Working with colleagues outside the courthouse and getting the entire project finished within two weeks made it especially satisfying," said Judge **Ron Culpepper**. Commissioner **Mark Gelman** agreed, "Gorgeous weather, good friends, good food, a great house color, and a good time had by all, even at 6 a.m."

Headed by Judge **Stephanie Arend**, a majority of the 21 judges and six commissioners participated in three work parties during July to paint the East Tacoma home of **Elaine and Loren Hancock**. "I love it. They did such a nice job," said Mrs. Hancock. "They were wonderful, so down to earth and kind. It is humbling to have the Superior Court working on your house. It was hard for Loren, because he volunteers so much helping others. He felt he should be out working with them, but he couldn't do it because of his health."

The house at East 53rd and McKinley has been the Hancocks' home for 12 years and has been in the Hancock family's ownership since 1964. "This was Grandma's house," she said. Loren Hancock went to a local seminary late in life and serves as an interim minister when congregations are without a regular preacher. He previously worked as a truck driver and butcher. Illness forced him to sell his truck. Elaine Hancock retired on a disability.

The judges were assigned the Hancock home after responding to the "Paint Tacoma-Pierce Beautiful" annual call for volunteers to paint homes of low-income senior and disabled citizens. **Sallie Shawl**, the project's director, said more than 100 homes are being painted this

year by crews from churches, service clubs, unions, businesses, local government and military agencies, and individuals. By the end of summer, a total of 1,485 homes will have been painted since the program started in 1985. "We should all be proud of our response to the call for crews to paint homes. Giving back to the community is everyone's civic duty," Judge **Sergio Armijo** said.

Judge **Vicki Hogan** assisted Arend with project coordination. "The Hancocks are a delightful couple who have given much to Pierce County. It was a privilege to be able to help such wonderful people by painting their home," she said. While almost all of the judges and commissioners helped by pressure washing, scraping, priming, or painting, others participated by providing food and beverages for the work crews. "This is a win-win for everyone. The homeowner gets a newly painted house and we have fun too," said Judge **Bev Grant**.

Mrs. Hancock purchased a thank you card for the judges but was having a difficult time determining what to write. "There are no words that can adequately express what we feel about all their work. What they gave means so much to us," she said.

Not everyone was speechless after the paint had dried, however. **David Moore**, husband of Judge Hogan, had this to say about his experience painting with the judges:

To work with the Judges was such a thrill,
But of painting a house, I got my fill.
I painted diligently, without a flaw,
Now I hope I never again run afoul
of the law!

Whatcom County Report

On August 31, 2004, Judge **Michael Moynihan** sent me an e-mail advising that as of 4:30 p.m. he was retiring as Superior Court Judge and recommending a successor as Around the State reporter. Judge Moynihan wrote the Whatcom Report during my first time as editor, 1988-95, and was always timely, informative, and funny. Bar News and I will miss his contributions, and we all wish him well in retirement — EDITOR.

The Practice of Law Board is authorized by General Rule (GR) 25(c)(1) to issue Advisory Opinions relating to the authority of nonlawyers to perform legal and law-related services. Petitions for review from any action of the POL Board to the Supreme Court shall comply with GR 25(g).

ADVISORY OPINION

(Inquiry # 04-18)

August 13, 2004

Giving Advice Relative to the Sale of Living Trust or Other Testamentary Instruments by Persons Not Admitted to Practice Law in Washington

Issues

1. Whether a person, not admitted to practice law in Washington, who gives advice relating to the sale of living trusts or other testamentary instruments for a fee, is engaged in the practice of law.

2. Whether a lawyer, admitted to practice law in Washington, who approves the final document, is assisting the unauthorized practice of law.

Brief Answers

1. A nonlawyer may not give advice or counsel to others as to their legal rights or responsibilities, whether or not for fees or other consideration. GR 24(a)(1).

2. A lawyer involved in advising persons who were purchasing testamentary instruments from nonlawyers would need to comply with Rule 5.3 and other provisions of the Rules of Professional Conduct.

Analysis

1. Advising individuals whether or not a particular form of testamentary device is appropriate to protect their legal rights or to meet their intended legal responsibilities is the practice of law. GR 24(1)(a). Only lawyers admitted to practice in this state may practice law in Washington.

In *Perkins v. CTX Mortgage Co.*, 137 Wn.2d 93, 969 P.2d 93 (1999), the Washington State Supreme Court held that a mortgage lender engages in the practice of law when producing and completing residential home loan documents. Simi-

larly, in *Jones v. Allstate Ins. Co.*, 146 Wn.2d 291, 45 P.3d 1068 (2002), the Supreme Court held that actions of an insurance claims adjuster constituted the practice of law when she completed legal forms, advised unrepresented claimants, and advised claimants to sign settlement and release agreements without advising them there were potential legal consequences or referring them to independent counsel.

In *Perkins*, the Supreme Court said:

Our underlying goal in unauthorized practice of law cases has always been the promotion of the public interest. Consequently, we have prohibited only those activities that involved the lay exercise of legal discretion because of the potential for public harm.

137 Wn.2d at 102. In that case, the Court found that "lenders are authorized to prepare the types of legal documents that are *ordinarily incident to their financing activities* when lay employees participating in such document preparation do not exercise any legal discretion." *Id.* Similarly, in *Jones v. Allstate*, the Supreme Court held that insurance claims adjusters may prepare and complete legal documents *incidental to the business of claims adjusting*. 146 Wn.2d at 305. The Court also held in both cases that the persons engaging in such activities must comply with the standard of care of a practicing attorney.

The marketing of living trusts and other testamentary instruments is unlike the activities in *Perkins* and *Jones*. In those cases, the activities constituting the practice of law were *incidental* to the business of the defendants. In the case of advising individuals on the selection and use of testamentary instruments, that itself is the practice of law, whether or not for a fee or other consideration. It is not "incidental" to anything else. It is the practice of law and may be engaged in only by persons admitted to practice by the Washington State Supreme Court.

In *Florida Bar re Advisory Opinion — Nonlawyer Preparation of Living Trusts*, 613 So. 2d 426 (Fla. 1992), the Florida Supreme Court held that "the assembly,

drafting, execution, and funding of a living trust document constitute the practice of law." Also, in *Florida Bar v. American Senior Citizens Alliance, Inc.*, 689 So. 2d 255 (Fla. 1997), that court said:

Under the untenable guise of "gathering information," nonlawyer ASCA employees answered specific legal questions; determined the appropriateness of a living trust based on a customer's particular needs and circumstances; assembled, drafted and executed the documents; and funded the living trusts . . . The particularized legal advice and services rendered by ASCA's nonlawyer employees clearly constituted the unlicensed practice of law.

We conclude that a person who is not admitted to practice law in Washington, and who gives advice relating to the sale of living trusts or other testamentary instruments, whether or not for a fee or other consideration, is engaged in the practice of law.

2. A lawyer involved in the marketing of living trusts and other legal instruments with a nonlawyer must comply with RPC 5.3, Responsibilities Regarding Nonlawyer Assistants, and other provisions of the RPCs, such as those concerning sharing fees with nonlawyers, conflicts of inter-

est, etc. Specific advice on those requirements is beyond the authority of the Practice of Law Board.

The Board notes, however, that this issue was addressed by the Florida Supreme Court in *Florida Bar re Advisory Opinion, supra*:

The question posed by petitioner also presents a potential conflict of interest for a lawyer employed by a corporation or other entity involved in the sale of living trusts. Loyalty is an essential element in the lawyer's relationship to a client. In advising a client about the disposition of property after death, the lawyer must first determine whether a living trust is appropriate for that client. If so, the lawyer must then ensure that the living trust meets the client's needs. If the lawyer is employed by the corporation selling the living trust rather than by the client, then the lawyer's duty of loyalty to the client could be compromised. . . . In light of this duty of loyalty to the client, a lawyer who assembles, reviews, executes, and funds a living trust document should be an independent counsel paid by the client and representing the client's interests alone.

(Citations to Florida rules nearly identical to Washington RPCs 1.7(b) and 1.8(f) omitted.)

Jeff Adatto

Assistant Attorney General Ray Hinea III contributed this remembrance of a friend and colleague.

It is my sad duty to report to the members of the Bar the passing of our good friend and colleague Jeff Adatto. Jeff lost his battle with ALS (Lou Gehrig's disease) on Monday, July 12, 2004, comforted by the presence of his family and close friends. He is survived by his wife, Lisa; his children, Daniel and Suzanne; as well as his parents, brother, and sister.

Jeff was a 20-year veteran of the Washington State Attorney General's Office. For close to 18 years, he was the section chief of the Vancouver office, managing a staff of attorneys, paralegals, and legal assistants while carrying a caseload of his own. He also served on the Clark County Bar's Superior Court Bench/Bar Committee. His failing health forced him to step down from managing the office in July 2003. However, he continued to work from home until the end of that year, providing advice and mentorship to the attorneys who took over his cases.

Jeff primarily practiced in the area of workers' compensation law, representing the Washington State Department of Labor and Industries before the Board of Industrial Insurance Appeals and in Superior Court. His expertise in this area of law was well known. His advice and mentorship was sought out by other assistant attorneys general from around the state and by local private-practice attorneys. He was respected by his adversaries and judges, both for his comprehensive knowledge of the law and for his ability to inject his sense of humor at the appropriate time.

The staff who worked for him knew him as a compassionate supervisor. He deeply cared for everyone's welfare and ensured that their family concerns were treated as a higher priority than the demands of the workload. This created an intense loyalty by staff members: "You worked hard so as not to disappoint him."

Jeff was a graduate of Lewis and Clark School of Law. Upon his acceptance into the Washington State Bar, Jeff worked for Evergreen Legal Services in Wenatchee. In 1982, he moved to Vancouver and joined the firm of Fritzler and Hall. He joined the Attorney General's Office on



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avoid liabilities,
but who's helping you?



April 1, 1983.

Jeff had many passions outside of his professional life. His greatest passion was his love for his family. There was never any question that they came first in his life. His other interests included movies, music, and good food and drink enjoyed in the company of friends. His knowledge of trivia would have made him a finalist in any Jeopardy competition.

Jeff will always be thought of by his friends and colleagues as a good friend, a just man, and a gentle man.

Hon. Thomas D. Coughlin

Tom Coughlin juggled many roles and several careers. He grew up in Wenatchee, attended Seattle Prep, Gonzaga, and UW Law School. He practiced in Seattle with Abbott Curtis & Coughlin beginning in 1965, and Mullavey Hageman Prout Kirkland & Coughlin from 1971 to 1980. From 1980 to 1984 he and his wife owned and operated a hardware store in Stanwood and lived on Camano Island, after which he resumed the practice of law until he became an Island County District Court judge (commissioner) in 2000. He had been a regular *pro tem* judge in both Island County and Cascade District Courts for many years. He was Stanwood's city attorney for years, and active in St. Cecilia's Catholic Church, local senior groups, and the local food bank. Tom was an avid fisherman, poker player, cook, and patriarch.

Tom died on August 23, 2004, of heart failure on his commute between Oak Harbor and a church group function on Camano Island. He is survived by his wife of 40 years, Lynda Jo; son, Clancy (Kimberlee); daughter, Sara (Mark); daughter, Kate (Doug); and four grandchildren.

Hon. Eugene G. Cushing

Major general, U.S. Army Reserve; Superior Court judge; beloved husband, father, grandfather, and great-grandfather passed away on August 26, 2004. Born in Portland, Oregon, August 24, 1905, Gene had just turned 99.

He worked his way through the University of Washington playing the trombone with Seattle's "Big Bands" and received his law degree in 1929. His professional career was extensive, beginning with five

years of law practice and seven years as prosecuting attorney in Vancouver, WA. Then, during World War II he served five years as a staff judge advocate, U.S. Army. Finally, returning to Vancouver in 1945, he was elected Superior Court judge, Clark County, serving 21 years on the bench. In 1966, he was appointed U.S. attorney for the Western District of Washington, serving three and a half years in the position in Seattle. The next five years he became a Superior Court judge, *pro tem*, King County, then was elected for an additional four years to serve on the King County Superior Court.

Honors received include the Legion of Merit Medal for Meritorious Service in WWII, and Legion of Merit Medal with Oak Leaf Cluster for services as commanding general of the 104th "Timberwolf" Division.

Gene held the following offices: first president of the Vancouver American Rose Society; president of the Senior Reserve Commanders Association of U.S. Army Reserve; president of the Superior Court Judges Association, State of Washington; and president of the Prosecuting Attorneys Association, State of Washington.

In 1965, on active duty training at Fort Lewis, General Cushing addressed his command of troops: "Today, as in the past, there are still many tasks to be accomplished by the members of this outstanding organization. Should continued sacrifices be called for, I am confident that the members of the "Timberwolf" Division can and will live up to our present motto "Do It."

Gene continued to "Do It" his entire life. He is survived by his wife, Ruth Hightower Cushing, married 73 years; children Kevin G. Cushing, Darryl E. Cushing, and Deberah Cushing Fox; three grandchildren; and six great-grandchildren.

William L. Maltman

Longtime Seattle attorney Bill Maltman graduated from the University of Oregon, *Phi Beta Kappa* and *Beta Gamma Sigma*. He served in the U.S. Army Intelligence in WW II and with the Judge Advocate General in the Korean War. Bill attended Stanford Law School and was a gradu-

ate of George Washington School of Law. He practiced in Seattle for over 40 years. He was an initial partner of Hennings, Maltman, Weber and Reed (today Reed, Longyear, Malnati & Ahrens, PLLC).

Survivors include his wife, children, and grandchildren. Bill also leaves behind many dear lifelong friends. At his request, no formal services were held and his ashes were scattered in Puget Sound.

Born in Edmonton, Alberta, Canada, on April 30, 1921, Bill Maltman died July 16, 2004, aged 83, in Seattle.

Hon. Solie Ringold

Solie Ringold spent 16 years on the King County Superior Court bench and 10 more on the Court of Appeals. Son of Russian-born Jews, Ringold is remembered by friends as a "flaming liberal" who helped found the Washington chapter of the ACLU.

Ringold graduated from the University of Washington and obtained his law degree at age 21. He joined the WSBA in 1936 and began his career with the King County Prosecuting Attorney's Office. He rose to become chief of the civil division.

In 1942, Ringold was sent to the Pacific as a member of the Army's counter-intelligence corps, and was present for the Japanese surrender in 1945. He returned to Seattle and the prosecutor's office, going into private practice in 1947. He was appointed to the bench in 1961.

Ringold's daughter, Barbara Szpiro, recalled, "there were many years when he was *the Jewish judge* in Seattle. He always identified with his religion, his community, and Israel. His politics, his legal mind, and his Judaism were intertwined."

Ringold is survived by his wife of 65 years, Marion; three children; six grandchildren; and two great-grandchildren. He was 90 years old when he died Aug. 22, 2004, in Seattle.

Bar News has also been advised of the deaths of the following members:

William E. Eubank, Glendale, AZ, admitted 1952, died July 7, 2004.

Marian C. Gannett, Seattle, admitted 1980, died February 20, 2004.

Robert Sweeney, Spokane, admitted 1961, died March 20, 2004.

Disciplinary Notices

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

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

Disbarred

Ricardo A. Guarnero (WSBA No. 18922, admitted 1989), of Seattle, was disbarred, effective July 8, 2004, by an order of the Washington State Supreme Court following a hearing. This discipline was based on his conduct in 2000 involving forging a client's signature and submitting the forgery to the court and opposing counsel.

In 2000, Mr. Guarnero agreed to represent a client in her lawsuit against King County alleging a sexual assault while she was an in-patient at a treatment facility. The county's summary judgment motion was set for May 19, 2000. On May 10, 2000, the client drove to the office and signed her declaration. Due to a copy-machine error, the signature page of the client's declaration was omitted from the copy sent to the prosecutor and to the judge. The court considered the client's declaration, denied the summary judgment motion, and ordered Mr. Guarnero to fax a copy of the executed signature page to the court and counsel by 4:30 that afternoon. Unsure he could locate the original, Mr. Guarnero had his assistant leave a message for the client to sign a second copy. Mr. Guarnero then forged the client's name on a second copy of the declaration and faxed the forgery to the court and to the prosecutor. Based on expert testimony that the signature was a forgery, the court granted reconsideration of the earlier ruling on the summary judgment. The parties settled prior to any further ruling. Mr. Guarnero continued to represent the client after the forgery was discovered and did not advise the client of a potential conflict of interest.

Mr. Guarnero's conduct violated RPCs 8.4(b), prohibiting committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects [RCW 9A.60.020, Forgery]; 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; 3.3(a)(1), prohibiting knowingly making a false statement of law or material fact to a tribunal; 3.3(a)(4), prohibiting offering evidence the lawyer knows to be false; 8.4(d), prohibiting conduct prejudicial to the administration of justice; 1.4, requiring lawyers to keep clients reasonably informed of the status of their matters; and 1.7(b), prohibiting lawyers from representing clients if the representation may be materially limited by the lawyer's own interests, unless the lawyer reasonably believes the representation will not be adversely affected and the client consents in writing after a full disclosure.

Thomas V. Harris and Joanne Abelson represented the Bar Association. Kurt Bulmer represented Mr. Guarnero. Robert Redman was the hearing officer.

Disbarred

Lewis M. King Jr. (WSBA No. 10138, admitted 1971), of New York, NY, was disbarred effective October 9, 2003, by order of the Washington State Supreme Court imposing reciprocal discipline based on an order from the state of Oregon. This discipline was based on his conduct between 1989 and 1993 involving theft and lack of diligence.

Matter 1: In 1993, Mr. King misappropriated \$70,306.07 from three clients.

Matter 2: In 1989, Mr. King represented a client in a residential real estate purchase. The seller was to obtain an FHA loan that the client would assume. The client asked Mr. King to assist the seller in obtaining the loan. In September 1989, Mr. King filed a lawsuit for the client, but allowed the court to dismiss it for lack of prosecution. In August 1991, Mr. King filed a second action on the client's behalf, naming identical defendants and raising identical issues. On March 30, 1992, the court granted the defendants' sum-

mary judgment dismissal.

Mr. King's conduct violated DR 1-102(A)(2), prohibiting committing a criminal act reflecting adversely on the lawyer's honesty, trustworthiness, or fitness to practice; DR 1-102(A)(3), prohibiting engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and DR 6-101(B), prohibiting knowingly neglecting a client's legal matter.

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

Disbarred

Wm. Guillermo Romero (WSBA No. 18316, admitted 1988), of Moses Lake, was disbarred, effective July 22, 2004, by order of the Washington State Supreme Court following a hearing. This discipline was based on his conduct from 1997 through 2001 involving charging fees while representing clients at public expense, failing to file federal income tax returns, failing to diligently represent a client, failing to deposit a client's funds in a trust account, making misleading statements, and failing to cooperate with the disciplinary investigations. For additional information, please see *In re Discipline of Romero*, 94 P.3d 939 (2004).

Matter 1: In three client matters, Mr. Romero charged attorney's fees even though he was appointed to represent the clients at county expense. Mr. Romero did not explain to the clients that the county was obligated to pay the costs of the representation. In one case, Mr. Romero asked the client's mother for \$10,000 to retain a particular mental-health expert.

Matter 2: A client gave Mr. Romero a check to cover the client's court costs and crime-victim-compensation assessment. Mr. Romero cashed the check, but did not pay the fees for three months. Mr. Romero did not have a trust account at this time. The client showed a copy of his check to a court clerk. When the clerk contacted Mr. Romero, he made misleading statements about the client's funds.

Matter 3: Mr. Romero was appointed to represent a criminal defendant on a

motion to withdraw a guilty plea. The court denied the motion, and the client told Mr. Romero that he wanted to file an appeal. Mr. Romero did not file the appeal. Mr. Romero wrongly advised the client that his guilty plea waived his right to appeal the court's denial of his motion to withdraw that plea.

Matter 4: Mr. Romero was appointed to represent a Mexican national on a criminal charge. Mr. Romero negligently advised the client that he could travel to Mexico without obtaining the necessary bail modifications.

Matter 5: Mr. Romero failed to timely file his federal income tax returns for 1997, 1998, 1999, and 2000. He filed the returns for 1997 through 1999 three days prior to a deposition set in the disciplinary investigation of this matter. The hearing officer found that Mr. Romero would not have filed these returns but for the Association's investigation. Mr. Romero owed approximately \$150,000 in back taxes, interest, and penalties.

Matter 6: Mr. Romero failed to cooperate with seven disciplinary investigations.

Mr. Romero's conduct violated RPCs 1.1, requiring lawyers to provide competent representation to clients; 1.2(a), requiring lawyers to abide by clients' decisions regarding the objectives of the representation; 1.3, requiring lawyers to diligently represent their clients; 1.4(a), requiring lawyers to keep clients reasonably informed of the status of their matters; 1.4(b), requiring lawyers to explain matters to the extent reasonably necessary for clients to make informed decisions; 1.5(a), requiring lawyers to charge reasonable fees; 1.14(a), requiring lawyers to place client funds in a trust account; 7.1, prohibiting lawyers from making false or misleading statements about their services; 8.4(b), prohibiting committing a criminal act that reflects adversely on the lawyers' honesty, trustworthiness, or fitness as a lawyer in other respects; 8.4(c), prohibiting engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; 8.4(i), prohibiting committing an act involving moral turpitude; and RLD 2.8(a) [now E.I.C 5.3(e) and (f)], requiring lawyers to

promptly respond to requests for information relevant to matters under investigation.

Christine Gray and Jean McElroy represented the Association. Kurt Bulmer represented Mr. Romero. James M. Danielson was the hearing officer.

Suspended

Gary I. Greenbaum (WSBA No. 7355, admitted 1977), of Seattle, was suspended for two years, effective May 27, 2004, by order of the Washington State Supreme Court following a stipulation. This discipline was based on his conduct in 2001 and 2002 involving practicing with a suspended license and violations in three client-litigation matters.

Matter 1: In May 1995, Mr. Greenbaum agreed to represent a client in a personal injury claim arising out of an April 1995 automobile accident. When Mr. Greenbaum did not aggressively pursue the claim or contact the client, she retained new counsel. Mr. Greenbaum failed to sign a substitution of counsel pleading or forward the client's file to the new counsel. Mr. Greenbaum willfully violated the court's May 13, 2002, order that he turn over the client's file. In July 2002, the court imposed a judgment of \$8,000 against Mr. Greenbaum and ordered additional sanctions for each day he failed to turn over the file. In September 2002, Mr. Greenbaum paid the sanctions.

Matter 2: In August 1998, Mr. Greenbaum agreed to represent a client in a personal-injury claim arising out of an automobile accident. The client specifically requested that Mr. Greenbaum settle her case quickly. Mr. Greenbaum initially communicated with the client, but later became unresponsive. In July 2001, Mr. Greenbaum agreed to represent the client in a second personal-injury claim arising out of a second automobile accident. In July 2001, Mr. Greenbaum filed a complaint regarding the first accident, but took no further actions on the client's cases and failed to respond to her calls and letters.

Matter 3: On or about July 1, 2002, Mr. Greenbaum notified some of his clients that he had associated another lawyer in their cases. On July 15, 2002, the

Supreme Court suspended Mr. Greenbaum's license to practice law for failure to pay his Association membership dues. Mr. Greenbaum did not notify his clients of his suspension, as required by E.I.C 14.3 [formerly RLD 8.1(a)]. Mr. Greenbaum did not instruct the staff at his office to provide information regarding his suspension or stop announcing him as an attorney.

Matter 4: In June 1999, Mr. Greenbaum agreed to represent a client in a personal-injury matter. In June 2001, without informing the client, Mr. Greenbaum filed a lawsuit. During 2002, the court issued orders compelling discovery, awarding attorney's fees against the client, and, finally, dismissing the lawsuit. Mr. Greenbaum did not respond to any of these motions or notify the client of the orders. In December 2002, a collection agency contacted the client about the attorney's fees awarded in the dismissal. Mr. Greenbaum offered to pay the attorney's fees, but did not do so.

Mr. Greenbaum's conduct violated RPCs 1.2, requiring lawyers to abide by a client's decisions concerning the objectives of representation; 1.3 and 3.2, requiring lawyers to diligently represent clients and expedite litigation consistent with the clients' interests; 1.4, requiring lawyers to keep clients reasonably informed of the status of their matters; 8.4(j), prohibiting willful disobedience of court orders; 1.15(a)(1), requiring lawyers to withdraw from representation if continuing will result in an RPC violation; 7.1(a), prohibiting lawyers from making false or misleading communications about their services; and 8.4(a), prohibiting attempting to violate the RPCs through others; and E.I.C 14.1(c) and 14.3, requiring lawyers to comply with the duties on suspension.

Anthony Butler represented the Bar Association. Kurt Bulmer represented Mr. Greenbaum. Julian C. Dewell was the hearing officer.

Suspended

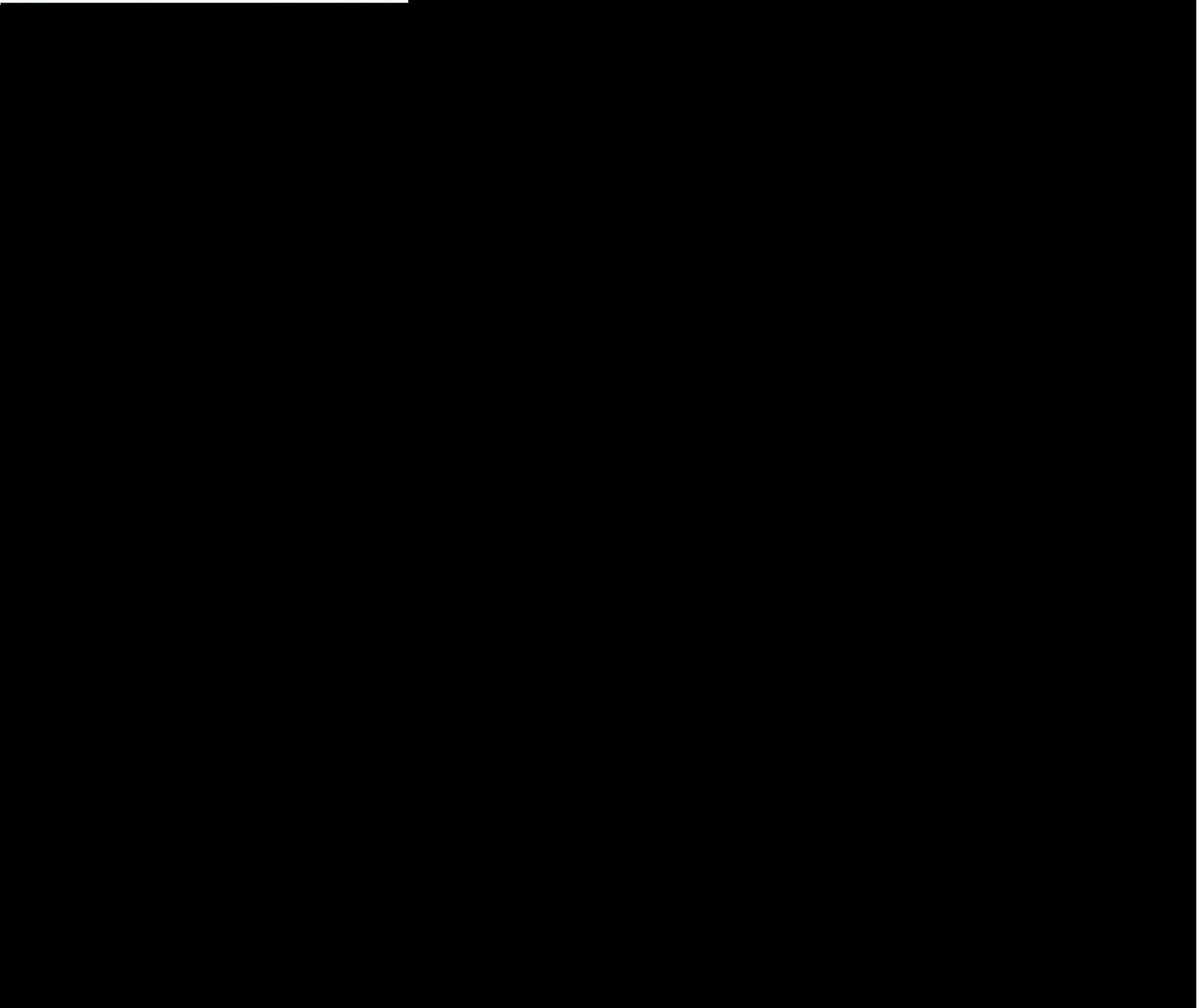
Daniel E. Pohto (WSBA No. 19031, admitted 1989), of Marana, AZ, was suspended for six months and one day, effective July 1, 2004, by order of the Washington State Supreme Court

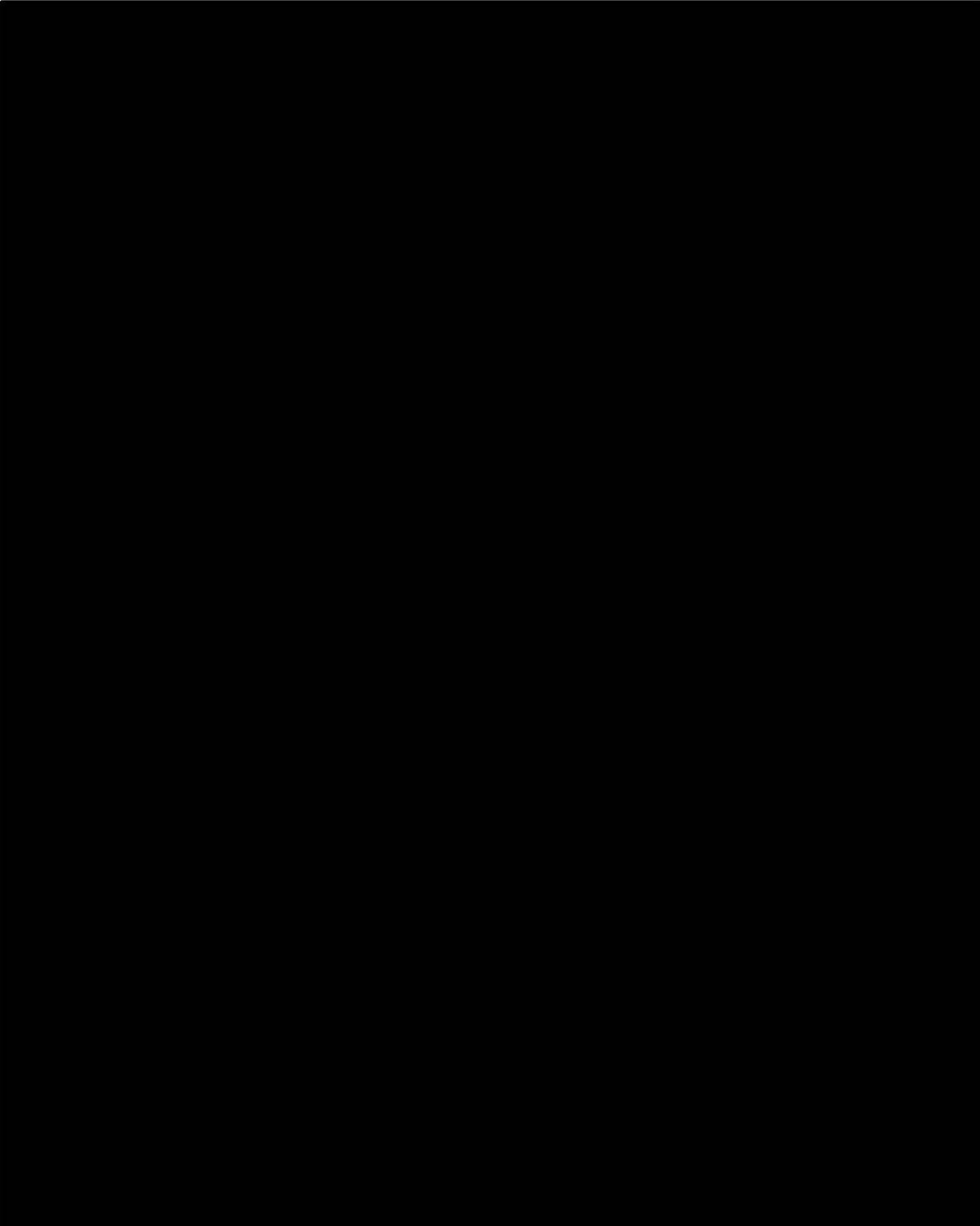
imposing reciprocal discipline based on an order from the state of Arizona. This discipline was based on his violation of the terms of his conditional admission in 2000.

In August 2000, Mr. Pohto was conditionally admitted to the State Bar of Arizona. He entered a 12-month contract containing substance-abuse treatment and monitoring conditions and financial conditions. In November 2000 and June 2001, Mr. Pohto violated the conditions of his contract.

Mr. Pohto's conduct violated Ariz. R. S. Ct. 51(1).

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





Nondisciplinary Notices

Transfer to Disability Inactive Status

Charles S. Dorn (WSBA No. 2745, admitted 1970), of Spokane, transferred to disability inactive status effective April 5, 2004. This is not a disciplinary action.

Transfer to Disability Inactive Status

Jerry L. Trunkenbolz (WSBA No. 12132, admitted 1981), of Spokane, transferred to disability inactive status effective June 3, 2004. This is not a disciplinary action.

Suspended Pending Outcome of Disciplinary Proceedings


Dana P. Gelman (WSBA No. 20147, admitted 1990), of Tacoma, was suspended pending outcome of disciplinary proceedings, pursuant to ELC 7.2(a)(1), effective May 21, 2004, by an order of the Washington State Supreme Court. This is not a disciplinary action.

Suspended Pending Outcome of Disciplinary Proceedings

J. David Smith (WSBA No. 8993, admitted 1979), of Edmonds, was suspended pending outcome of disciplinary proceedings, pursuant to ELC 7.1, effective May 25, 2004, by an order of the Washington State Supreme Court. This is not a disciplinary action. (*Mr. Smith is to be distinguished from David A. Smith of Manchaca, TX; the late David B. Smith of Edmonds; David C. Smith of Tacoma; David D. Smith of Spokane; David E. Smith of Renton; David H. Smith of Seattle; David J. Smith of Seattle; and David P. Smith of Vancouver, WA.*)

Suspended Pending Outcome of Disciplinary Proceedings

Simon Stocker (WSBA No. 28748, admitted 1999), of Brush Prairie, was suspended pending outcome of disciplinary proceedings, pursuant to ELC 7.1, effective June 28, 2004, by an order of the Washington State Supreme Court. This is not a disciplinary action.



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
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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.

ADR

Professional Mediation Skills Training Program

October 1-3 and 16-17 — Seattle.
CLE credits pending. By UW CLE;
800-CLE-UNIV.

Business Law

Responsible Corporate Leadership in Washington State: Law Reform and Best Practices

October 29 — Seattle. 5.5 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Environmental Law

Navigating the Maze: Checklist Approach to Land Use and Environmental Law

October 7 — Seattle. 6.5 CLE credits, including .5 ethics. Application will be made with the Department of Licensing for 7 clock hours. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics

The Advantages of Anti-bias Awareness, Cultural Competency,

and Respecting Diversity

October 5 — Seattle. 5.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethical Dilemmas

October 13 — Yakima; October 27 — Spokane. 4 CLE ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics for Litigators

October 21 — Telephone CLE. 1.5 CLE ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Estate Planning

How to Probate an Estate and Handle Post-mortem Matters

October 15 — Seattle; October 22 — Yakima. 5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Living Trusts

October 26 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Family Law

Protecting the Rights of Relationships — Advising the Unmarried or Gay/Lesbian Couple

October 22 — Seattle. 6.75 CLE credits, including .75 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Violence Against Women Act and Special Immigrant Juvenile Status

November 16 — Seattle. 4.5 CLE credits, including .5 ethics pending. By UW-CLE; 800-CLE-UNIV.

General

Red Flags for the General Practitioner

October 12 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Intellectual Property

Intellectual Property for the

Rest of Us

October 1 — Seattle. 6.5 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Protecting Your Intellectual Property from Inception to Assertion

October 6 — Spokane. 7 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

2nd Annual Pacific Northwest Arts Symposium

October 28 — Seattle. 5.5 CLE credits, including .75 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Labor and Employment Law

4th Annual Washington State Labor and Employment Law Conference

October 8 — Seattle. 6.5 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Law Office Management

Computer Camp I

October 6 — Seattle. 3.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Computer Camp II

October 6 — Seattle. 3.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Computer Camp III

October 13 — Seattle. 3.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Computer Camp IV

October 13 — Seattle. 3.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

LOMAP . . . On the Road — 2004 Traveling Seminar

October 13 — Richland; October 14 — Yakima; November 9 — Everett; November 15 — Tacoma; November 17 — Tukwila. 4 CLE credits, including 2 ethics. By WSBA Law Office Management

Assistance Program; 800-945-WSBA or 206-443-WSBA.

Litigation

Civil Procedure and the Rules

October 15 — Seattle. CLE credits pending. By WSTLA; 206-464-1011.

Revisiting Younger's 10 Commandments: A Contemporary Update of Irving Younger's Classic Rules for Cross Examination

October 26 — Spokane; October 27 — Seattle. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Discovery and Depositions

November 5 — Seattle. CLE credits pending. By WSTLA; 206-464-1011.

Tort Law Update

November 17 — Seattle. CLE credits pending. By WSTLA; 206-464-1011.

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is pleased to announce that

Lee K. Shannon

has been named partner of the firm in the
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Mr. Shannon advises tribes and tribal entities on issues
including economic development, gaming, business entity
formation, commercial transactions, finance, and tax.

Mr. Shannon is an enrolled member of a Northwest Coastal
Salish Tribe (Cowichan Tribe, B.C., Canada). He received a
B.S. in Biology from Seattle University in 1986, a J.D. from the
University of Washington School of Law in 1993, and a
Masters of Business Administration from the University of
Washington Graduate School of Business in 1994.

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having joined the firm as an associate. We ask you to join us
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Prior to joining Larson Hart & Shepherd, Ross served as a
judicial clerk to Judge Elaine Houghton of the Washington
State Court of Appeals, Division Two, and Justice Charles W.
Johnson of the Washington State Supreme Court.

A *magna cum laude* graduate of Seattle University School of
Law, Ross is developing a general litigation practice,
including appellate litigation. Ross can be reached
at rfarr@L-H-S.com

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Susan W. Troppmann

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On being gubernatorial

by Lindsay Thompson, Bar News Editor

We know what we are, but know not what we may be.

— *Hamlet*, Act III, Scene 5 (1600-1601)

This month a new president, president-elect, and a gaggle of governors take their places.

I've seen a lot of presidents and governors come and go through 16 years. Based on that experience, I have some suggestions for the new class. In years past I have doled these nuggets out, piecemeal, at BOG meetings. This way I only have to do it once.

1. Don't start running for president just yet. Some years ago people figured out that the tradition of electing WSBA presidents from the ranks of past governors is nothing more than a tradition. There is nothing that says you have to serve out your three-year term as governor. As a result, in recent years WSBA has had a number of presidents take office in what would have otherwise been the third year of their term on the Board. There's arguments for both ways. I believe serving a full term on the Board generally makes one a better president.

A side effect of people not finishing their terms is that when they resign to become president-elect, the Board chooses a successor to fill out the term. You're trading people who got elected by their constituents for people who didn't.

2. Seek collegiality, and distrust it. Get to know your colleagues as individuals. Have a cup of coffee. Those are the only times you get to talk about "just stuff." The better you understand your colleagues, the better you will understand what's going on around the table at BOG meetings.

Sometimes governors try use collegiality to stifle initiative: you haven't consulted enough. It's not on the agenda. We haven't shopped this out to all the Bar groups for comment.

Sometimes you have to strike when you see an opportunity. *Robert's Rules* says, when you've got enough votes, you win.

3. Think outside the book. Before every meeting you will get a huge book of stuff to read and act upon. It is easy to begin measuring the success of a meeting as getting through the book. The agenda is not God. Seek out creative-thinking time with others.

4. Be a closer. From time to time the BOG will get sand in its gears. Although the machinery of thought grinds to a

halt, debate drags on. People get more and more tired and frustrated. But they can't seem to stop.

There are two things you can do. One is move for a recess. Insist that everyone get up and move around. Get some fresh air. It works.

The other thing is, call for a vote on something. Jim Turner, who served on the BOG in the late 1980s, was the best closer I have ever seen. It's an invaluable skill.

5. Listen to the liaisons. Ringing the Big Table is decades of experience in the persons of various bar groups' board liaisons. People like Solicitor General Narcla Pierce, WACDL rep Jim Macpherson, Judge Judith Eiler, and others have been around a long time.

6. Don't micromanage. The BOG appoints really smart people to committees and task forces and sends them away to chew on complicated

problems. When those bodies come back, the BOG is sometimes seized by a morbid urge to rethink the entire project right there and then.

Appoint good people, let them do their work, and when they bring back recommendations, don't assume you need to reinvent the wheel.

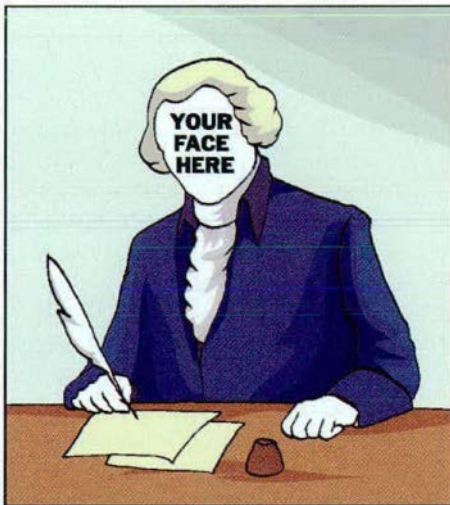
7. Remember Grover Cleveland. When President Cleveland sought a second term, his convention nominator recalled all the vested interests the president had taken on, and then declared, "We love him for the enemies he has made."

Be emboldened by the fact you have three years to serve and then have to go home. As Edmund Burke said, a governor is not a rubber stamp. "My constituents won't like this," is a lame excuse. Leadership is being ahead of the curve, not behind the consensus.

8. Keep things in perspective. Like all volunteer gigs, the BOG can suck up as much time as you will give it. You will be liaison to more committees, sections, and boards than you can count. You'll get invited to endless dinners and lunches.

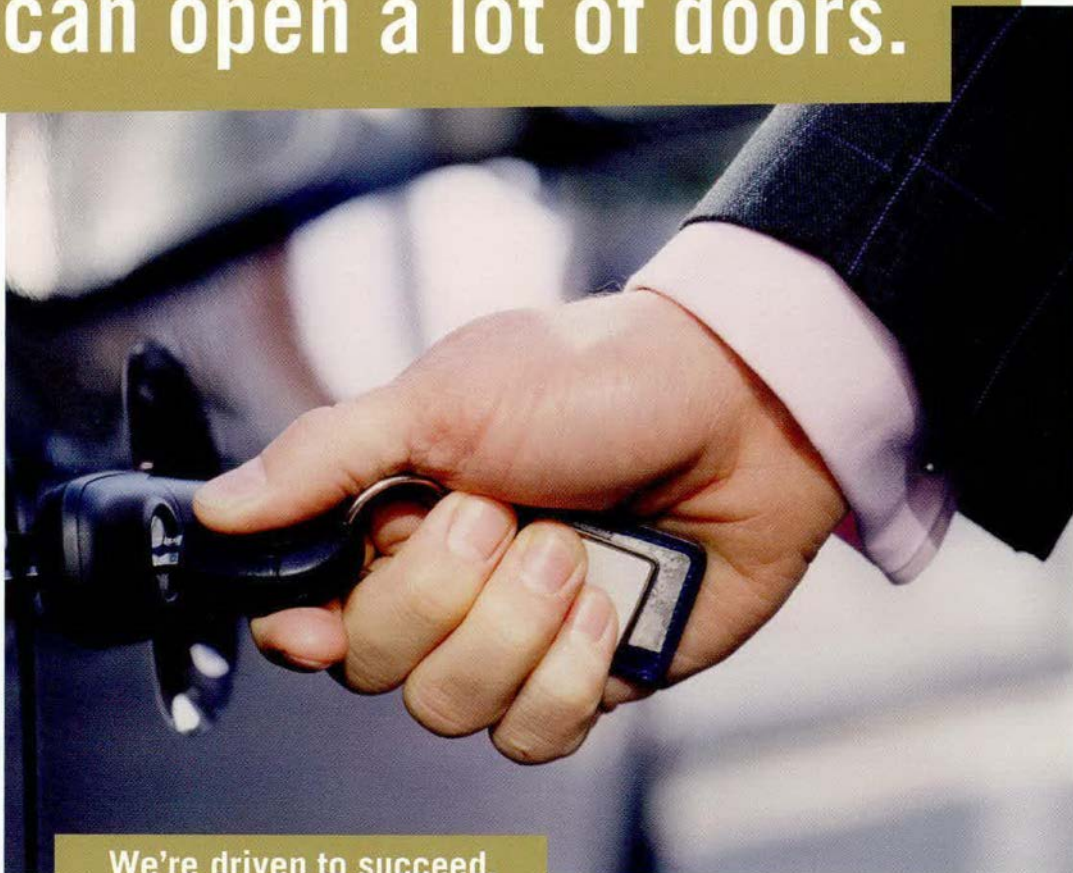
Remember your family, your friends, and your law partners. In three years you'll leave the BOG. Be sure you have people to return to.

That's it. ✍



Lindsay Thompson served on the Board of Governors from 1998 to 2001. He can be reached at tradelaw@thompsonlaw.com.

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