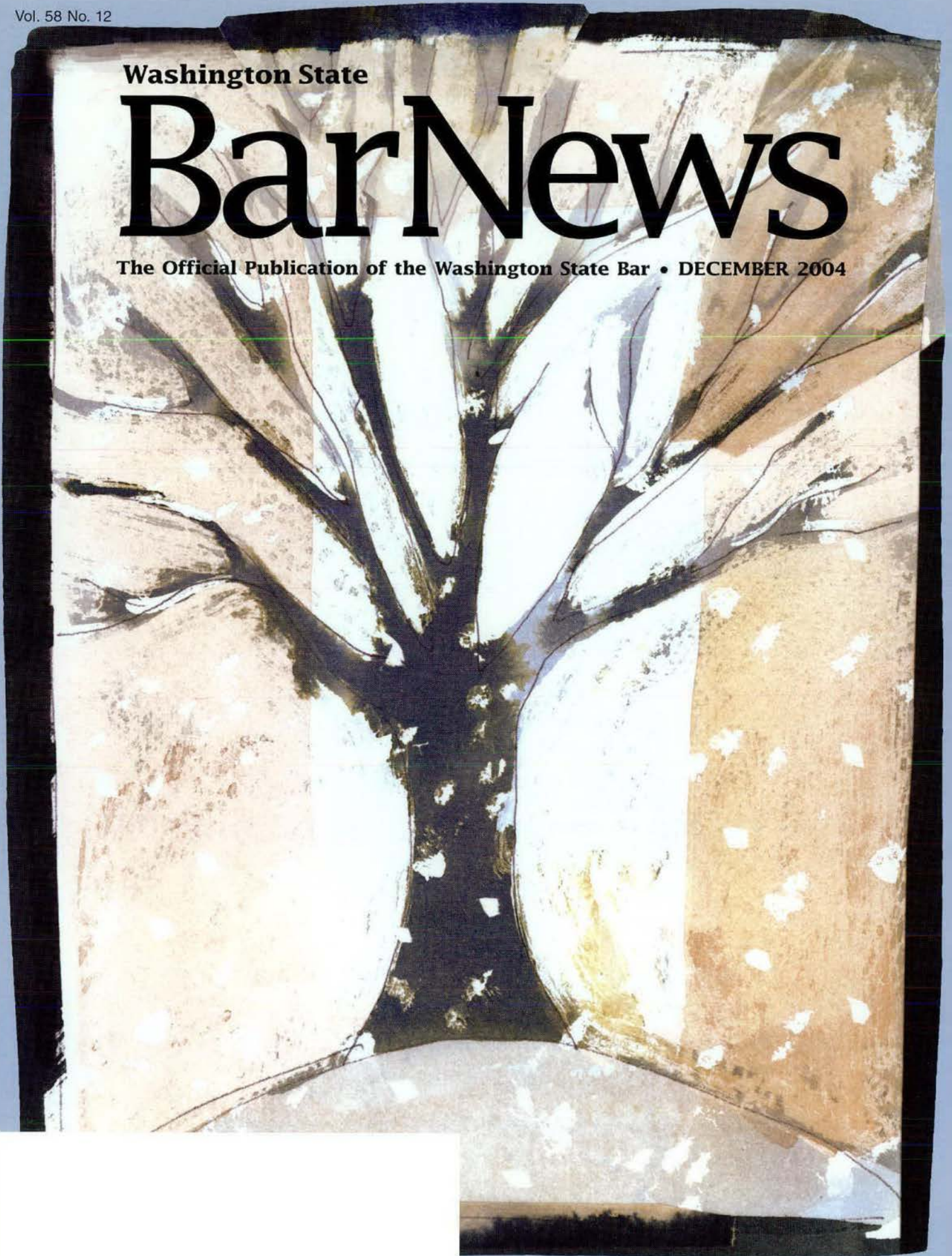


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BarNews

The Official Publication of the Washington State Bar

December 2004



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Working together to champion justice

**The mission of the Washington State Bar Association
is to promote justice and serve its members and the public.**

If *Bar News* isn't pushing one agenda, it's pushing another

I am sad to see that the goal of a color-blind society, for which I and so many others in the civil rights movement have been fighting for more than 50 years, has still not reached the pages of *Bar News*.

In a society of equality, the color of President Ward's skin would be as irrelevant as the color (or lack) of his hair, the length of his fingernails, or any other physical attribute not directly relevant to his role as leader of our Association.

There may be times when physical description is necessary — it makes sense for the police to describe a suspect being sought in terms of race, gender, age, height, weight, rather than just to say "we are seeking a person" and have to leave it at that. But there is no need for *Bar News* to mention Mr. Ward's race unless for some reason — I can't imagine what — they feel this will affect the way he represents the members of the Bar.

There was a saying in the peace movement some years ago: "There is no way to peace; peace *is* the way." The same is true of equality. There is no way to equality; equality *is* the way. The only way to have a society of equality is to be a society of equality — to practice what we preach.

We will never achieve a race-neutral society as long as our leaders emphasize racial differences. By its emphasis on the color of a person's skin, *Bar News* makes a clear statement that they are not prepared even today to treat people simply as people and not as members of this or that racial group. I find that sad.

Perhaps the dream of Rev. King, which I bought into so many years ago and still hold dear, of a society in which the color of person's skin is simply irrelevant to who they are or how they are judged is unrealistic, idealistic, and ultimately silly. But I am not yet ready to give up the dream.

I just wish that the Bar were willing to dream — and live up to — the same dream.

Christopher Hodgkin
Friday Harbor

No it isn't

It was refreshing and encouraging to read the words of our new President, Ron Ward, in your October issue ("First, Let's Bless All the Lawyers").

We need a pat on the back sometimes to remind us that as lawyers, despite our shortcomings, we are decent people committed to our profession and our clients.

That article made me feel good to be a lawyer, yet it also challenged all of us to be good stewards of our profession and to get involved. I'm grateful for the tremendous leadership our organization has.

Michael J. McKasy
Tacoma

It's just daft

When I finished the article "The Employer/Employee Relationship in the New Millennium" (*Bar News*, November 2004) I had an immediate reaction. Was it written in jest to provoke a response?

It is difficult to believe that anyone would seriously suggest that the courts usurp the legislative power to the extent suggested in the article. There is nothing wrong with the current law that essentially allows the employer to terminate an employee without cause absent a contract between the employer and employee for a definite term except when to do so would result in a violation of public policy. What is the compelling need for a change? Why should the change be a matter for the judiciary instead of the Legislature? The article answers neither of these legitimate questions.

My only surprise is that the author didn't suggest the court legislate a cost of living increase each year for the employee. I doubt the author would consider that to be too much of a stretch.

Elvin J. Vanderberg
Tacoma

A simple mistake?

The October *Bar News* discipline column reported that Attorney Victoria N. Smith of Bellevue had received an admonition "based on her conduct in 2000 involving

filing of an inappropriate lien."

The column stated as follows:

In March 2000, while Ms. Smith was an associate in a law firm, she filed a Notice of Attorney's Lien against a client's real property. When Ms. Smith learned that the client had quitclaimed his interest in the property to a third person, she asked a member of the firm about removing the lien. The firm member determined that the lien should not be removed. Ms. Smith also discovered later that liens based on the attorney lien statute cannot be asserted against real property. Ms. Smith relied on the firm member's instruction in filing the lien, and failed to perform her own independent investigation.

Ms. Smith's conduct violated RPCs 3.1, prohibiting lawyers from bringing or defending proceedings unless there is a basis for doing so that is not frivolous; and 4.4, prohibiting using means that have no substantial purpose other than to embarrass, delay, or burden a third person.

From the foregoing, it appears that Victoria made a plausible, simple and entirely innocent mistake: She drew an analogy between an Attorney's Lien and some sort of construction or contractor's lien, and acted accordingly. Moreover, it appears that her motives were entirely innocent and, indeed, wholesome: She was merely attempting to collect a debt which was lawfully owed to her employer. If this is so, then certain issues would seem to arise.

First, the application of RPC 3.1 to the filing of a lien, apparently on the theory that a lien is a "proceeding," seems to involve a rather aggressive construction of the term "proceeding." "Words and Phrases" lists various cases which define the word to cover only some form of court action, which is more in line with common under-

standing.

Second, everyone makes mistakes, and anyone who thinks he does not make mistakes, is mistaken. Imposition of liability for simple mistakes, especially a single simple mistake, is effectively the imposition of discipline at random. Everyone does it — the only difference is who happens to get caught.

Third, Victoria was charged with bringing an action for which "there was no basis for doing so which was not frivolous." However, Victoria's (apparent) thought processes leading to her filing were not "frivolous." Rather, her thoughts were entirely logical: (a) There is something called an Attorney's Lien; (b) Liens are commonly enforced by filing against real property; (c) a well-respected partner in a well-respected law firm (her employer), has provided advice stating that filing against real property is the proper procedure; and (d) money is actually due and owing upon a legitimate debt. Arguably, the combination of a + b + c + d entirely negates the notion that the filing was "frivolous."

Fourth, if the WSBA wants to impose discipline for every filing which is not backed up by actual library research, then it should give due notice to members and propose to change the text of RPC 3.1 to read as follows: "A lawyer shall not commence any proceeding without first having satisfied herself by means of independent research into both the facts and law that such proceeding is substantially justified. A lawyer may not rely upon the advice or research of another lawyer, or a paralegal, in order to satisfy the requirements of this rule."

Fifth, Victoria was charged under RPC 4.4 for acting "with no substantial purpose other than to embarrass, delay, or burden." But Victoria's "substantial purpose" was apparently (1) to follow the instructions of her employer and (2) to collect a lawfully-owed debt. It would seem that the specific intent requirement of RPC 4.4 was not met.

Edward V. Hiskes
Richland

The Office of Disciplinary Counsel provided the following response: *Discipline notices in Bar News are necessarily short, and intended to provide only a brief synopsis of the misconduct, from which members can inquire further. The synopsis regarding Ms. Smith does not mention, for example, that Ms. Smith filed a lien to secure attorney fees before the fees were owed, and against property no longer owned by the client. Nor does it mention that Ms. Smith failed to remove the lien for approximately a year after*

she learned that the client no longer had an interest in the property, and then only after the firm had extracted a promise from the property owner to drop the grievance and waive civil liability against firm members in exchange. Also, the employer, who is described as "a well-respected partner in a well-respected firm," resigned in lieu of disbarment in 2003. Ms. Smith stipulated to receive an admonition, a non-permanent record of rule violation without sanction. ✍



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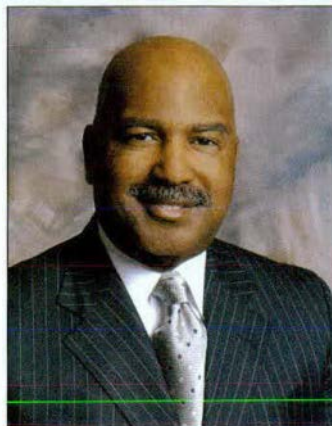
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Justice in Jeopardy

Rendering the Service of Ensuring Adequate, Independent, Stable Court Funding

by Ron Ward, WSBA President

The Court Funding Task Force

A now nearly two-year intense effort to find ways to improve and stabilize trial-court and justice-system funding in Washington, via the work of a task force inspired by King County Superior Court Judge Deborah Fleck (immediate past president of the Washington Superior Court Judges' Association), and created by the Board for Judicial Administration (BJA) under the leadership of Chief Justice Gerry Alexander, has nearly completed the first phase of its work. Issuance of the final report of the BJA Court Funding Task Force, chaired by Washington legal system stalwart Wayne Blair, is expected within the next month.

The Court Funding Task Force report will constitute the foundation for what is anticipated to be a long and arduous public-education campaign and a multiyear, multiple-legislative-biennium process to achieve adequate, independent, stable funding for Washington trial courts and to provide equal justice throughout the state.

The Current Status of Funding for the Washington Justice System

The sad, abysmal truth about funding of the Washington justice system has been documented in court studies for decades. Currently, Washington ranks 50th out of the 50 states in this country in state government contribution

NUMBERS	
50	Washington's ranking, dead last, among all 50 states in America with regard to the percentage of funding from the General Fund apportioned by the state government to the operation of the trial courts.
10.6	The percentage Washington state pays of total judicial and legal service costs.
40	The average percentage all other states in the U.S. pay of total judicial and legal service costs.
.3	Of 1 percent. The percentage set aside from the Washington state budget to fund all levels of the courts.
85	The percentage of total judicial and legal service costs in Washington borne by counties, the highest percentage for counties in all states in the country.
204	Million dollars, the annual deficit gap between what Washington courts and the justice system receive, and what they need to perform effective delivery of court services to Washington's public.

from the General Fund to funding for judicial and legal services, including prosecution and indigent defense. In a state that prides itself on the progressive nature of its society, this is not something Washington citizens and

Washington lawyers can be proud of.

The imbalance has disproportionately affected counties. More than 85 percent of total judicial and legal service costs in Washington are borne by counties, the highest percentage for counties in all states. The state pays just 10.6 percent of total judicial and legal service costs, and sets aside just three-tenths of one percent of the state budget to fund all levels of the courts, the law library, and the Administrative Office of the Courts. **THREE-TENTHS OF ONE PERCENT!** The current budget crisis has brought both counties and courts to the breaking point.

The annual deficit gap between what various areas of the justice system receive and what they need to perform effective delivery of court services is as follows:

- Trial Courts**
\$53.8 million annual deficit
- Indigent Dependent Representation**
\$13.8 million annual deficit
- Civil Legal Aid**
\$18.3 million annual deficit¹
- Indigent Public Criminal Defense**
\$118.1 million annual deficit

The Human Impact

Lest I be misunderstood, I hasten to add that those who ascribe current problems of the justice system merely to a lack of money either fail to appreciate the problem or are practicing purposeful avoidance of understand-

ing. Just a few short years ago in Washington, state coffers held a multi-billion-dollar surplus. All of the problems of the justice system were existent then and they were not addressed. Inevitably those problems have evolved in some respects to a near-catastrophic state. Evidence the recent unconstitutional and disheartening problems in indigent criminal defense, which became the grist for statewide and national media attention. Note the report of the Supreme Court's Civil Legal Needs Study (funded

by the Supreme Court out of its own budget, when the gravity of the legal services problem became apparent, and it could find the money for the study nowhere else), which convincingly documented the fact that one million poor people in Washington with civil legal causes of action go unserved every year. (A link to the report can be found on the WSBA website at www.wsba.org.) We cannot allow the point to be reached where we are forced to shut down family court services, which have a demonstrated ability to provide

effective early intervention via counseling and other modalities that salvage families. Without these services, family pathology festers and the problems ultimately explode. Those problems manifest themselves societally in increased DSHS and criminal docket caseloads, where there are constitutional mandates that we pay for them out of taxes. The ultimate beneficiary is the prison-building industry. The ultimate victims are all of us.

The "Lack of Efficiency" and "User Fee" Myths

We are witnessing an increasingly systemic inability of the court system to perform effective delivery of court services. King County closed two district courts, eliminated nearly 70 court positions, and considered cutting the entire District Court Probation Department during budget deliberations at the end of 2002. The department was only temporarily bailed out late in 2003 by talks between the county and municipalities, after it became apparent that the system was in near *extremis*. Courts across the state have also laid off court staff, con-

We cannot allow the point to be reached where we are forced to shut down family court services, which have a demonstrated ability to provide effective early intervention via counseling and other modalities that salvage families.

sidered closing for certain hours during the week, and looked at other budget-cutting measures to respond to state and county deficits. At the same time, these courts are expected to handle increasing caseloads with new and innovative ways of resolving disputes.

This situation cannot be explained simply by stating that the courts need to achieve greater "efficiency." "Efficiencies" implemented have gone beyond the bone and in some respects are into the bone marrow of the system. As an ex-

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ample of the disproportionality, while criminal-justice costs account for an average of 70 percent of county budgets (costs for jails, courts, prosecution, public defense, and law enforcement), the amount dedicated to the trial courts seldom totals more than six percent of a local budget. The unfortunate fact is that the necessary funding needs of the justice system have effectively been ignored, except when another unfunded mandate has been thrust on its already overburdened shoulders. This is not just a question of money; it is a question of priority and of the primacy of our values

as a society. The courts maintain societal rationality, stability, and order. In a state, national, and global society increasingly devoid of all three, it is abundantly clear that we need to rethink and reorder both our priorities and our values vis-à-vis the justice system.

Some clamor that the answer is increasing "user fees" in the system and dedicating the revenues received wholly to the court system. I respectfully disagree. User fees necessarily can constitute only a small facet of what has to be a multifaceted approach to the problem. They are emphatically not the solution,

for a number of reasons. First, they are regressive. Second, this approach has been tried in Oregon — our sister state to the south — and it has miserably failed to alleviate the court-funding crisis there. Third, even quadrupling the amounts charged for complaints, motions, etc., would not begin to address the magnitude of the funding problem. Fourth, increasing these fees exacer-

. . . the purpose of courts is not to dispense revenue, it is to dispense justice. Confusing the two creates an insoluble conflict and is an ominous danger to our government system of checks and balances.

bates the access-to-justice problem for poor people, and inevitably for the middle class. The fact that even the middle class is being priced out of the legal-services market has been largely overlooked. Finally and most importantly, the purpose of courts is not to dispense revenue, it is to dispense justice. Confusing the two creates an insoluble conflict and is an ominous danger to our government system of checks and balances.

The 2005 Legislative Session in Washington State

As I noted above, the court-funding effort will be a multiyear, multiple-legislative-biennium process. This process will commence in the 2005 session of the Washington Legislature, with legislation being pursued in three primary areas. A short synopsis follows.

Trial Courts. Proposed legislation will include increasing the jury fee and state assumption of half the cost of jury fees; state assumption of half of district court and elected municipal court judges' salaries; establishment of a trial-court improvement account; and an increase in filing fees.

Indigent Criminal Defense. The package will include proposals for full funding of parent representation in dependencies; state money for training



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defense counsel; resource attorneys at the Office of Public Defense to provide technical assistance to counties in contracting with defense counsel; and state funds to each county for improving compliance with defense standards.

Civil Legal Aid. Legislative submittals will encompass transferring administration and oversight to a new Office of Civil Legal Aid within the judicial branch, as well as additional funding to address the needs found in the Supreme Court's Civil Legal Needs Study.

What We Can Do

The legal profession in Washington not only can, but also must, do more than we ever have before.

As noted, budget resources are squeezed in every aspect of the justice system: trial courts, access to justice, and civil and criminal justice. As also noted, remedying this will require a long, careful, well-thought-out, and strategically planned and executed legislative strategy, involving coordination among — and, more importantly, **COMMITMENT** from — **ALL** elements of the justice system.

Judges

Judges are the leaders of the justice system. We must continue to support them as a separate, independent, co-equal branch of government, with every resource we have at our disposal. However, success in this endeavor will not be obtained without the full and complete involvement of judges. These are your trial and appellate courts under fiscal and other siege. Again, you are the leaders of the justice system. You have to ask yourselves: *What am I prepared to do?* There is no room for a culture of passivity. There are few lawyers in the Legislature. But every judge in this state is no more than one degree removed from every legislator in their own communities. Nothing in the canons precludes judges from educating legislators and the community about the needs and role of the justice system and the crucial imperative to maintain the independence of the judiciary. If you have not been active heretofore, **now** is the time that we need you to give of yourselves to the education of your communities and the legislature, in a manner that transcends any like effort

the judiciary has ever made in this state before. The Superior Court Judges' Association has developed a strategy for its members toward the accomplishment of this end, and I commend you. I also extend plaudits to the members of the judicial ranks who have given so unstintingly of their time and resources in doing the investigation and fashioning the possible solutions that are articulated in the soon-to-be issued final report of the BJA's Court Funding Task Force.

This is the quintessential area for lawyers to shine as leaders in rendering service to our clients, to the profession, and to the public.

Make no mistake about it. When judges speak, people listen. We need you to speak now, and to continue to speak. We of the Washington State Bar Association will be right there with you, to ensure that we achieve permanent, independent, stable funding for the justice system.

Lawyers

This is the quintessential area for lawyers to shine as leaders in rendering service to our clients, to the profession, and to the public.

We can do this by becoming the chief spokespersons in our communities all over the state for the achievement of adequate, independent court funding and for the perpetuation of true access to justice. We can do this before local organizations, in our offices, in mailings to our clients, in our civic endeavors, in our PTA meetings, with other parents participating in our kids' soccer games, and in other social and recreational pursuits. *Justice in Jeopardy* speakers' packets are available.² They include a model speech, draft speaking points, audience handouts, a court funding "Did you know?" fact sheet, and current news articles documenting the court-funding crisis. We can do this by educating and re-educating our clients on the crucial role that the courts and the justice system play in our American way of life.

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We can lobby to improve compensation and benefits for judges. They cannot effectively do this for themselves. The fact is that judicial salaries and retirement benefits are demonstrably less than adequate. Washington state ranks near the bottom in retirement benefits for judges. There are no golden parachutes for the judiciary.

What judges make may seem like a lot of money to most people. Despite the fact that their compensation is now set by a commission, increases remain relatively static, given a number of considerations, including, but emphatically not

limited to, the cost of living and increasingly burdensome dockets. If one looks at the magnitude and the gravity of the decisions judges must make on a day-to-day basis involving property, liberty, and even life and death, a compelling argument can be made that their responsibilities grossly exceed those of the average corporate executive. Yet there is no comparison in the manner in which we reward those executives vis-à-vis the manner in which judges are paid and compensated. What is required is not stock options or independent wealth, but some standard of reasonably propor-

tionate equity. In an improving economy, the alternative is the continued loss of judges to the more lucrative private sector of alternate dispute resolution. This is not because they do not want to render public service, but because they have the same limits with regard to workload and the same obligations as all the rest of us in terms of family obligations, emergencies, and imperatives. At some point for any human being, service alone may no longer suffice. Judges are no exception. We must continue to have the absolute crème de la crème sitting in judgment in our courts, if we wish to maintain the stability, order, and service of our system. Again, this is a question of our priorities and the primacy of our societal values.

We can acquaint ourselves and get involved personally with the legislators who represent our communities, for the purpose of educating them about the justice system, and about the importance and appropriate priority adequate court funding should have in the legislative process.

Let's Get It Done

The Washington State Constitution mandates sufficient taxing authority and implementation to sustain the general welfare, stability, and order. This certainly includes a mandate for adequate funding of Washington's justice system. Let's come together and get it done. ✍


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.


NOTES

¹ The total unmet funding need for civil legal services is \$28.1 million, of which \$18.3 million has been identified as attributable to legal needs for which assistance is authorized using state funds.

² Please contact Wendy Ferrell with the BJA's Court Funding Public Education Committee at 360-705-5331 or wendy.ferrell@courts.wa.gov.



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Washington's Strong Voice in the American Bar Association

by WSBA Executive Director Jan Michels and ABA Delegate J. Scott Miller

The American Bar Association (www.abanet.org) is generally recognized as the national voice of the legal profession, and after several decades of leadership Washington's ABA members have accumulated considerable credibility and influence in the Association.

With more than 400,000 members (including some from other countries) and an annual budget of over \$100 million, the ABA parallels the size and influence of many states. The ABA develops model rules of professional conduct, provides law school accreditation, performs federal judge screening, maintains a discipline clearinghouse and national lawyer referral services, and performs congressional lobbying on topics critical to society (www.abanet.org/poladv/priorities.html).

The ABA is composed principally of practicing lawyers (including those in public service), judges, court administrators, and law teachers, as well as business executives, government officials, and law students — all of whom volunteer their time and expertise. The ABA provides a forum to state and local bar associations, practitioners in specialized areas of the law, affiliated law-related organizations, and groups with specialized interests or needs such as administrative law judges, lawyers in the armed forces, and minority and women's bar associations.

During the past decade, the ABA has initiated hundreds of programs addressing a wide range of public concerns, including child abuse, problems of the elderly, legal services, the high cost of justice, law practice man-

agement, domestic violence, juvenile crime, and fair trial and free press issues. The ABA's response to these and other problems is made possible by thousands of members who contribute both time and money.

WSBA influence in ABA governance

The key governing structure for the ABA is its House of Delegates, which is the policy-making body of the ABA. The House consists of more than 540 delegates from state bars, large local bars, and ABA entities.

The Washington state delegation currently consists of 14 voting members, led by the state delegate. Although there are other states with larger delegations, Washington is respected as a leader in the ABA, and regularly provides leadership over significant issues addressed by the House.

Based on the number of practicing attorneys in the state, the WSBA appoints seven delegates to the House, each of whom is appointed to a two-year term. Currently there are seven additional Washington lawyers who are members of the House of Delegates by virtue of representing ABA sections, young lawyers, or local bars; emeritus standing; or other special appointments.

Washington has the honor of being home to the longest-serving ABA House of Delegates member. Tacoma attorney **Joe Gordon Sr.** served as ABA treasurer (1965-1971) and was recently recognized for 50 years of perfect attendance in the House. And another former ABA treasurer (1975-1979), Washington attorney **David Andrews**, also enjoys a lifetime seat in the House of Delegates,

and still continues to serve on important ABA committees as well as serving on the American Bar Endowment.

The last (and so far the only) ABA president from Washington state was **Frank E. Holman** (1948-1949). This year, however, the delegation will try to convince Washington State Delegate **Bill Neukom** to seek the ABA presidency.

Our WSBA delegates

The WSBA delegates to the House of Delegates are (alphabetically):

- **Paula Boggs** (Seattle). Paula has been an officer and contributor to the ABA Litigation Section, and previously represented the WSBA. After returning to the Northwest to become general counsel for Starbucks, she was re-appointed to represent the WSBA in the House after an increase in the state's lawyer population entitled WSBA to a seventh delegate.

- **Tom Fitzpatrick** (Everett). Tom has over 20 years of service in the ABA. After being elected as state delegate, Tom served for three years on the ABA Board of Governors, and is now serving in the House as a delegate at large. Tom started his ABA volunteer service on the ABA/YLD Council. He has chaired National Conference Groups and the National Conference of Lawyers and Representatives of the Media. His passion, however, has always been professional responsibility, having served six years on the Disciplinary Board, where he was on the committee that wrote the Model Rules of Judicial Discipline. He just fin-

finished a term on the Standing Committee on Ethics and Professional Responsibility. Tom is presently serving on the committee rewriting the Model Judicial Code, which will be presented to the House of Delegates in 2005 for adoption. This past year Tom also chaired a major *pro bono* project for the ABA that wrote the Standards for the Care, Custody, Representation, and Adjudication of Unaccompanied Alien Children who are taken into custody by immigration authorities.

• **Kathleen Hopkins** (Seattle). In addition

to serving in the House for several years, Kathleen is a stalwart in the ABA sections. She currently serves on the ABA Standing Committee on *Pro Bono* and Public Service, and is also one of only five tellers who serve in the House to control and manage voting. At the same time she is chairing both the *Pro Bono* Committee of the Business Law Section, and the Real Estate Law Committee of the General Practice, Solo and Small Firm Section.

• **J. Scott Miller** (Spokane). Scott recently rolled off the delegation after 10 years of

continuous volunteer service. He served as the interim state delegate, and was a member of the ABA Standing Committee on Membership when it fashioned many of the member benefits now in place, and is currently on the ABA Standing Committee on Technology, which has been instrumental in upgrading the technological capacity of the ABA and its website. He has also served in many leadership positions in the ABA Tort, Trial and Insurance Practice Section, including three years on the section's governing council.

• **Bill Neukom** (Seattle). Bill is the current state delegate. He chairs the delegation and was appointed by ABA President Dennis Archer to chair the ABA Governance Commission, which will be issuing a report to the ABA this year. He served as secretary of the ABA (1983-1987), and we understand he is contemplating the possibility of running for the position of ABA president.

• **Llewelyn Pritchard** (Seattle). There really is not enough space to list all the positions Llew has held in the ABA in the past several years. He is currently serving as a delegate at large in the House, and has long championed the cause of access to justice. He is a member of the Council of the ABA Family Law Section, and is also a member of the ABA Center for Human Rights. He was recently on the Commission on the 50th Anniversary of *Brown vs. Board of Education*. He has been the chair of the ABA Section of Individual Rights and Responsibilities, where he currently serves as chair of that section's Development Committee. His service also includes serving as past chair of the Legal Aid and Indigent Defendants and chair of the ABA Commission on Immigration. He currently chairs the ABA Center for Civil Rights, and also serves as Liaison from the Family Law Section to the ABA Commission on Immigration Policy, Practice and *Pro Bono*.

• **Lish Whitson** (Seattle). Lish is serving on the Editorial Board of the ABA/BNA Lawyers Manual on the Profession, and has served on the ABA Commission on Women in the Profession, where he was instrumental in raising the issue of



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breast-cancer medical coverage. Lish was recently on the ABA Standing Committee on Publishing Oversight, which provides direction to all ABA publications. Lish also served on the ABA Lawyer Referral Committee when it wrote the model rules for lawyer referral services, and has served on the *Pro Bono* Committee as well.

Newer members of the WSBA delegation include **J.D. Smith** (Seattle), who was previously the Washington Young Lawyers Division (WYLD) representative and is currently serving a term as WSBA delegate; **Sonia Rodriguez** (Yakima), who is currently representing the WYLD on the delegation; **Peter Ehrlichman** (Seattle), who represents the King County Bar Association; and the latest appointment, WSBA President **Ron Ward** (Seattle).

Committees, divisions, and sections

The ABA is much more than the House of Delegates. There are sections and divisions, standing committees, special committees, task forces, councils, boards, and many other entities that provide special expertise for the many and varied works of the ABA. Washington lawyers have a long history of service and leadership.

The ABA Leadership *Redbook* directory lists members who hold leadership positions. Some of these positions are part of the ABA, others are within ABA sections or divisions, and still others are associated with entities with special relationships with the ABA.

The *Redbook* lists 117 Washington lawyers serving as leaders in the ABA. It would be a monumental task to describe the volunteer work they are all doing, but here are a few examples of the scope of service being provided from Washington:

- **Randy Aliment** (Seattle attorney) serves on the Council of the ABA Tort, Trial, Insurance Practice Section.

- **Martin Cordell** (Olympia attorney) serves on the Council of the Government and Public Sector Lawyers Division.

- **Karl Ege** (Tacoma attorney) chairs the ABA Standing Committee on Technology and Information Services as well as the Technology Committee of the

Business Law Section.

- **Barbara Harper** (WSBA lawyer services director) has participated in the ABA's Commission on Lawyer Assistance Programs (ABA CoLAP) for 17 years.

- **Jeffrey Litwak** (White Salmon attorney) serves on the State Interstate Law and Interstate Compact committees of the ABA Administrative Law and Regulatory Practice Section.

- **Don McGowan** (Redmond attorney) serves on the New Information Technologies Committee of the Intellectual Property Law Section.



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ated from Gonzaga University School of Law, and served as chair of the ABA Law Student Division.

• Judge **James Riehl** (Kitsap County) serves on several committees in the National Conference of Specialized Court Judges.

• **Steve Sepinuck** (Gonzaga Law School professor) serves on the Business Law Section UCC Committee.

• **Irwin Treiger** (Seattle attorney) serves on the ABA Gramm Leach Bliley Task Force.

• Judge **Thomas Warren** (Chelan County) serves on several committees,

including the Publications Committee of the ABA Judicial Division.

• **Patricia Wehmeyer** is a student at Gonzaga University School of Law and is serving as the Law Student Division 12th Circuit governor.

• **Bob Welden** (WSBA general counsel) is chair of the ABA Committee on Lawyer Protection Funds.

• **Karen Wong** (Mercer Island attorney) serves on the Membership and the Travel and Leisure committees of the Senior Lawyers Division.

Members of the WYLD are active in the ABA Young Lawyers Division.

Other Washington attorneys listed in the *Redbook* as also serving in various committees in the ABA are Erich Andersen, William Baker, Karen Boxx, John Brangwin, Robert Burke, Eugene Burrus, Anthony Lawrence Butler, John Cary, Elizabeth Castilleja, Patricia Char, John Christiansen, Martin Cordell, Arthur Curtis, Philip Cutler, Rosemary Daszkiewicz, Selina Davis, Sarah Dunne, Eric Eberhard, James Ellis, Judith Endejan, Rudy Englund, Jerome Farris, Larry Feinstein, Parker Folse, John Gose, T. Randall Grove, Donald Haley, P. Arley Harrel, Rudolph Hasl, Penelope Hazelton, Andy Hess, G. Richard Hill, Jayanne Hino, Roland Hjorth, James Johnston, Eric Anthony Jones, Eileen Kato, Alan Kirtley, Roy Koegen, Evan Loeffler, J. Tate London, Kenyon Luce, Gary Maehara, Norm Maleng, Mary Campbell McQueen, Weston Mayring, Lawrence Mills, Michael Moore, Robert Mucklestone, Robert Mussehl, Margaret Niles, Thomas O'Connell, Douglas Oles, Cherise Oram, Alice Paine, Jonathan Palmer, Elizabeth Petrie, Richard Reed, and Judge Tom Winn.

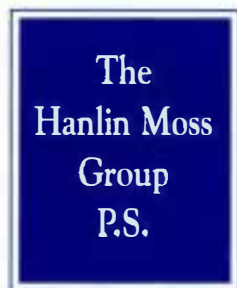
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Awards and acknowledgments

Washington has a long and proud history of valuable service to the legal profession. The ABA has recognized the Washington State Court Funding Task Force and incorporated the task force's model for addressing court funding into its black-letter recommendation as a national model on how best to approach problems with court funding.

Your opportunity for service

The WSBA Board of Governors appoints the seven delegates to the ABA House of Delegates. Because of rotating dates of service, there is usually at least one appointment made each spring. If you are one of the thousands of Washington state lawyers involved in the ABA and you have an interest in serving in the House, contact your WSBA governor. (See www.wsba.org/info/bog/members.htm for a list of all members of the WSBA Board of Governors.) ✍

Jan Michels can be reached at janm@wsba.org.

Strange Bedfellows: The New Washington Attorney Lien Statute and the *Blaney* Cases

BY DEBORAH D. BROOKINGS



Two recent Washington cases have the potential to increase defendants' exposure in discrimination lawsuits. The increased exposure comes as a result of trial courts now being directed to consider awarding to successful discrimination plaintiffs the increased tax consequences of lump-sum awards. In the meantime, a sweeping change to the attorney lien statute, RCW 60.40.010, became effective on June 10, 2004. This change negates some of the impact of the increased tax consequences with which defendants are now charged. However, it also has the potential to alter the way defendants pay judgments and negotiate and pay settlements — not just in discrimination cases, but in other cases, primarily contingent fee cases — as well. These matters are intertwined and more than a little convoluted, so some history and explanation are in order.

O I C E



Defendants' Responsibility for Plaintiffs' Tax Consequences

How and when did the issue of federal income taxes arise for litigants in discrimination cases?

The Washington Law Against Discrimination, RCW 49.60 (WLAD), was enacted in 1949 and has since undergone many revisions. One such revision was to RCW 49.60.030 in 1973, when the Legislature added a section to provide for the recovery of several types of relief, including reasonable attorneys' fees.¹ At the time, any recovery was not gross income to a plaintiff because the Internal Revenue Code (IRC) excluded from gross income all damages received on account of personal injuries or sickness.² Prior to 1996 the Internal Revenue Service (IRS) had interpreted this language to exclude from gross income damages obtained from all tort-type actions, which would include damages obtained from discrimination lawsuits.

The issue of large tax bites arose in 1996. That year Congress changed the IRC to provide that only those damages obtained on account of personal *physical* injuries or *physical* sickness were excluded from gross income.³ Simultaneously, Congress provided a new definition of emotional distress, stating that it would not be treated as a physical injury or a physical sickness.⁴ As of 1996, therefore, damages awarded to successful discrimination plaintiffs, along with the attorneys' fees awarded by statute, became taxable income to plaintiffs.⁵

Why are federal income taxes to plaintiffs so high?

Typical components of damages awards in discrimination lawsuits include back pay, front pay, and emotional distress. Because these amounts are all paid to a plaintiff in a lump sum, rather than over time, the award can be expected to be taxed at a higher rate than if the money had been received over a number of years. This is because, under the IRC, any income received above a certain amount is taxed at a higher marginal rate than income received up to that amount. In addition, the attorney fee award, considered to be gross income to the plaintiff, is often a nondeductible expense to the

plaintiff. This is because a successful discrimination plaintiff reporting a large damages award and attorney fee award in a single tax year is likely to implicate the alternative minimum tax (AMT).

The AMT was implemented in 1986 and designed to ensure that no taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions, and credits.⁶ The likely effect of the AMT is to eliminate deductions a taxpayer might have had before its application, including deductions for attorney's fees incurred in obtaining income.⁷ Calculating the AMT is quite complicated and beyond the expertise of this writer; however, the critical issue for discrimination plaintiffs is that miscellaneous itemized deductions — which include attorneys' fees — are not deductible from the AMT tax base for purposes of calculating the AMT.⁸

It was the confluence of events, namely the inclusion of awards for non-physical injuries as gross income in 1996 and the institution of the AMT in 1986, that created the problem of a large tax liability to successful discrimination plaintiffs. It was the *Blaney* decisions that tossed the problem to defendants, by making defendants responsible for that huge tax bite.

How did defendants get the responsibility for plaintiffs' tax bill?

Two Washington decisions have addressed the issue of who should pay a discrimination plaintiff's large tax bill. On April 1, 2004, the Washington State Supreme Court issued *Blaney v. Association of Workers*, 151 Wn.2d 203, ___ P.3d ___ (2004). In essence, *Blaney* affirmed the decision of Division I of the Washington State Court of Appeals in *Blaney v. Association of Workers*, 114 Wn. App. 80, 55 P.3d 1208 (2002). The effect of these cases is to make defendants responsible for paying the additional tax consequences faced by a successful discrimination plaintiff who obtains an award following trial.

Linda Blaney (Blaney) sued her union, the International Association of Machinists and Aerospace Workers, District No. 160 (defendant). She alleged gender discrimination under WLAD. Following trial, a jury found that the defendant had dis-

criminated against Blaney and awarded her damages for back pay, front pay, and emotional distress. The total amount of these damages was \$638,764. Judgment was entered in that amount.

Blaney then moved for an award of litigation expenses to cover attorney's fees, costs, and pre-judgment interest. The court entered a supplemental judgment for those expenses in the amount of \$235,625.38. Blaney then brought a motion for a second supplemental judgment to compensate her for the adverse federal tax consequences she would incur as a result of receiving a lump-sum payment of \$874,389.38 in a single tax year.⁹

To support her motion for this second supplemental judgment, Blaney presented the expert testimony of a certified public accountant that she would owe \$244,753 more in federal income taxes than she would have owed but for the awards. The trial court denied Blaney's motion for this judgment, concluding that no authority existed for allowing such an award. The defendant then appealed the giving of an erroneous instruction (unrelated to the present issue), and Blaney cross-appealed the issue of denial of a supplemental award for adverse tax consequences.

The Court of Appeals found that Blaney was entitled to the adverse tax consequences of her combined judgments (damages award plus award for litigation expenses, including attorney's fees), holding that "adverse federal tax consequences triggered by payment of a judgment for violation of the WLAD are within the scope of the term "actual damages" compensable under RCW 49.60.030(2).¹⁰ The court then remanded the matter to the trial court to determine an appropriate supplemental judgment.¹¹ The defendant petitioned the Washington State Supreme Court for review, and review was granted.

The Washington State Supreme Court affirmed the Court of Appeals. It concluded that successful discrimination plaintiffs could recover from defendants the adverse tax consequences of their judgments.¹² However, such a remedy was to be considered an equitable remedy under the "any other appropriate remedy" language of RCW 49.60.030(2), instead of "actual damages."¹³

Amendment to RCW 60.40.010

Has the Washington State Legislature taken any action to address the problem of tax consequences to discrimination plaintiffs?

Yes. On June 10, 2004, amendments to RCW 60.40.010, the attorney lien statute, became effective. This statute had gone unchanged for many years, until its very recent rewrite. A new Section 1 sets forth the reasons for the amendments:¹⁴

The purpose of this act is to end double taxation of attorneys' fees obtained through judgments and settlements, whether paid by the client from the recovery or by the defendant pursuant to a statute or a contract. *Through this legislation, Washington law clearly recognizes that attorneys have a property interest in their clients' cases so that the attorney's fee portion of an award or settlement may be taxed only once and against the attorney who actually receives the fee.* This statute should be liberally construed to effectuate its purpose. This act is curative and remedial, and intended to ensure that Washington residents do not incur double taxation on attorneys' fees received in litigation and owed to their attorneys. Thus, except for RCW 60.40.010(4), the statute is intended to apply retroactively.

(Emphasis added.)

The amended statute is far more sweeping and specific than its predecessor. While retaining the original language giving an attorney a lien on papers and money held by the attorney and belonging to the client, as well as money in the hands of the adverse party, the statute creates a *property right* in the attorney as to those fees. This is true of both contingent fees as well as fees awarded by operation of statute (and presumably contract). RCW 60.40.010 further provides that the lien held by the attorney is superior to all other liens and is not affected by any settlement between the parties to the action until that lien is satisfied in full. The statute applies whether the action results in a settlement through mediation or otherwise,

by arbitration, or following a judgment. In a nutshell, Washington attorneys now have the same right and power over actions to enforce their liens as their clients have for amounts due them.

How is the new statute likely to be interpreted?



Washington's amended attorney lien statute closely follows that of Oregon.¹⁵ Oregon's lien statute was recently construed by the 9th Circuit Court of Appeals in *Banaitis v. Commissioner of Internal Revenue*.¹⁶ Banaitis had obtained a jury verdict on a claim for wrongful termina-

tion and related employment torts. An appeal followed, and the case was eventually settled between the parties. The total amount paid by the two defendants was \$8,728,559. Banaitis's attorney was paid \$3,864,012 directly. The remaining \$4,864,547 went directly to Banaitis.

Banaitis filed a federal income tax return for 1995, the year payments were made pursuant to the settlement. He excluded from his gross income the full settlement total. The IRS ultimately calculated that Banaitis owed an additional \$1,708,216 in 1995 income tax. As the court noted, this was due to the effect of

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the AMT, which resulted, in effect, in taxing the portion of Banaitis's gross income that was paid to his lawyers.

Banaitis petitioned the U.S. Tax Court seeking a re-determination of the deficiency. The tax court found in favor of the IRS, and Banaitis appealed to the 9th Circuit. In analyzing the issue of includability of attorneys' fees as gross income to the plaintiff, the 9th Circuit determined that whether attorneys' fees paid under a contingent fee contract with the plaintiff are includable in the plaintiff's gross income involves two related questions: (1) How state law defines the attorney's rights in the action, and (2) How federal tax law operates in light of the state law definition of interests.¹⁷

The court then examined Oregon state law to determine how it defines attorneys' rights with respect to payment. The court specifically looked at whether the plaintiffs' attorneys "have particular property interests arising as a matter of law in the judgment or settlement independent of the fee contract." It found that Oregon law affords attorneys generous property interests in judgments and settlements.¹⁸ It noted

that an attorney's lien in Oregon is superior to all other liens except tax liens.¹⁹ The court also observed that Oregon law provided that attorneys would have the "same right and power over actions, suits, proceedings, judgments, decrees, orders, and awards to enforce their liens as their clients have for the amount of judgment due thereon to them."²⁰ The court thus concluded that "fees paid directly to [the attorney] were not includable in Banaitis's gross income for the relevant year," and reversed the tax court.²¹

The 9th Circuit's construction of Oregon's attorney lien statute is instructive for Washington practitioners and their clients. It suggests that Washington's attorney lien statute will get a similar interpretation, as the pivotal language is present in both statutes.

What is the combined effect of the Blaney decisions and RCW 60.40.010?

The practitioner must now read the *Blaney* decisions in conjunction with the recent amendments to RCW 60.40.010. It is evident that the latter removes any

need to charge defendants with the tax consequences of attorney fee awards to successful discrimination plaintiffs, because under RCW 60.40.010, attorneys' fees, whether contingent or awarded by statute, are now the property of the attorney, not the client, and thus not includable in the plaintiff's gross income. However, tax consequences on any award for *damages* to a successful discrimination plaintiff are nevertheless includable in gross income and subject to adverse tax consequences. As a result, under the *Blaney* decisions, defendants will be charged with those additional tax consequences if the court, following a bench or jury trial, determines that a tax offset is an equitable remedy to which the plaintiff is entitled. Neither *Blaney* decision provides for adverse tax consequences on an award in anything other than discrimination cases.²²

Are the feds trying to end double taxation of attorneys' fees or otherwise soften the tax blow to discrimination plaintiffs?

The IRS is not interested. At least one source has estimated that \$230 million in additional revenue has been raised by amending 26 U.S.C. § 104(a) (2) to make damage awards for non-physical injuries taxable.²³ However, a bill titled "The Civil Rights Tax Relief Act" to amend the IRC of 1986 was introduced in the U.S. House of Representatives on March 1, 2001,²⁴ introduced in the Senate on May 21, 2001,²⁵ and referred to the Finance Committee.

An amended bill²⁶ was introduced in the Senate on March 6, 2003, read twice, and referred to the Finance Committee. There it remains.²⁷

The current proposed Civil Rights Tax Relief Act would grant much more tax relief to successful discrimination plaintiffs than simple exclusion of attorney fee awards from a plaintiff's gross income. It would exclude from gross income amounts received on account of claims based on unlawful employment discrimination and allow income averaging for back pay and front pay damages on such claims. Unless or until this act becomes law, successful discrimination plaintiffs will continue to include damage awards in gross income and pay taxes thereon. In this state, under

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Blaney, defendants will pay whatever tax consequences the court deems appropriate.²⁸ Defendants will be spared the tax consequences of attorney fee awards under revised RCW 60.40.010, since attorneys' fees are now the property of the attorney and thus not taxable income to plaintiffs.

Unintended Consequences of Amendments to RCW 60.40.010

As set forth above, the Legislature made clear that its purpose in amending RCW 60.40.010 was to end taxation of attorneys' fees to plaintiffs who turned those fees over directly to their attorneys. As is typically the case, there are undoubtedly some unintended consequences of the new statute.

Can plaintiff attorneys now sue defendants for attorneys' fees?

Probably. It is likely that a plaintiff's attorney can sue a defendant directly for his or her attorney's fees when not paid in full, even though the defendant has paid the plaintiff in full. In *Potter v. Schlessner Company*,²⁹ a recent decision of the Oregon Supreme Court construing its state attorney lien statute, the plaintiff had settled privately with the defendant but did not pay Potter, his attorney. Potter sued the defendant, not the plaintiff. The trial court granted summary judgment dismissal in favor of the defendant, and the Oregon Court of Appeals affirmed. The Oregon Supreme Court reversed, finding that under Oregon's attorney lien statute, both the plaintiff and the defendant "are statutorily obligated to satisfy the attorney's lien to the extent of the action's value."³⁰ It then held that an attorney had a right to sue a defendant for attorney's fees that were left unsatisfied by a private settlement with the attorney's clients, finding that "plaintiff's separate action against defendant is an acceptable method to enforce plaintiff's attorney's lien."³¹

The 9th Circuit relied on the *Potter* decision as well as its own analysis of the Oregon attorney lien statute for its holding in *Banaitis*, *supra*. It concluded that Oregon law "vests attorneys with property interests that cannot be extinguished or

discharged by the parties to the action except by payment to the attorney."³²

Oregon's interpretation of its statute is not binding on Washington courts. However, the 9th Circuit relied on the Oregon statute and the *Potter* case to reach the conclusion in *Banaitis* that attorney's fees are property of the attorney in Oregon. Because those fees are property of the attorney, they are *not* property of the plaintiff. Since the newly amended RCW 60.40.010 is now substantially similar to Oregon's attorney lien statute, it is reasonable to assume a comparable result would be reached in Washington.

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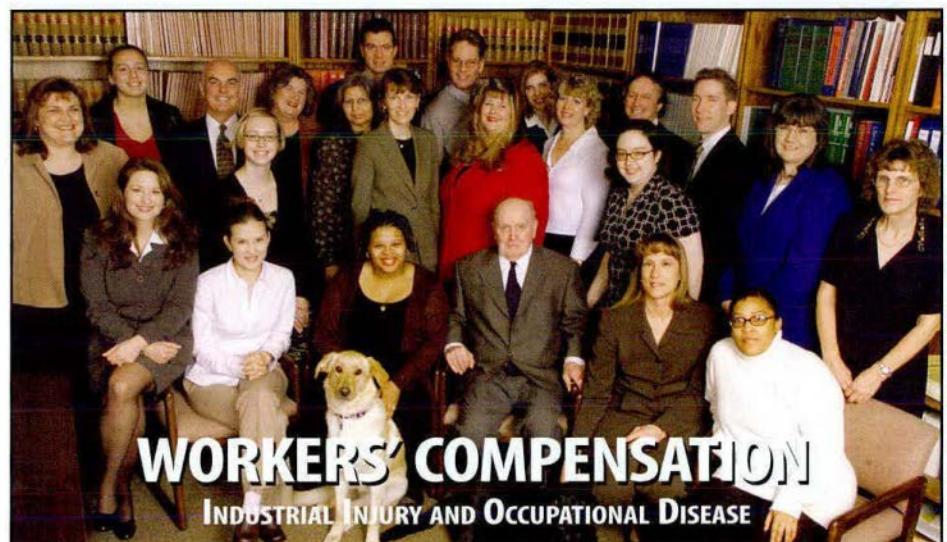
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In light of our new RCW 60.40.010, Banaitis, and Potter, what changes in procedures may be implicated?

1. On a judgment summary following an award of damages to a discrimination plaintiff, should the attorney be listed as a creditor, along with the plaintiff? Should defendants issue two checks — one to the plaintiff and one to the attorney? Should a satisfaction of judgment from both the plaintiff and the plaintiff's attorney be obtained and filed?

2. Following an award to a plaintiff, a defendant should be entitled to know what portion of the damage award is to be paid to the attorney under a contingent-fee agreement. This information is necessary, because, under *Blaney*, defendants may be ordered to pay all or a portion of the additional tax consequences incurred by the plaintiff on a damage award. But in light of the amendments to RCW 60.40.010, defendants would not be charged with any adverse tax consequences as to attorneys' fees. It is therefore essential that defendants know exactly what percentage of the damage award the plaintiff will report as damages, and what amount will be deemed property of the plaintiff's attorney.³³ Should defendants therefore be entitled to see the contingent-fee agreement? At the least, should defendants be entitled to obtain a declaration from the attorney setting forth the amount of recovery or percent of recovery the attorney will receive under such an agreement?

3. The Washington State Supreme Court in *Blaney* did not provide any procedural guidance for handling the nuts and bolts of obtaining an award for tax consequences. In the absence of any tips from the Court, the process outlined by the Court of Appeals in its *Blaney* decision is likely to be followed: The judge decides "whether and to what extent damages for adverse tax consequences will be awarded," the burden of proof is on the plaintiff to establish the tax consequences he or she will incur as a result of receiving a lump-sum damage award, and expert opinion is required.³⁴ As a practical matter, this is a post-trial issue, and the testimony of the plaintiff's expert is likely to be by declaration. To ensure accuracy, defense attorneys

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should retain an accountant familiar with these types of calculations to vet the figures generated by the plaintiff's expert. At the least, the calculations should be based on the actual tax returns filed by the plaintiff and spouse, if applicable, for the tax year immediately preceding the year in which the damage award will be received. The tax return should include W-2s as well as all accompanying additional schedules. Any calculations of tax consequences must be made based on the expected tax rates which will apply in the year the damage award is received.

4. With respect to settlements, should defendants cut separate checks — one to the plaintiff and one to the plaintiff's attorney? Should the parties include in the language of the settlement agreement and release a specified amount that will be paid to the attorney? Should defendants obtain the signature of the attorney on the settlement agreement and release? Although the *Blaney* decisions do not implicate settlements, amended RCW 60.40.010 appears to make a plaintiff's attorney as much a creditor of the defendant as is the plaintiff. Just as finality regarding the plaintiff's claims has always been the aim of settlement, now a concomitant objective should be finality with respect to any potential claims by the plaintiff's attorney.³⁵ ✍

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NOTES

- ¹ RCW 49.60.030(2).
- ² 26 U.S.C. § 104(a)(2).
- ³ *Id.*
- ⁴ 26 U.S.C. § 104(a).
- ⁵ The attorney who ultimately receives these fees also pays taxes on them.
- ⁶ 26 U.S.C. § 55(a)(1)-(2); Jennifer S. Neumann, Comment, *The Discrimination Created by the Tax Treatment of Attorney's Fees in Federal Civil Rights Cases*, 51 Kan. L. Rev. 595, 609 n.94 (May 2003).
- ⁷ The IRS allows attorneys' fees to be deducted as a miscellaneous itemized deduction where they are incurred as an "expense for the production or collection of income." 26 C.F.R. § 1.67-IT.

⁸ *Id.*; 26 U.S.C. § 56(b) (1) (A) (i). See also IRS Publication 17 § 31(2003).

⁹ This is the combined amount of the damages award plus the litigation expenses, including attorneys' fees.

¹⁰ *Blaney*, 114 Wn. App. at 98.

¹¹ The total amount the defendant would have to pay, if the trial court then granted all re-

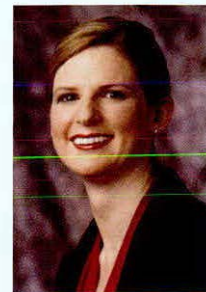
lief *Blaney* requested for adverse tax consequences, would amount to \$1,119,142.38, almost twice the damages award.

¹² The Court of Appeals expressly stated that it offered no opinion whether adverse tax consequences arising from damages and/or attorneys' fees in cases other than those under the WLAD may serve as a basis for these

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types of damages. *Blaney*, 114 Wn. App. at 100. The decision of the Washington State Supreme Court contains no such specific limiting language, but appears to apply only to tax consequences arising from discrimination cases.

¹³The court determined that the “any other appropriate remedy” clause amounted to a third “catch-all” remedy under the WLAD, providing relief afforded by Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e. *Blaney*, 151 Wn.2d at 214-217.

¹⁴In all likelihood, the Legislature’s primary objective was to address the anomaly that plaintiffs *and* their attorneys were paying federal income taxes on the attorney fee awards.

¹⁵Oregon Revised Statutes (ORS) 87.430-490.

¹⁶340 F.3d 1074 (August 2003).

¹⁷*Banaitis*, 340 F.3d at 1081.

¹⁸*Id.* By contrast, the court noted that Alaska did *not* grant attorneys a superior lien or ownership interest in the cause of action, did *not* confer ownership interest in attorneys, and did *not* grant attorneys any right and power over the suits, judgments, or decrees of their clients. As a result, attorney’s fees were the plaintiff’s property and thus includable in the plaintiff’s gross income. See *Coady v. Commissioner*, 213 F.3d 1187, 1190-91 (9th Cir. 2000).

¹⁹*Banaitis*, 340 F.3d at 1082; ORS § 87.490.

²⁰*Id.*; ORS § 87.480.

²¹*Banaitis*, 340 F.3d at 1083.

²²Damages on account of physical injuries are not considered gross income to plaintiffs in any event. Left open is the question of damages for other non-physical-type injuries, such as defamation, tortious interference with a business expectancy, etc.

²³See *Neumann*, 51 Kan. L. Rev. at 609 n.43.

²⁴H.R. 840.

²⁵S. 917.

²⁶Now H.R. 1155 and S. 557.

²⁷Despite some apparent support, at least one commentator believes this act is unlikely to pass, because it goes too far in providing relief, and it has been before Congress for two sessions without a vote. See *Neumann*, 51 Kan. L. Rev. at 621 n.150.

²⁸At least one King County Superior Court judge recently determined that tax consequences were awardable on the wage-loss portion of the plaintiff’s damages only, based on the fact that the federal cases relied on by the *Blaney* courts approved awards for tax consequences on lump sums for *back pay and front pay*. See *Sears v.*

Atchison Topeka & Santa Fe Railway, 749 F.2d 1451 (10th Cir. 1984) (holding that "the district court did not abuse its discretion when it included a tax component in the back-pay award to compensate class members for their additional tax liability as a result of receiving over 17 years of back pay in one lump sum, but that a tax component may not be appropriate in a "typical Title VII case"). See also *EEOC v. Joe's Stone Crab, Inc.*, 15 F. Supp. 2d 1364 (S.D. Fla. 1998) (holding that a district court, in its discretion, may include a tax component to Title VII plaintiffs with respect to their back-pay awards). Nor do other federal discrimination cases recognize any relief from tax consequences for awards other than those for economic damages. See, e.g., *Gelof v. Papineau*, 829 F.2d 452 (3d Cir. 1987) (upholding the *concept* of a judgment under the Age Discrimination in Employment Act for the negative tax impacts of a lump-sum payment for back pay, back pension benefits, and back health benefits, but remanding for recalculation of the amount because the tax rates used to calculate the amount were not those of the year in which the award would be paid); *O'Neill v. Sears Roebuck &*

Co., 108 F. Supp. 2d 443 (E.D. Penn. 2000) (concluding that a plaintiff who prevailed under the Age Discrimination in Employment Act and received a large award of back pay and front pay was entitled to an award for negative tax consequences, but only as to the increased tax liability on the award of front and back pay).

²⁹335 Or. 209, 63 P.3d 1172 (Feb. 2003).

³⁰*Potter*, 63 P.3d at 1176.

³¹*Id.*

³²*Banaitis*, 340 F.3d at 1083.

³³For example, if the plaintiff obtains a damage award of \$30,000, but pursuant to a contingent fee agreement between the plaintiff

and the attorney, \$10,000 of that award is attorney's fees, the defendant could not be charged with tax consequences on anything more than the \$20,000 that the plaintiff will presumably report on his or her income tax return.

³⁴*Blaney*, 114 Wn. App. at 100.

³⁵It should be noted that although there are no tax consequences to plaintiffs with physical injuries, *i.e.*, from sidewalk fall-downs, motor vehicle accidents, etc., so that *Blaney* has no applicability to those types of claims, the amendments to RCW 60.40.010 affect all actions in which attorneys are to be paid from a settlement or judgment.

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BY RON WARD, WSBA PRESIDENT

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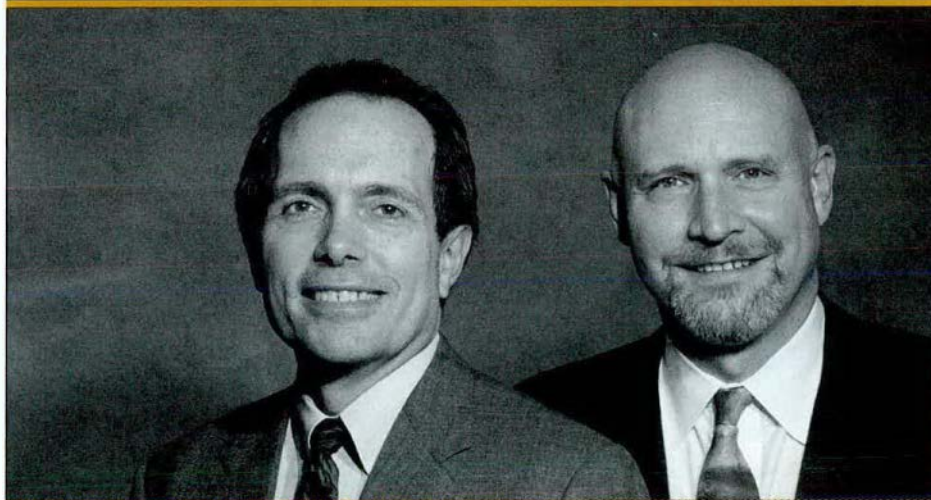
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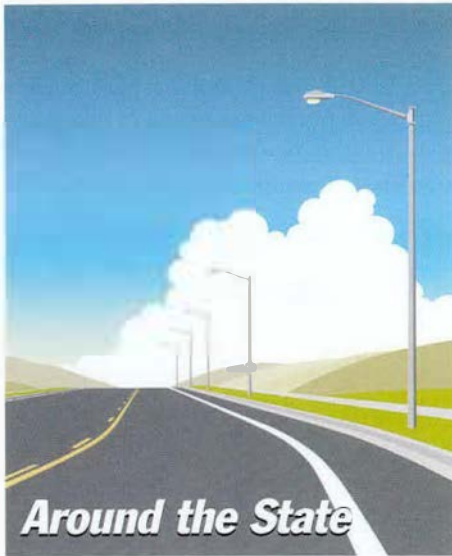
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Around the State reports are welcome from county and specialty bar associations. There are no rules for writing them, except to mention lots of your members. We leave it up to each organization to decide who does it, and to the correspondent to decide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

Changes

Galen G. Schuler has been named director of legal affairs for Green Diamond Resource Company, succeeding **Betsy Stauffer**, who will be leaving the

company.

Schuler joined Perkins Coie LLP in 1997 and was a partner in the firm from 2002 until his departure. His areas of emphasis include environmental and natural resource law, Indian law, real estate law and land use issues, water resources matters, and litigation.

Preston Gates & Ellis LLP has welcomed eight first-year associates to its Seattle office. They are **Carley Andrews** (University of British Columbia, Harvard Law School); **Beverly Jones** (Smith College, Yale Law School); **Stephen Leptich** (Western Washington University, Seattle University School of Law); **Kyle Loring** (Bowdoin College, Boston College Law School); **Rebecca Morrow** (Western Washington University, Yale Law School); **Brahmy Poologasingham** (Brandeis University, University of Washington School of Law); **Martha Rodriguez-Lopez** (Williams College, Stanford Law School); and **Teresa Sumearll** (University of Kentucky, University of Washington School of Law).

The Judiciary

by *Lindsay Thompson*

Members of the Washington State Supreme Court unanimously elected **Gerry L. Alexander** to a second four-year term as the state's top judge, making history as Alexander becomes the longest-serving chief justice in Washington state history.

After winning the internal election to a second term, Alexander thanked his colleagues and outlined his priorities for the judiciary in the coming years.

"I am honored by the unanimous show of support by my colleagues," said Alexander. "The judiciary is in the midst of an historic effort to reverse chronic underfunding of our state's trial courts, public defense, and civil indigent defense systems. I look forward to working with the executive and legislative branches of government in the coming years to improve our vital branch of government, and ensure the public's trust and confidence in our court system."

As chief justice, Alexander will continue to be the court's chief spokesman, preside over the court's public hearings, and serve as the administrative head of the state's trial and appellate court system.

He also chairs the 20-member Board for Judicial Administration (BJA), the policy-setting group of the state judiciary. The BJA established an historic Court Funding Task Force in 2000 to make recommendations to provide adequate and stable funding for Washington's trial courts.

Alexander is the court's 52nd Chief Justice, succeeding retired Justice **Richard P. Guy** in 2000 for the position. He will be officially sworn in as chief justice during ceremonies in Olympia on January 10.

Elected to an open seat on the Supreme Court in 1994, Alexander joined the Court with more than two decades of trial and appellate court experience. He served as a superior court judge for Thurston and Mason Counties from 1973 to 1984, and as a judge for Division Two of the Court of Appeals from 1985 to 1994.

Northwest Indian Bar Association

The Northwest Indian Bar Association has announced the results of its annual Governing Council election. NIBA's 2005 Governing Council is composed of the following members, who collectively represent and serve Indian Country throughout Washington, Oregon, Idaho, and Alaska:

President **Lael Echo-Hawk** (Paw-

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nee), a reservation attorney for the Tulalip Tribes near Marysville, Washington, advises the tribal government on a diverse array of legal issues. Lael, who originally hails from Alaska, is a graduate of UW School of Law.

Vice President **Lisa Atkinson** (No. Cherokee/Osage) is a solo practitioner in Seattle who represents tribes and tribal members on various litigation and business matters. Lisa also serves as secretary/treasurer for the Northwest Tribal Court Judges' Association and as a board member of the Edmonds Chamber of Commerce.

Treasurer **Gabe Galanda** (Nomlaki/Concow), an associate with Williams, Kastner & Gibbs, PLLC, litigates complex commercial and Indian law matters, and consults with tribes and non-tribal parties doing business in Indian Country.

Secretary **Christina Parker** (Chippewa-Cree) is an in-house reservation attorney for the Tulalip Tribes and its Indian Child Welfare Program.

At-large Member **Leona Colegrove** (Quinault/Hoopa) recently joined Williams, Kastner & Gibbs, PLLC, as an asso-

ciate, after serving as tribal attorney for the Quinault Nation. Leona is co-chair of the WSBA Committee for Diversity.

At-large Member **Bernice Delorme** (Turtle Mountain Chippewa), the first Native graduate of the University of Washington's L.L.M. in Taxation Pro-

gram, is a tribal attorney with the Puyallup Tribe of Indians and advises the tribe on taxation, litigation, treaty hunting, housing, negotiation, and other governmental matters.

At-large Member **Juliana Repp** (Nez Perce) is a solo practitioner in Spokane

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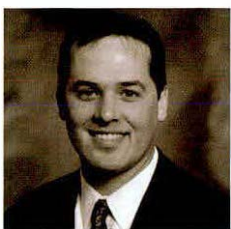
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Dennis G. Woods has been selected for Partnership. His practice areas include personal injury, wrongful death, product liability, employment disputes and discrimination. Mr. Woods also is an experienced appellate lawyer, having successfully argued cases in both state and federal court. In 2003 and 2004, by a vote of his peers, he was named a "Rising Star" in the Washington Law & Politics Journal.

Scheer & Zehnder also would like to announce that **Vicky Strada** has joined the firm as an Associate Attorney. Ms. Strada's areas of practice will focus on litigation, including construction defect and personal injury. Ms. Strada is admitted to practice in Washington state.

who serves on the Kalispel Enterprise Board and the Nez Perce Tribal Enterprise Board.

Founded in 1991, NIBA is a nonprofit organization of Native and Indian law attorneys, judges, spokespersons, and students in Washington, Oregon, Idaho, Alaska, British Columbia, and the Yukon Territory. NIBA works to increase the number of Native attorneys in the Pacific Northwest through legal education and advocacy. For more information, visit www.nwiba.org.

In Memoriam

Senator Brock Adams

Brock Adams collected a glittering array of prizes in a political career that extended over four decades. Raised in Portland, he served in the Navy in World War II. He graduated from the University of Washington in 1949 and from Harvard Law School in 1952.

Adams practiced law in Seattle through the 1950s. President Kennedy, with whom Adams became friends in

1953 and whose campaign in Washington Adams managed, appointed him U.S. attorney in Seattle in 1961; in 1964 Adams was elected to Congress from Seattle's 7th District. He served in the House of Representatives 12 years.

Adams's congressional career was one of significant achievement. He sought membership in the House District of Columbia Committee, believing the capital could be made a model for dealing with urban problems, but was stymied by the committee's autocratic chair, John L. McMillan of South Carolina. After McMillan's defeat, Adams chaired the committee and drafted the first limited-home-rule law for the District. With Sen. Edmund Muskie, he wrote the Congressional Budget and Impoundment Act of 1974, which reformed and standardized the congressional budget process.

An advocate of a unified national transportation network, Adams also helped create Amtrak and Conrail. He then served as President Carter's secretary of transportation, where he approved the first auto-airbag rules, opened the Coast Guard to women, and crafted the government's successful bailout of Chrysler Corporation. Adams lacked President Carter's enthusiasm for airline deregulation; that and other disagreements led to his 1979 resignation in a cabinet shakeup.

Returning to private practice in the D.C. office of Seattle's Garvey Schubert Adams & Barer, Adams returned to politics in 1986 with a come-from-behind defeat of incumbent U.S. Senator and WSBA member Slade Gorton. He opposed U.S. funding of the Nicaraguan Contras and the Salvadoran armed forces, and sought a strong congressional role in the period before the First Gulf War. Adams was less successful meeting his campaign pledge to close the Hanford Nuclear Reservation, and supported preserving old-growth forests in the contentious spotted-owl debate. From his seat on the Appropriations Committee he sought more funding for cancer and AIDS research.

Adams served one term in the Senate, withdrawing from his re-election campaign in the face of sexual-harassment allegations, which he denied but which

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left his prospects vulnerable.

His papers are in the collection of the University of Washington. Survivors include his wife of 52 years, Mary Elizabeth; four children; seven grandchildren; and a sister.

Senator Brockman Adams was born in Atlanta and died in Stevensville, Maryland, September 10, 2004, age 77.

Ralph B. Kenison II

Born in Blaine, Ralph Kenison was raised in Winthrop, where he met and married his wife of 58 years, Lois. After marriage they moved to Seattle.

After graduating from the UW School of Law in 1951, Kenison moved to Moses Lake and hung out a shingle. Later that year, he went into practice with Darrell Ries. Kenison practiced until a few weeks before his death, the last 15 years with his youngest son, Shane Kenison.

Kenison reveled in hiking, reading history, art, and travel. He was active in Rotary International and was widely acclaimed as a "gentleman lawyer."

Survivors include four sons, seven grandchildren, and one great-grandchild.

Ralph Burton Kenison II was born August 20, 1921, in Blaine and died February 13, 2004, in Moses Lake, age 82.

Philip Malone

Poulsbo attorney Philip Malone was admitted to practice in 1954 and managed something few lawyers accomplish: he won a case before the U.S. Supreme Court.

Retained by Daniel Oliphant and Daniel Belgarde, both charged with offenses on the Port Madison Reservation, Malone persuaded the nation's highest court that non-Indians could not be tried for criminal offenses in tribal courts because they have no representation in tribal government and therefore no guarantee of due-process rights. *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978).

Malone dropped out of UW to join the Marines and was awarded two Purple Hearts after being injured in battles on Iwo Jima and Guam. He resumed his studies after the war; graduated from the UW School of Law in 1950; and married his wife of 54 years, Mary Jo, the same year.

Practicing first in Seattle, Malone

shifted his office to Suquamish, where he had a summer home. It was there that Oliphant and Belgarde appeared, asking him to represent them. They'd been stopped for drunk driving, but claimed the charges escalated to include a number of other offenses and detention in the tribal jail.


The denial of due process infuriated Malone, his wife told *The Bremerton Sun*. "He was like a dog with a bone in that case. We lost our house, we were broke, he just gave up everything else

because he saw it as such an injustice. He was out literally begging for money to pay for it, but ended up paying for most of it himself. He didn't give up. He was a real hero."

His survivors include his wife; three children; two grandchildren; and two sisters.

Philip P. Malone was born in Butte, Montana, September 19, 1924, and died August 10, 2004, a month before his 80th birthday and recognition by the WSBA for a half-century's membership.


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Francis X. Olding

Friends and colleagues of Frank Olding submitted the following remembrance.

Devoted husband, Army Ranger, Seattle lawyer, and avid climber and outdoorsman Frank Olding has parted company with us to climb peaks unseen.

Frank Olding, born on April 23, 1964, in Cincinnati, Ohio, died September 6, 2004, while climbing at Grand Teton National Park. In addition to his adoring wife and loving parents, Frank leaves behind three brothers and three sisters, and numerous nieces and nephews.

Prior to moving to Seattle in 1997, Frank served with distinction in the U.S. Army. As an Airborne Ranger, Frank graduated from Ohio State University in 1992, where he received a bachelor's degree in political science. Frank earned a law degree from the University of Toledo, Ohio. In 1997, Frank moved to Seattle to pursue his dreams, including the practice of law and all things outdoors. In 1999, Frank had the good fortune of meeting, falling in love with, and, in August 2001, marrying his beloved wife Teresa. Frank and Teresa celebrated their marriage by

climbing Mt. Kilimanjaro in Africa for their honeymoon.

Frank was a charismatic, compelling person who touched everyone who had the opportunity to meet him. His love of the outdoors was infectious, and he always sought companionship for every adventure. Although possessed of an uncompromising adventurous spirit, he was happiest when in the company of family and friends, whether lifelong or newly made. Frank enjoyed sharing his passion for the mountains with people of all abilities and skill levels. His enthusiasm was tempered with patience while introducing the sport to family and friends.

To have spent any time in his company was simply to know the delight of life. Although we are joyful that Frank's spirit must now soar above the peaks that so called to him and he is on to another great adventure, we all mourn his passing. He will be greatly, greatly missed.

In June 2004, after a successful career with the Seattle law firms of Lee Smart Cook Martin & Patterson and Betts Patterson Mines, Frank established the

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Frank and Teresa had dreamed of building a school in Nepal for underprivileged children. Please send any donation to Room to Read, a group dedicated to providing reading materials to underprivileged children in Nepal. Send check, payable to Room to Read and in honor of Frank and Teresa Olding, to: The Presidio, PO Box 29127, San Francisco, CA 94129.

Kermit Rudolf

Cheney native and longtime Spokane attorney Kermit Rudolf was associated with his *alma mater*, Gonzaga University, for most of his half-century career. Valedictorian of his high school class in 1935, Rudolf headed east to get a degree from the Medill School of Journalism at Northwestern University. He worked three years as a reporter for the Decatur, Illinois, *Herald*.

He enlisted in the Army Air Corps when World War II began, and served with distinction. He left the service as a major and moved with his wife and children to Spokane. While enrolled in law school, he worked as a sportswriter for *The Spokesman-Review*.

Rudolf graduated *summa cum laude* in 1951 and was a founding member of Dellwo, Rudolf, Grant & Schroeder, where he practiced into the 1980s. Starting in 1970, he served as corporation counsel to Gonzaga University, *pro bono*. In 1988 he joined the university as full-time corporation counsel, serving in that post until he retired at the end of 1993.

Rudolf and his family were big supporters of Gonzaga. The Rudolf Fitness Center bears his name — an avid athlete, he played tennis, golf, and racquetball until he was 80.

“Kermit was an invaluable member of the *Bar News* Editorial Advisory Board in the late 80s and early 90s,” editor Lindsay Thompson said. “It was a time when the magazine didn’t have many friends, and Kermit was always available to advise me on tough problems. He had a sharp eye for typos, too.”

Rudolf’s wife, Fran; five children; 13 grandchildren; and two great-grandchildren survive him. One son, Jim, died in 1963. Kermit M. Rudolf was 85 years old when he died August 5, 2004.

James R. Triesch

Spokane native James Triesch was an athlete all his life. He won the state championship in the quarter mile in 1935 and was walking a mile or two daily well into his 80s.

Educated at Gonzaga Prep, Triesch attended Gonzaga Law School while running his family’s store. He served in the Army Air Force during World War II.

After the war, Triesch became a lawyer for the Veterans Administration, rising to the position of chief counsel for the

Pacific Northwest. Triesch was a serious baseball fan and collector of beer cans and bottles from all over the world. He and longtime friend Paul Will bowled once a week. Triesch granted himself one of his two martinis a week at the bowling alley. The other he imbibed at Sunday dinner with his wife of 59 years, Marian.

Triesch died October 13, 2004. Survivors include his wife, three children, and six grandchildren.

James Triesch, who joined the WSBA November 24, 1941, was 87 when he died.

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Alternative Fee Arrangements: How Long Do the RPCs Apply?

BY MARK J. FUCILE

Alternative fee arrangements¹ have become increasingly popular in recent years among both lawyers and clients. They range from variants on traditional hourly or contingent fees to taking stock or other business interests in lieu of fees. Although the “dot-com bust” cooled the ardor for stock as a compensation tool, alternative fee arrangements are still being expanded into a wide variety of practice settings. If you’re using — or thinking about using — alternative fee arrangements, the Washington Court of Appeals recently issued an opinion that may have far-reaching consequences. The Court of Appeals in *Holmes*

v. Loveless, 122 Wn. App. 470, 94 P.3d 338 (2004), held that the requirement in the Rules of Professional Conduct (RPCs) that a lawyer’s fee be “reasonable” extends over the life of the fee agreement involved.

Holmes arose under unusual circumstances. The plaintiffs were two retired partners of a law firm. The defendant was a real estate developer. The lawyers and their firm had entered into a fee agreement with the developer in 1972 to provide legal services during the start-up phase of a project. Under the agreement, the law firm heavily discounted its fees (charging no more than necessary to cover its overhead) during a two-year start-up period. After that initial period, the law firm’s fees moved back to its regular rates. In return, the law firm was to receive five percent of any cash distributions generated by the project. The project turned out to be very successful, and over the next 30 years generated \$380,000 for the firm. The fee discount the law firm had effectively offered, by contrast, was calculated at \$8,000 before any adjustment for inflation.

By 2001, the two partners had retired and the firm had assigned its interest in the project to them. Around that same time, the developer notified the partners that it was terminating the fee agreement. The two partners then sued the developer to enforce the agreement and continue the distributions. The trial court enforced the agreement on summary judgment, but the Court of Appeals reversed.

The developer argued that the fee agreement violated the RPCs and, therefore, was unenforceable as a matter of public policy. The developer’s position was rooted in two elements of the RPCs — RPC 1.8(a), which regulates lawyer-client business transactions; and RPC 1.5(a), which prohibits unreasonable fees. The Court of Appeals first agreed with the general proposition that “[a] fee agreement that violates the Rules of Professional Conduct . . . is against public policy and unenforceable.” 122 Wn. App. at 475. The Court of Appeals also agreed that review of the agreement under both provisions was warranted and, because the fee agreement remained in effect, should be evaluated primarily under the current rules. Both RPC 1.8(a) and RPC 1.5(a) contain “reasonableness” criteria for evaluating fees. Under RPC 1.8(a)(1), a business transaction between a lawyer and a client must be “fair and reasonable to the client.” RPC 1.5(a), in turn, contains a variety of criteria for assessing whether a lawyer’s fee is “reasonable.” The Court of Appeals found that the two are intertwined when a lawyer’s compensation for services comes from an associated business transaction: “To some degree, the excessive fee and business transaction provisions overlap when attorneys and clients use business transactions as compensation for legal services. When the fee generated by a business transaction is not fair and reasonable, the business transaction is not fair and reasonable.” 122 Wn. App. at 476-77.

The Court of Appeals relied on a recent fee disgorgement case that included a business transaction — *Cotton v. Kronenberg*, 111 Wn. App. 258, 44 P.3d 878 (2002), *rev. denied*, 148 Wn.2d 1011 (2003) — in holding that the obligation to ensure that a fee is reasonable continues throughout the duration of the

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agreement. *Cotton* involved a lawyer who took real estate as an element of a fee and who was later disqualified before the legal services were completed. The *Cotton* court found that RPC 1.8(a)'s "reasonableness" requirement continued over the life of the agreement and that the lawyer's disqualification before completing the services involved rendered the transaction unreasonable. Although *Cotton* did not address the corresponding provision in RPC 1.5(a), the Court of Appeals in *Holmes* concluded that it, too, continued over the life of the agreement.

The *Holmes* court then examined the changing nature of the fee over the life of the agreement. It conceded that although the arrangement may have been reasonable at the outset, the fee generated became unreasonable as time went by because the lawyer's risk diminished while the certainty and amount of the fee 30 years later became disproportionate. In line with this analysis, the Court of Appeals did not rescind the agreement or order disgorgement of the fees received. Rather, it refused to enforce the agreement going forward.

Although both *Holmes* and *Cotton* involved real estate deals, the Court of Appeals in each case used stock investments in high-tech companies as an example. Therefore, in an era when investing in clients and "alternative fee arrangements" are more common with clients in a wide range of industries from high tech to project development, *Holmes*'s temporal yardstick for reasonable fees may have far-reaching practical consequences. For lawyers looking for a roadmap, the ABA's formal ethics opinion on investing in clients — 00-418 (2000) — remains essential reading, as it, like *Holmes* and *Cotton*, discusses the intersection of RPCs 1.8 and 1.5, and offers practical suggestions for constructing alternative fee arrangements that will stand the test of time. ☞

Mark J. Fucile is a partner with Stoel Rives LLP. 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.

Administrative Law

The *WA Administrative Law Practice Manual* was extensively updated in fiscal year 2004. Issues related to the Public Records Act continue to be actively litigated, and the Legislature and judiciary continue to interpret and redefine this area of law. Accordingly, the section produced two heavily attended seminars regarding public disclosure of government records. The section is coordinating the authoring and publication of a *WA Public Disclosure Act Practice Manual* that will provide expert reference materials for legal representation in both the private and public sectors. The section presented a CLE program regarding alternative dispute resolution in administrative proceedings and contributed financial resources to the Unemployment Law Project and the WSBA Loan Repayment Assistance Program.

Animal Law

The executive committee met five times, which included a "cyberspace" meeting. The section organized a second successful full-day animal law CLE in March. Two mini CLEs were also offered. The section compiled one large newsletter during the year, complete with case summaries, member profiles, philosophical articles, ALS committee reports, book reviews, and more. Although there is discussion about increasing the number of newsletters published this year, there is ongoing debate about whether publishing several smaller newsletters is better than fewer, more substantial newsletters.

Construction Law

The section conducted a well-attended and profitable midyear CLE in June, and conducted member forums on the Seattle Monorail Project, DOT, Sound Transit, and the Regional Transportation Investment District. Legislative activities included review of legislation with University of Washington Professor Steve Goldblatt. The section operates a members-only list serve and offers a quarterly newsletter. The section is working to complete proposed jury instructions for construction-law issues. Upcoming priorities include preparing the June 2005 CLE and upcoming forums; con-

ducting CLEs or forums, or both, in Eastern Washington; completing the proposed jury instructions; and increasing involvement in reviewing and commenting on proposed legislation.

Creditor-Debtor

The executive committee held four meetings in addition to an annual meeting. Each year the section co-sponsors the Northwest Bankruptcy Institute CLE. This year set a record attendance of 274. The section completed publication of the *Bankruptcy Case Law Digest for Washington State, Third Edition*; sales provided the section with funds for *pro bono* creditor/debtor programs statewide. The section contributed \$10,250 toward community-based programs. It authored and sponsored the Revised Receivership Statute, SB 6189, adopted by the Washington State Legislature on March 10, 2004. This after 10 years of revisions and lobbying! Current membership benefits include a list serve, website, newsletter, digest discount, and member directory, as well as the annual practice-area-skill-development seminars held in December.

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Dispute Resolution

This year's accomplishments include completion of the new, user-friendly ADR Provider Directory; donations of three \$2,500 scholarships to student/summer-intern programs; participation in providing input to the WSBA Legislative Committee on the proposed UMA and RUAA — section Chair Nick Wagner has diligently worked as chair of the UMA-RUAA Work Group, analyzing the proposed legislation and conducting forums in order to receive input from various dispute resolution providers and those with an interest in the proposed legislation; and the great success of the 13th Annual Northwest Dispute Resolution Conference, with increased attendance of 335. Many positive changes are planned for the coming year, the first being implementation of a speakers' committee.

Elder Law

Four well-attended CLEs were sponsored or co-sponsored: Vulnerable Adult Symposium, Special Needs Trusts, the Annual Elder Law CLE, and the Annual Meeting CLE. The section monitored legislation, including a bill to amend the bonding/blocking requirements in guardianships; worked on GR 31, electronic access and privacy issues; created an *ad hoc* group to work on ways to improve the Vulnerable Adult Statute; and advocated for increase in the Medicaid Medically Needy

Income Level. The section provided grants to the Dispute Resolution Center in Yakima/Kittitas, Northwest Regional Council in Bellingham, Northwest Health Advocates in Seattle, and a law fund designated for Columbia Legal Services' work for seniors.

Environmental and Land Use Law

The section hosted a successful midyear meeting and CLE at Rosario Resort in mid-May 2004. The CLE provided \$3,100 in revenue for the section. The section's quarterly meetings and CLEs were also well attended. The section has completed a special project with a consultant to develop an environmental and land-use-law curriculum for high school students, which will be marketed and disseminated in 2005. The section newsletter and CLEs continue to be the most important member benefits offered.

Family Law

The section held its midyear meeting and skills-training seminar in the spring. Attendance at the seminar was cut off at 90, and for the first time some lawyers had to be turned away. The section also submits a regular column to *De Novo*. The section publishes a newsletter several times a year and a "hotsheet" with time-sensitive information to the membership. It also maintains a list serve where registered members can ask questions on a

variety of topics. The section continues to be very active in responding to queries from the state Legislature on family law bills, this year tracking more than 30 bills on various issues affecting families and children.

Health Law

The section has not been active for some time. In fiscal 2004, the WSBA put out a call for volunteers to serve as the executive committee. Four people responded and were subsequently elected to serve. WSBA approval was gained for waiving section dues in fiscal 2005 for people who were section members in 2004. A free mini-CLE is scheduled and a member survey will be sent out in November. A section website is being developed where useful links will be posted.

Indian Law

On August 5, in Atlanta, the ABA's General Practice, Solo and Small Firm Section presented the Indian Law Section and the Northwest Indian Bar Association (NIBA) with the Solo and Small Firm Project Award. The award acknowledges the success of the Indian Law Section and NIBA's Indian Legal Scholarship Program, which has raised and donated over \$30,000 in scholarships to aspiring Indian lawyers from Washington, Oregon, Idaho, and Alaska since 2003. On October 22, the WSBA Board of Governors voted unanimously to include federal Indian jurisdiction on the Washington bar exam, effective the summer of 2007.

Intellectual Property

The section held its annual meeting in April in conjunction with its annual day-long CLE, electing two new members of the executive council and two new officers. The section inaugurated a CLE devoted to IP licensing. The section also inaugurated an aggressive campaign to reach out to IP students at the state's three law schools, and established an annual scholarship for one IP student at each of the schools. The first awards will be made during 2004-2005. The executive council continued to monitor state legislative activities relevant to IP law, and to be available to advise on such matters as needed.

CASE #122

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International Practice

In October 2003, the section sponsored a lunch forum on the issues of constitutional changes in newly independent states. In January 2004, the section hosted its first annual reception for law students. In April, the section hosted a special presentation conducted via videoconference by one of Russia's leading international law experts, Dr. Vyacheslav V. Gavrilov, who discussed issues related to the status of foreign legal entities doing business in Russia, and the execution of foreign judgments, and presented practical information on the status of foreign legal entities in Russian courts. In June, the section held its annual meeting and retreat, where the board of officers was elected.

Labor and Employment Law

The fourth annual Labor and Employment Law Conference was held, and attendance fees were discounted for section members. Students from law schools were invited to the conference, and 10 students from each state law school received free registration and materials. The section worked closely with the Seattle University Labor and Employment Law Section, an organization of students interested in labor and employment law. The section is developing an outline for scholarship programs, labor and employment law internships, and summer jobs.

Law Practice Management and Technology

The annual Law Office Management Institute and EXPO were presented in March. The section also presented *Winning Strategies*, an award-winning seminar geared at new attorneys. Membership grew via assimilation of many members from the former General Practice Section. The section plans to offer scholarships to members in 2005, so they can attend legal tech shows.

Litigation

The section published an updated version of the *Washington Civil Trial and Evidence Manual, Voir Dire to Verdict*. A highlight in 2004 was the Midyear CLE, with featured speaker Sonja Hamlin, a trial consultant who earned rave reviews from those in attendance. Fiscal 2004 was also

an active year for the Civil Rules Committee. The primary issues discussed were initial disclosures akin to CR 26 disclosures in Federal Court, expert report requirements, and the scope of CR 35, which permits examinations of plaintiffs by qualified professionals. After considering wide ranging input, the section came down in favor of expanding CR 35 but against adopting proposed changes to CR 26 regarding initial disclosures and expert reports.

Senior Lawyers

More than 200 people attended the annual meeting and seminar that was held at the SeaTac Marriott on April 16. The next annual meeting and seminar is scheduled for the same place, on April 22, 2005, where a select group of speakers will address legal subjects of interest to all lawyers. *Life Begins*, the section's newsletter, was published quarterly. The section plans to work more closely with other sections and the WSBA Lawyers' Assistance Program in 2005. The section plans to offer scholarships for members in 2005 to attend legal tech shows.

Tax Law

The section held its annual meeting in May 2004, elected new officers, and awarded a \$5,000 scholarship to a graduate student. WSBA President Ron Ward attended, as did representatives of the Department

of Revenue and the IRS, and about 30 UW graduate students. The section co-sponsored a joint seminar with the Washington State Society of Certified Public Accountants in January 2004. In May, the section sent out a detailed questionnaire to all section members in an effort to improve its service and relevance to its membership, and issued a follow-up survey in September. It has compiled the results, and intends to use the survey to address membership needs. The section intends to initiate a campaign to increase its membership.

World Peace Through Law

The section provided a monthly CLE program with featured speakers. Speakers have included a Marine JAG, a lawyer/priest from Chiapas, defense counsels for war crime trials in Serbia and Rwanda, and a former Nixon White House lawyer. The section continues to present the annual Ralph J. Bunche Award and Luncheon. The 2004 honoree was U.S. Representative Jim McDermott, selected for his action in support of the rule of law in foreign affairs. Through the Books for Troops Program, books and other media were collected to send to members of the Washington State National Guard serving in Iraq. The unofficial position of outreach coordinator has helped recruit law students, law faculty, and members of non-lawyer groups to participate in section activities.

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The Board's Work

BY LINDSAY THOMPSON

Richland, October 22-23, 2004

Coming to town near you: The BOG adopted a 2005-06 meeting schedule. Why not come see your elected reps at work? Here's the schedule: Vancouver, WA, 10/28-29; Bremerton, 12/9-10; Olympia, 1/20-21; Seattle, 3/3-4; Walla Walla, 4/7-8; Bellevue, 5/12-13; Yakima, 6/9-11; Port Angeles, 7/21-22; Seattle, 9/14-15.

Appointments everywhere: WSBA members were confirmed to membership on a variety of standing committees — the Legal Foundation of Washington Board; WSBA's Hearing Officers Panel; the Committee on Public Defense; the Lawyers' Fund for Client Protection. The BOG elected Governor **Joni Kerr** of Vancouver as WSBA's treasurer for the coming year.

Let a guidance statement be your guide: The Board adopted policies setting guidelines for CLE program offerings, as well as for how to interpret General Rule 12, which sets out what WSBA should and shouldn't get involved with in the public arena.

Court rules changes: Committee chair **David Swartling** went over proposed changes to CR 26 and CR 35, designed, he said, to more closely conform to the federal Rules of Civil Procedure. CR 26(b) would be amended to require reports from testifying experts. Governor **Randy Gordon** moved to reject the

change, citing concerns over additional costs to plaintiffs and adding complications to the discovery process. Others worried the change might discourage meritorious small-dollar cases and make family law more expensive. Down it went, 12-1.

CR 35 should be amended to expand the enumerated professionals who can do mental or physical examinations. Same concerns, same result, but by a smaller margin. Down it went, 8-5.

Thank goodness we're already admitted: **Gabe Galanda** of the Northwest Indian Bar Association pitched the BOG the idea to add Indian Law to the Bar Exam. The NIBA has been working on the proposal for two years and racked up all kinds of endorsements for the idea that Indian Law is becoming a big enough deal in Washington to warrant including it on the exam.

Bar Examiners Chair **Frank Slak**, making a rare appearance before the BOG, thought there were other, better ways to make Indian Law more known by the state's lawyers. He told them how hard it is to construct bar exam questions and that the examiners didn't want to add this.

After considerable discussion, the BOG determined that there'd been plenty of input sought on the proposal; that Indian Law is coextensive with state and federal law; that doing this wouldn't be a

slippery-slope exercise, and that since the change wouldn't happen till 2007, there'd be plenty of time for the law schools and law students to adapt. The Board looked at things like whether to add Indian Law to CLEs, or to the new preadmission course for lawyers. On a motion by Governor **Eron Berg**, the change was adopted, 14-0.

In other law student news, the Board accepted a Professional Development Implementation Committee recommendation to let law students join WSBA sections, voting aye, 13-0.

Well, of course, I wrote a check as soon as I got the invoice: A disbarred WSBA member has taken it in mind that he has a common-law copyright and trademark interest in his name. When his name got printed in this magazine, he sent out invoices to everyone he could think of in the courts and bar association who might arguably have anything to do with his case or the printed notice, claiming infringement and damages.

Needless to say, it gets a little irritating getting this sort of stuff, and you get a good bit of it being in leadership (one evening some years ago, during my BOG service, I arrived home to the question, 'How was your day?' 'Fine,' I replied, 'I got sued for \$175 million.'). WSBA has been trying to get the guy to lay off; the Postal Service and the U.S. Attorney have not yet taken action.

I don't mention the man by name here because (1) he used to be a friend and colleague; and (2) he's already invoiced me for \$2.8 trillion.

Calling Eliot Spitzer: The Board reviewed the WSBA-sponsored insurance programs, which are set to expire in January. They asked the Insurance Committee to look into the allegations being made against Marsh, WSBA's insurance broker, by the attorney general of New York, and if WSBA ought to do anything.

Other matters: The BOG heard reports from **James Williams**, chair of the new WSBA Leadership Institute; from Treasurer **Joni Kerr** on WSBA's budget (in fine fettle); from **Paula Littlewood** on implementing the four-hour pre-admission skills-training course new admittees will have to take starting in 2006; and from **Steve Marsalis**, president of the Young Lawyers Division. ✍

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Summer 2004 Bar Exam Pass List

Congratulations to the 644 candidates who passed the Summer 2004 Bar Exam! The exam was administered July 27-29 at Meydenbauer Center in Bellevue. Of the 884 candidates who took the exam, 644, or 72.9 percent, passed. Their names are listed below and, along with statistical information, on the website at www.wsba.org/lawyers/licensing/summer+bar+exam+pass+list.htm.

A

Abram-Kolodenko, Lisa D., Kirkland
Aldrich, Kelly C., Seattle
Allen, James N., Seattle
Allen, Timothy E., Anacortes
Allred, Natacha D., Kirkland
Alsdorf, Andrew Edward, Seattle
Altman, Michael S. Jr., Brown Deer, WI
Altman, William J., Mercer Island
Ambach, Kirsten Lela, Seattle
Amrine, W. Brett, Wenatchee
Amsbary, Brian Donald, Seattle
Anderson, Aaron, Seattle
Anderson, Nicholas O., Seattle
Andrews, Carley Daye, Canada
Andrews, Rebecca L., Seattle
Appel, Daniel J., Tumwater
Arai, Leslie Haruko, Bellevue
Artiss, Jennifer Cave, Everett
Ascott, Ivan L., Seattle
Asher, Adam Richard, Seattle
Ault, Robert James, Seattle
Axtell, Katie A., Seattle

B

Babic, Meliha, Bellevue
Bain, Stacie Elizabeth, Seattle
Baisch, Thomas Bradley, Seattle
Baker, Jesse A.P., Des Moines, IA
Baker, Warren Louis, Seattle
Baldwin, Elizabeth R., Seattle
Balsera, Nivia, Seattle
Barker, Allyson L., Seattle
Barkhordari, Roozbeh, Paris, France
Barry, Seamus Kevin, Everett
Bauer, Ian Michael, Sammamish
Baugh, Erica Anne, Sammamish
Baynard-Cooke, Sara E., Seattle
Bazemore, Meredith Maile, Seattle
Beattie, Brian F., Seattle
Becker, Bruce, Seattle
Beckwith, Cristine Anne, Normandy Park
Beigh, Sara I., Olympia
Beltzer, Christopher A., Lincoln, NE
Benson-Amram, Galia, San Antonio, TX

Beyer, Jessica Marie, Moscow, ID
Beyerlein, Jennifer McMillan, Seattle
Bhachech, Tamsen Schultz, Bellevue
Birdsley, Erika A., Sunnyvale, CA
Black, Natasha Shekdar, Snohomish
Blossom, Sarah Madeah, Bainbridge Island
Blunt, Christen L., Seattle
Bocanegra, Miguel Angel, Seattle
Boehm, Kristin C., Spokane
Boland, Justin R., Mukilteo
Bolio, Wayne Marc, Camas
Bond, Sarah Hopson, Seattle
Bonkoski, Jeri Lynn, Bellingham
Borgen, Erik M., North Bend
Bosserman, Jennifer, Seattle
Boswell, Jared Andrew, Seattle
Boulos, Manal, Renton
Bowra, Kelly Ziegler, Woodinville
Boyer, Sean, Seattle
Bozzo, Frank Joseph, Seattle
Branton, Vincent A., West Richland
Bride, Jessica, Seattle
Briggs, John C., Seattle
Brooker, Marcella Hilary, Morgan Hill, CA
Brooks, Heidi L., Seattle
Brooks, Michael, Seattle
Brophy, Brendan Michael, Seattle
Brothers, Joshua L., Beaverton, OR
Brown, Ashleigh J., Spokane
Brown, James E., Seattle
Brown, Karen L., Seattle
Brown, Stuart Earl, Seattle
Brubaker, Emily J., Seattle
Brunet, Michael Starkes, Seattle
Bryant, Armikka R., Seattle
Burgess, Paulette R., Spokane
Burks, Miranda Rae, Auburn
Burnside, William R., Seattle
Burwell, Stephen, Seattle
Byrne, Rachel, Seattle

C

Cahn, Randy Jay, Lynnwood
Cameron, Andrew Gordon, Seattle
Capelli, Sarah, Pullman
Carbonneau, Louis, Sammamish
Carlson, David R., Seattle
Caron, Paul Francis, Redmond
Carr, Angela L., Seattle
Cassaniti, Jocelyn Elsie, Seattle
Chakoian, Matthew Martin, Seattle
Chambers, Benjamin S., Seattle
Chan, Carly M., Seattle
Chang, Robin M., Seattle
Chang, Susan, Seattle
Chao, Sophia T., Issaquah
Chavez, Anthony Robert, Seattle
Chavez, Tami Michele, Spokane
Chen, Hui-Ling Christina, Puyallup

Chiappini, Nichole, Redmond
Choi, Heesun Sunny, Seattle
Choy, Veronica K., Canada
Christensen, Christopher J., Issaquah
Churas, Jenny M., Seattle
Ciecko, Alena K., Seattle
Clark, Daniel Dean, Yakima
Classen, Maurice Adam, Seattle
Coats, Angela D., Gig Harbor
Cook, Amanda Jarrett, Port Orchard
Cook, G. Gerald, Mead
Cooke, John T., Seattle
Corcoran, Daniel D., Seattle
Corcoran, Sheila L., Northport
Cornellier, Erik, Seattle
Cortes, Meyrick-Aylmer, Bellevue
Cosgrove, Jennifer Ellen, Seattle
Cowgill, Christopher C., Spokane
Cox, Adam, Seattle
Cox, Kenneth Mark, Yakima
Crandall, Jeffrey Richard, Hollister, CA
Crawford, Steven W., Enumclaw
Crenshaw, Adam Brennan, Seattle
Crick, Melody M., Seattle
Crigger, Emily A., Seattle
Croteau, Bradley Louis, Seattle
Culumber, Jeremy Wade, Renton
Culver, Erin Kathleen, Spokane
Curran, Whitney Briannon, Clyde Hill
Czebotar, Heather Dawn, Kennewick

D

Dale, Justin Matthew, Snohomish
Daquiz, Abigail Gonzales, Seattle
Davison, Ann, Salem, OR
Deering, Maura Kelley, Davis, CA
Delgrosso, Jennifer L., Seattle
Denton, William Anthony, Seattle
DeBell, Haley Jo, Eugene, OR
DeBenedetti, Merryn Blake, Woodinville
DeLeon, Marta Uballe, Fairbanks, AK
Diller, Brecken Woodburn, Seattle
Dockum, Nanette Kaye, Spokane
Donohue, Jennifer J., Seattle
Dowd, Mark A., Seattle
Draper, Adam E., Portland, OR
Draughon, Shannon M., Newcastle
Drozd, Jaime Ann, Seattle
Duncan, Sarah, Seattle
Dunn, Edwin Johnson, Hood River, OR
Dunn, Katherine E., Bainbridge Island
Duong, Phong D., Veradale
Durburn, Brett S., Seattle
Durburn, Kara, Seattle
Durr, Darcie E.C., Seattle
Dursch, Brian C., Seattle
Dyer, Carol, Seattle
Dyer, Erin Colleen, Lynnwood
Dylag, Sarah A., Seattle
D'Annunzio, Jacob Dylan, Seattle

E

Eakin, Matthew R., Mill Creek
Eames, Ellen, Newcastle
Ehrhardt, Robert, Aberdeen
Ellis, Jennifer Marie, Cle Elum
Elsner, Zachary Charles, Seattle
Endres, Corey L., Seattle
Engel, Eric J., Seattle
Erickson, Diana Laureen, Seattle
Estok, Michael John, Juneau, AK
Evans, Hillary J., Seattle

F

Farkas, Rachel, Oakland, CA
Fields, Penny, Seattle
Flanagan, Karen L., Port Townsend
Follmer, Alicia Kathleen, Spokane
Ford, Elisa Rebecca, Seattle
Foster, Courtney Christine, Seattle
Foster, Jordan, Spokane
Fowler, Lara B., Seattle
Franklin, Jana Ranae, Kennewick
Franklin-Bihary, Amy, Seattle
Free, Brian Corker, Seattle
Freeberg-Finne, Kerissa M., Seattle
Freebourn, Chad Harrison, Spokane
French, Jonathan L., Spokane
Frere, Jennifer, Seattle
Friedt, Jason Alexander, Seattle
Fugate, Jason, Centralia
Furlong, Maren Elizabeth, Spokane
Furman, Whitney Imogen, Seattle

G

Gabbert, Richard B., Mercer Island
Gallagher, Karye Lillian, Spokane
Gallagher, Marie N., Seattle
Gannon, Jennifer M., Seattle
Garnett, Nathan William, Seattle
Gasperino, Daniel Anthony, Kennewick
Gavery, Brock Beav, Seattle
Gierth, Richard Lee, Edmonds
Gilb, Alicia, Seattle
Gillespie, Sean P., Seattle
Glasgow, Steven McEntire, Issaquah
Glueck, Suzan W., Bellevue
Gonzales, Carlos, Seattle
Goodell, Ryan H., Spokane
Gottainer, Greg Lawrence, Seattle
Grahm, Vickie L., Seattle
Grams, Melinda Ann, Seattle
Gray, Jerry M., Spokane
Gray, Kelly Lee, Seattle
Green, John Lehr, Portland, OR
Green, Karen Elizabeth, Seattle
Green, Marcel Andre, Beijing, China
Green, Michael Patrick, Portland, OR
Greene, Andrew, Gig Harbor
Griffin, Aneesah Ja'Nell, Seattle
Grindeland, Geoffrey M., Bellevue

Grossman, Patty L., Spokane
Grove, Paul Joseph,
Milton-Freewater, OR
Grozniak, Rhonna, Carnation
Guberman, Kristen Elizabeth,
Lake Forest Park
Guneratne, Kathleen, Seattle
Gunning, Kimberlee L., Seattle
Gustafson, Michael David, Seattle
Guyton, Odell, Woodinville

H
Haaland, Brian J., Portland, OR
Haas, Jesse Friend, Everson
Hackett, Piper A., Seattle
Hagara, Brooke Diane, Montesano
Haindfield, Melanie K. Kitzan,
Bellevue
Hale, Matthew Richard, Burien
Hall, Keith Robert, Seattle
Hammond, Erin M., Seattle
Han, Rachel, Seattle
Handy, Cheryl E., Spokane
Hanis, Brian James, Kent
Hankins, Tanya L., Redmond
Harbottle, Adrienne, Seattle
Hardenbrook, Sonja K., Edmonds
Hardie, Lisa D., Seattle
Haroldson, Peter D., Renton
Harper, Nicholas R., Seattle
Harrington, Spencer W., Spokane
Harris, Chase Christopher,
Seattle
Harris, Emily C., Seattle
Harrison, Noah,
Bainbridge Island
Harrison, Rebecca E., Seattle
Hartman, Christopher Guy,
Redmond
Hathorn, Kari F., Bend, OR
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Hawkins, David S., Anacortes
Hawkins, Jared N., Provo, UT
Hayes, Colin Patrick,
Mercer Island
Heaps, Mitchell J., Moses Lake
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Heisler, Lara, Seattle
Heller, Jane J., Seattle
Hernandez, Rachel Rene, Bellevue
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Seattle
Hilgenfeld, Christopher,
Portland, OR
Hill, Brett MacTavish, Seattle
Hirsch, Edward James Jr., Seattle
Ho, Johnny, Seattle
Ho, Ty, Seattle
Hoffman, Amy R. Pivetta, Auburn
Hojnowski, Claudia, Post Falls, ID
Hong, Franck S., Kent
Howell, Jason M., Olympia
Howell, Stormy N., Spokane
Hoyt, Christine Rae, Pullman
Huberdeau, Jeremy Scott,
Spokane
Hughes, Abigail M., Spokane
Humann, Kirstin L., Redmond
Huneryager, David, Seattle

I
Imai, Bryan K., Bainbridge Island
Iozzo, Michael Anthony,
Alamosa, CO
Isbister, Peter Michael,
Washington, DC
Ishikawa, Stephanie K., Seattle
Isitt, Kenan Lee, Seattle

J
Jacobsen-Watts, Heidi Joanne,
Kenmore
Jain, Simi, South Royalton, VT
James, Kelly A., Seattle
Jansen, Scott Charles, Spokane
Jensen, Tiffany Joy, Moscow, ID
Joe, Arlene, University Place
Johnson, Kelli M., Seattle
Johnston, Victoria M.,
White Stone, VA
Jones, Robert E., Olympia
Jones, Tanya, Mountainview, CA
Jozefowicz, Jessica, Renton
Juhl, Nicholas William, Seattle
Justyk, William John, Albany, NY

K
Kalish, Daniel, Seattle
Kamins, Andrew, Seattle
Kasin, Philip T., Seattle
Kasting, Justin Williams,
Missoula, MT
Katahira, Christopher, Seattle
Keehan, Thomas Paul, Seattle
Keppinger, Katie Jo, Portland, OR
Kernutt, Matthew, Seattle
Kerr-Chastek, Colleen E., Seattle
Kesselman, Roman, Kirkland
Ketterling, Scott Christopher,
South Royalton, VT
Ketrick, Jason M., Spokane
Kiepe, Diane, Spokane
Kim, Jeana Shin, Newcastle
Kim, Shilla H., Portland, OR
Kimbrell, George A., Portland, OR
King, Allison M., Benton City
King, Steven A., Seattle
Kinne, Beth E., Seattle
Klein, DeLynne Marie,
Portland, OR
Kline, Julie Ellen, Seattle
Knapton, Nicholas Ross,
Liberty Lake
Knauss, Matthew Curran, Seattle
Knudsen, Erik Gardner,
Mercer Island
Kornblum, Stephanie Vititoe,
Seattle
Kovarik, Nicholas D., Spokane
Krebs, Jennifer Amanda, Enumclaw
Kucuk, Molly Powell, Woodinville
Kuhl, Brooke, Spokane

L
Lane, Dustin C., Seattle
Laney, Tylor, Seattle
Lappin, Nicole E., Seattle
LaMotte, Colleen Marie, Seattle

Leary, Elizabeth Anne, Seattle
Lee, Alexander, Seattle
Lee, Sandy Kang Mi, Seattle
Lee, Susan, El Cajon, CA
Lee, Tristen Une-Jeong, Seattle
Leen, Mark S., Woodinville
Lee-Domebo, Jessica, Inchelium
Leptich, Stephen P., Seattle
Levison, Kenneth N., Seattle
Lew, Pamela Colleen,
San Francisco, CA
Lewis, Janna, Auburn
Lewis, Jennifer P. Gonsalves,
Mill Creek
Lewis, Lauren Elizabeth, Bellevue
Lewis, Steven M., Seattle
Lilly, Joshua J., Pocatello, ID
Livingston, Tina Kyle,
Mercer Island
Livingston, Trevor A.,
Cambridge, MA
Lodwig, Jeanette, Mercer Island
Lollar, Cortney, Washington, DC
Lopez, Martha Rodriguez,
San Juan, PR
Lopez Ley, Katherine Nell, Seattle
Loughlin, Joseph P., Seattle
Lovik, David Paul, Seattle
Lundsgaarde, Allan, Portland, OR
Lunn, Paul G., Woodinville
Lynch, Peter James, Redmond

M
Mackie, Jeffrey Scott, Seattle
MacDonald, Stacey Lee, Redmond
Malone, Kelly J., Maple Valley
Malone, Marc B., Seattle
Manni, Nathan Matthew,
Ann Arbor, MI
Manning, Michael J., Seattle
Marable, Andrea Lynn, Spokane
Masada, Steven Toshio, Seattle
Mathers, Andrew S., Seattle
Mattson, Yvonne Marie, Tacoma
McAllister, Thomas W., Seattle
McCarthy, Conor Emery, Tacoma
McCaskill, Randy Alan,
Mercer Island
McCormick, Katharine K.,
Newport, RI
McDonough, Vincent R., Kirkland
McIsaac, Zachary O., Seattle
McKee, Jamie J., Kirkland
McKenna, Patrick, Seattle
McLaughlin, Timothy J., Seattle
McLaughlin, Wesley K., Puallup
McNair, Jemel Antoinette,
Portland, OR
McRae, Nicole D., Seattle
Metzger, Kate, Seattle
Milam, Amy Lynne, Mount Vernon
Miller, Glen, Hayden, ID
Miller, Jesse, Seattle
Miller, Kevin J., Seattle
Miller, Laurie Kathryn, Seattle
Mills, Jason M., Bothell
Mitchell, Jeanette Lynn, Seattle
Mitchell, Nicholas, Seattle
Mitchell, Sarah, Seattle

Mitchell, Stephen R., Bothell
Moller, Wade Martin, Boise, ID
Moloney, Shane A., Auburn
Monkman, Richard Drake,
Juneau, AK
Monroe, Justin M., Edmonds
Morgan, Daniel G., Longview
Morin, Aaron A., Seattle
Morton, Nancy Weynaud,
Redmond
Moser, Kelly F., Alexandria, VA
Mountain, Celeste Marie,
Edmonds
Mullin, Jennifer J., Moses Lake
Murakoshi, Sharon Michiko,
Bellevue
Mustard, Donna F., Seattle

N
Na, Belle, Yorba Linda, CA
Naffziger, Anne Elizabeth, Seattle
Neale, Ryan S., Seattle
Neely, J. Bowman, Medina
Nelson, Susan C., Portland, OR
Nerheim, Mark Barrett, Seattle
Nguyen, Brian Huy Xuan, Seattle
Nguyen, Holly L., Seattle
Nguyen, Quocviet B., Newcastle
Nichols, Kristina M., Cheney
Nilsen, Kristen, Washington, DC
Nisle, Michelle, Vancouver
Noel, Dawn A., Carson City, NV
Nohle, Peter H., San Jose, CA
Nolley, Jonathan Ralph, Seattle
Nordby, Evan Hansen,
Washington, DC
Norton, Maren Roxanne,
Shoreline
Noud, Thomas Patrick, Seattle
Nykamp, Ryan M., Bellevue

O
Obrigewitsch, Jamie L., Seattle
Ogunlola, Akinwale, Chicago, IL
Ohta, Teri Y., Honolulu, HI
Okimoto, Reid Scott, Seattle
Olive, Kyle C., Seattle
Oppermann, Anne Reid,
Mercer Island
Orehoski, Karen, Spokane
Osborn, James William, Tacoma
Overton, Melody K., Seattle
Ozanich, Alicia Orlena, Seattle
O'Keefe, Kelsey E., Seattle

P-Q
Page, Matthew S., Lynnwood
Painter, Robyn Andree, Seattle
Palmer, Jonathan Michael, Seattle
Parcher, Kristen Leann, Vancouver
Patterson, Yvette G., Vail, AZ
Paulose, Regina, Seattle
Paulsen-Thew, Emma J., Spokane
Pederson, Peter E. Jr., Seattle
Pellicciotti, Michael John,
Tumwater
Penarczyk, Matthew J.,
Sammamish
Pence, Jeffrey N., Tacoma

Peters, Scott R., Seattle
Petersen, Jennifer Roen, Seattle
Peterson, Eric Daniel, Brier
Petzinger, David, Moscow, ID
Piskel, Jason Thomas, Spokane
Pittman, Matthew R., Seattle
Poisel, Joshua Alan, Mercer Island
Polage, Dan B., Agoura Hills, CA
Pollock, Annika, Seattle
Poologasingham, Brahmly, Seattle
Poore, David M., Lynnwood
Popp, Courtney A., Seattle
Powers, Sabrina L., Bellevue
Prasad, Shirley Sangita, Seattle
Prendergast, John F., Seattle
Prince, Jessica J., Seattle
Pulliam, Jay A., Snohomish
Purves, John Charles,
Southlake, TX
Quinn, Jada J., Anchorage, AK

R
Rabuan, Mark M.,
Washington, DC
Ragland, Rebecca, Seattle
Rains, Emily R S., Seattle
Ramsey, G. Christopher, Seattle
Rasmussen, Kent Douglas, Seattle
Rasmussen, Michele Nicole,
Redmond
Rath, Brandon Thomas, Boise, ID
Redal, Brandon, Moses Lake
Redmond, Robert Leonard,
Spokane
Reed, Kyle, Seattle
Rehberger, Joseph A., Tacoma
Reich, George Parker, Gig Harbor
Reichert, Todd Wesley,
Maple Valley
Reid, Karen Ann, Seattle
Rentz, Christy Amber,
Lake Oswego, OR
Richards, Andrew P.,
Anchorage, AK
Rickards, Jeanna Margaret, Seattle
Ridenour, Adele Jennifer,
Meridian, ID
Ries, Stephanie Maria, Woodinville
Riojas, Rogelio Omar, Seattle
Ritchie, Aaron, Portland, OR
Robb, Edmund, Durham, NC
Robertson, Les W., San Diego, CA
Robertson, Russel R., Seattle
Robinson, Abigail Ellen, Seattle
Robinson, Jenifer A., Olympia
Rodabough, Samuel A., Bellevue
Rogers, Heather Lea, Seattle
Romberg, Joseph A., Spokane
Rosenberger, Christine Lynn,
Yakima
Rosenthal, Michelle Ulick, Seattle
Ross, Bruce Alan, Kenmore
Rothstein, Gabriel, Seattle
Rowe, Derek A. S., Jordan, UT
Rowland, Kurt Michael, Boise, ID
Ruff, Adam C., Seattle
Ruple, John C., Seattle
Ryan, Maureen G., Spokane
Rzhiskiy, Oresta Danilyuk, Auburn

S
Sammons, Sylvia Ann, Lakebay
Sanchez, Kara Elaine, Bellevue
Sanchez, Mark Anthony, Bellevue
Sande, Christian M.,
Minneapolis, MN
Sandoval, Jennifer, Las Vegas, NV
Sands, Darin M., Portland, OR
Sant, Shawn P., Moscow, ID
Saunders, Keith W., Spokane
Scalzo, Alicia Marie, Seattle
Schechter, Michael S., Seattle
Schneller, Matthew Dexter,
Seattle
Schochet, John Benjamin Kerr,
Seattle
Schotemeyer, Louis M., Olympia
Schumann, Jason William, Seattle
Schwartz, Gregory Gavin,
Saratoga, CA
Schweigert, Karen Gwen,
Otis Orchards
Schwisow, Jason T., Sunnyside
Scott, Jason Dean, Seattle
Seaman, Shane Richard, Olalla
Secrest, Sheley Jacqueline M.,
Federal Way
Seeburger, Karen J., Seattle
Seim, Courtney L., Seattle
Semenea, Leonard, Bellevue
Senechal, Matthew E., Seattle
Settles, Elizabeth Lorraine,
Richmond, CA
Severson, Deborah A., Monroe
Sheets, Shannon Leigh,
Laramie, WY
Sheffield, Theodore Alexander,
Seattle
Sherred, Catherine Diane, Seattle
Shirey, Katharine G., Portland, OR
Siebert, Molly K., Seattle
Siewers, Jennifer Lynn, Sumner
Silin, Douglas, Seattle
Silver, David F., Seattle
Simmons, William W., Federal Way
Singleton, Heather A.,
Denmark, TN
Skyles, Johnna M., Olympia
Smith, Cameron K., Seattle
Smith, Chad M., Seattle
Smith, Colette Mulrenan,
Olympia
Smith, James B., Memphis, TN
Smith, Keri Jo, Clarkston
Smith, Louis Cody, Seattle
Smith, Russell F., Seattle
Smith, Shannon, Newcastle
Smith, Staci L., Seattle
Smith, Todd W., Seattle
Snow, Sandra Ann, Edmonds
Snow, Sherman L., Seattle
Snyder, Matthew G., Seattle
Solis, Laura Marie, Seattle
Song, Irene E., Seattle
Sorensen, Todd Russell,
Mercer Island
Southworth, Susanna Love,
Temple, TX

Spangler, Craig R., Port Orchard
Spicerkuhn, Phillip Aaron,
Eugene, OR
Spidell, Melody Rose,
New York, NY
Spraggins, Melanie, Portland, OR
Stahle, Samia B., Seattle
Staples, Matthew Christian,
Kirkland
Steen, Timothy Edward, Seattle
Steffen, Katie Ann, Coralville, IA
Steinacker, Andrea Kay, North
Bethesda, MD
Steinacker, Kevin Terry, DuPont
Stender, Michelle D., Seattle
Stepelman, Batya Gabriella,
Riverdale, NY
Strange, Michael Stephen,
Spokane
Studebaker, Christopher S.,
Lenexa, KS
Su, Chuan-Yi Phillip, Puyallup
Sullivan-Byorick, Erin, Everett
Sumearll, Teresa B., Seattle
Swanson, Emily D.P., Seattle
Sweet, Diane, Mariposa, CA
Swenson, Gulliver,
San Francisco, CA

T
Taft, Elisabeth Jayne, Seattle
Tayebi, Shiva Eliza, Bellevue
Taylor, Samantha Lin,
Herndon, VA
Tchochiev, Janelle Ann, Seattle
Thomas, Shannon Clare,
Spokane
Thomason, Alexander Harris
Solon, Seattle
Thompson, Melisa K., Seattle
Thompson, Paul William,
Tacoma
Tibert, Karen L., Seattle
Till, Richard F., Portland, OR
Tilstra, Sarah Eve, Seattle
Tissot, Antoine Jean-Marie,
Laramie, WY
Tofer, Eugene J., Brush Prairie
Tomlinson, Zachary, Seattle
Tonkin, Frank Robert, Seattle
Torres, Teresita C., Olympia
Torrone, Christopher G., Spokane
Torvik, Ellen, Seattle
Transier, Michael L., Covington
Tribbett, Tracy, Spokane
Trompeter, Patrick Evans, Seattle
Tromset-Moore, Rayne, Olympia
Truscott, Lindsey, Seattle
Turnick, Nicole, Milton

U
Uchida, Evan Yoshito, Seattle
Ummel, Laurena D., Everett
Underwood, Cristina L., Seattle
Underwood, Jennifer C., Spokane

V
Valdez, Jesse, Bellevue
Valentine, Megan M., Montesano

van Amerongen, Krista Kay,
Seattle
VandenBerghe, Benjamin I.,
Seattle
Vanderhage, Henri S., Lynden
Vander Stoep, Kari Lee,
San Diego, CA
Van Dessel, Geana Mae, Spokane
VanMeter, Sara Jo, Seattle
Vass, Linda M., DesMoines
Vaughan, Kate, Seattle
Velez, Daniel, Seattle
Vickers, Jennifer, Auburn
Voorhees, Bradley M.,
Eugene, OR

W
Waldman, Laura J., Spokane
Ward, Amy E., Seattle
Warren, Candace M.,
Sammarnish
Wegener, Stryder James, Seattle
Weidenfeld, Yarden F.,
Mercer Island
Weil, Jonathan Louis,
Andover, MA
Wendling, Rebecca Ellen Lawson,
Seattle
Wenger, Marlene K., Winlock
West, Catherine A., Seattle
West, Charles W., Seattle
Weyrick, Diane Lynn, Edmonds
Whedbee, David J., Seattle
White, Ellen Arnold, Seattle
White, Erinn A., Seattle
White, Michael, Seattle
Whitney, Sarah, Bremerton
Wichner, Alaina Marie, Olympia
Wight-Axling, Heather G., Seattle
Williams, Gregory Anthony,
Tacoma
Williams, Jesse, Seattle
Williams, Lisa Christine, Seattle
Willits, Misty Michelle,
Mountlake Terrace
Woare, Elisabeth Jane, Seattle
Wolverton, Gina Dawn, Seattle
Woo, Risa Dee, Seattle
Wu, Peggy C., Bellevue
Wyant, Christopher M., Seattle

Y
Yahng, Michael M., Seattle
Yamamoto, Wendy Masako,
Seattle
Yanasak, Adam Joseph, Seattle
Yeung, Cynthia Lynn, Bellevue
Young, Diana Sooah, Lynnwood
Young, Jonathan James, Seattle
Young, Michael Mackaman,
Olympia
Youngs, Julia Ann, Seattle
Yurcisin, Stephanie Bowers,
Seattle

Z
Zarkos, Robert Preston, Bellevue
Zavala, Sonia Marie, Seattle
Zeibe, Claudia, Seattle

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

Michael T. Johnson-Ortiz (WSBA No. 23580, admitted 1994), of Concepción, Chile (formerly of Seattle), was disbarred, effective September 15, 2004, by an order of the Washington State Supreme Court following a default hearing. This discipline was based on his conduct between 1998 and 2003 involving abandonment of his practice and multiple acts of misconduct involving immigration clients.

Matter 1: Sometime prior to December 12, 2003, Mr. Johnson-Ortiz decided to leave his law practice and move to Chile. By January 5, 2004, Mr. Johnson-Ortiz had abandoned his law practice. During November and December 2003, Mr. Johnson-Ortiz received money from two clients for work he did not intend to perform. A third client was not able to locate Mr. Johnson-Ortiz to make a payment. Mr. Johnson-Ortiz did not notify any of these clients that he would no longer represent them.

Matter 2: In 1998, Mr. Johnson-Ortiz represented a client in a motion to reopen removal proceedings. In April 1998, Mr. Johnson-Ortiz signed a letter stating that the motion to reopen was pending before a judge, when in fact, he had not filed the motion. Mr. Johnson-Ortiz did not timely file the motion, and the court denied the client's request to reopen.

Matter 3: In 1999, Mr. Johnson-Ortiz agreed to represent clients who were married while Ms. A was a U.S. citizen and Mr. A was in the United States illegally from Mexico. In September 2000, Mr. Johnson-Ortiz advised Mr. A that he must return to Mexico prior to a visa consular interview. On December 27,

2000, Mr. Johnson-Ortiz suggested that Mr. A return to the United States and apply for a change of status under new regulations, even though those regulations applied only to applicants physically in the United States on December 21, 2000. In January 2001, the client returned to the U.S. illegally. The INS determined that Mr. A did not qualify for permanent resident status under the new regulations, and ordered his voluntary departure. Mr. A returned to Mexico and Ms. A remains in the United States. Mr. Johnson-Ortiz failed to cooperate with the disciplinary investigation of this matter.

Matter 4: In 1999, Mr. Johnson-Ortiz agreed to represent three family members in an attempt to obtain cancellation of their INS removal orders. He intentionally failed to meet with the clients prior to the cancellation hearing. At the hearing, the immigration judge ordered the mother and child to voluntarily depart the United States. Also during the hearing, Mr. Johnson-Ortiz conceded that the father's conduct constituted the crime of aiding and abetting the mother and child's unlawful entry into the country. Mr. Johnson-Ortiz did not discuss this issue with the client, nor contact the mother or child for possible testimony prior to making this concession. In March 2000, Mr. Johnson-Ortiz's office filed appeals for all three clients. In April 2003, the appeals were still pending. During this time, Mr. Johnson-Ortiz did not advise the client of any other method of obtaining citizenship.

Matter 5: In October 2002, Mr. Johnson-Ortiz represented a client in removal proceedings. Due to an office mistake, the client was not notified of the removal hearing and Mr. Johnson-Ortiz did not attend. Mr. Johnson-Ortiz continued to represent the client, filing a motion to reopen and then appealing the denial of that motion. In the appeal, Mr. Johnson-Ortiz argued his own ineffective assistance of counsel, but did not advise the client of the conflict of interest.

Matter 6: The Bar Association audited Mr. Johnson-Ortiz's trust account for the period January through August

2003. During that period, he did not maintain check registers or client registers. He also deposited cost advances to his general account, commingled his own funds with the client funds in his trust account, and had insufficient trust account funds to cover 14 client withdrawals. Mr. Johnson-Ortiz paid court filing fees from his trust account for clients who had no money deposited in that account.

Matter 7: In January 2003, Mr. Johnson-Ortiz represented a client in removal proceedings based on a criminal conviction. He did not meet with the client or the expert witness prior to the hearing. During the oral ruling ordering the client's removal from the United States, Mr. Johnson-Ortiz asked to withdraw from the case based on "repugnance." Mr. Johnson-Ortiz's personal repugnance to his client created a conflict of interest and interfered with the representation. Mr. Johnson-Ortiz did not discuss this conflict with his client. Mr. Johnson-Ortiz failed to cooperate with the disciplinary investigation of this matter.

Mr. Johnson-Ortiz's conduct violated RPCs 1.1, requiring lawyers to provide competent representation to clients; 1.3, requiring lawyers to diligently represent clients; 1.5, requiring lawyers to charge reasonable fees; 1.7(b), prohibiting lawyers from representing a client if the representation is materially limited by the lawyer's own interests; 1.14(a), requiring lawyers to deposit client funds in an IOLTA account and maintain the account in accordance with the RPCs; 3.1, prohibiting lawyers from making frivolous claims; 8.4(b), prohibiting committing a criminal act [theft] that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; 8.4(i), prohibiting committing an act of moral turpitude; and 8.4(l), prohibiting violating a duty under the Rules for Enforcement of Lawyer Discipline.

Christine Gray represented the Bar Association. Mr. Johnson-Ortiz represented himself. Diehl R. Rettig was the hearing officer.

Reprimanded

Kirk T. Mosley (WSBA No. 29683, admitted 1999), of Tacoma, received a reprimand effective July 21, 2004, following a stipulation approved by the hearing officer. This discipline was based on his conduct in 2002 involving withholding information regarding his status as a lawyer during a Department of Labor and Industries (L&I) matter.

In December 2002, Mr. Mosley agreed to assist a friend in contesting the L&I dismissal of his workers' compensation claim. Mr. Mosley sent L&I a written notice of appearance and request for reconsideration of the friend's claim. Mr. Mosley told the friend that because he was not experienced in these cases, he would appear only until the friend could find another lawyer to represent him. The next day, he appeared with the friend at an independent medical exam (IME). WAC 296-23-362 allows friends, but not lawyers or legal representatives, to attend IMEs. Mr. Mosley told the doctor that he was a friend and identified himself as friend on the witness form he signed. Mr. Mosley believed that he did not need to disclose that he was the attorney of record, because he intended to withdraw as soon as another lawyer could be located. The doctor reviewed Mr. Mosley's notice of appearance prior to the exam, and ordered Mr. Mosley to leave the room.

Mr. Mosley's conduct violated RPC 8.4(c), prohibiting lawyers from engaging in conduct involving deceit and misrepresentation.

Scott G. Busby represented the Bar Association. Kenneth S. Kagan represented Mr. Mosley. John A. Bender Jr. was the hearing officer.

Legal Foundation of Washington 19th Annual Goldmark Awards Luncheon

Friday, February 18, 2005

12:00 p.m. – 1:30 p.m.

Red Lion Hotel on 5th Avenue in Seattle

The Charles A. Goldmark Award for Distinguished Service will be presented to Ada Shen-Jaffe during the luncheon.

Joaquin G. Avila, MacArthur Fellow and visiting professor at Seattle University School of Law, will give the keynote speech.

- YES, I would like to honor the work of legal services by attending the luncheon. I will bring ___ additional guests (\$40/person enclosed).
- YES, I would like to be a Goldmark Donor (\$100 enclosed). Two lunches will be provided and a contribution of \$20 will help cover luncheon expenses.
- NO, I cannot attend the luncheon, but I would like to support the luncheon with a donation of \$_____.

Name(s): _____

Indicate next to the name if a vegetarian meal is preferred.

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

Legal Foundation of Washington
1325 Fourth Avenue, #1335, Seattle, WA 98101
Phone: 206-624-2536, ext. 280 Fax: 206-382-3396
Visit our website for more information: www.legalfoundation.org.

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

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

Application deadline: March 1, 2005

To increase member representation on the Board of Governors, the WSBA Bylaws provide for two at-large seats. The full text of the Bylaws can be reviewed at www.wsba.org/bylaws. One of those seats is up for election to a three-year term commencing at the close of the annual meeting in September 2005.

Persons interested in filling an at-large position should submit a letter of application. The deadline for receipt of applications at the WSBA office is March 1, 2005. The Board of Governors will elect the at-large governor at its meeting on June 3, 2005. The application should include a statement addressing how the applicant feels he or she meets the intent specified in Article III, Section M. There is no intent that these seats are dedicated or rotationally filled by any one element of diversity or group of members.

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

M. ELECTION OF AT-LARGE GOVERNORS. Any active member of the Bar, except a member previously elected to the Board of Governors, may apply for the office of At-Large Governor, except as provided in this Section. Filing of applications shall be in accordance with Section C of this Article.

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

Members interested in an at-large position on the Board of Governors should submit a letter of applica-

tion and résumé to the Office of the Executive Director, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; or e-mail to oed@wsba.org.

2005 Notice of Board of Governors Election

Application deadline: March 1, 2005

Four positions on the WSBA Board of Governors will be up for election this year. These are the governors representing the 3rd, 6th, 7th-East*, and 8th Congressional Districts. These positions are currently held by Joni R. Kerr (3rd District), Howard L. Graham (6th District), Andrea Brenneke (7th-East District), and Randolph I. Gordon (8th District).

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

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

Nomination forms are available from the Office of the Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; 206-727-8244; and on the WSBA website at www.wsba.org/info/bog/election2005.htm. The WSBA executive director must receive nomination forms by 5:00 p.m. Tuesday, March 1, 2005. The Board of Governors determines the official dates of the election. Ballots are mailed on April 15 and counted approximately May 15.

Note: Candidates' biographical statements will be published in the May issue of *Bar News*.

*The 7th Congressional District is divided into three sub-districts, East, Central, and West. These sub-districts are distinguished by zip codes and each has one elected governor. For the coming year, the east sub-district (zip codes are 98028, 98055, 98105, 98115, 98118, 98122, 98125, 98129, 98144, 98145, 98155, 98178, and 98185) will elect a new governor.

Washington State Access to Justice Board Vacancies

Application deadline: December 31, 2004

The Washington State Access to Justice (ATJ) Board announces two attorney vacancies, effective May 2005: a representative from the WSBA Board of Governors and a representative from the *pro bono* community.

The Washington State Supreme Court established the ATJ Board in 1994 to ensure access for low- and moderate-income Washington residents to the civil justice system through high-quality legal services. The ATJ Board has become a nationally recognized model as a result of its effectiveness in developing, coordinating, and implementing statewide initiatives to improve access to civil legal services for unrepresented and underrepresented populations in Washington state.

The ATJ Board consists of nine members, including four at-large members, and up to two lay members, selected on the basis of a demonstrated commitment to, and familiarity with, access to justice issues. Members are nominated by the WSBA Board of Governors and appointed by the Washington State Supreme Court. Board members may serve up to two three-year terms.

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

Statute Law Committee — Two Positions

Application deadline: February 18, 2005

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a six-year term on the Statute Law Committee (which oversees the operation of the Office of the Code Reviser), commencing April 1, 2005. A written expression of interest and résumé are also required for incumbents seeking reappointment.

This 12-member committee of lawyers seeks to foster accurate publication of laws and agency rules services in a professional and strictly nonpartisan and

cost-effective manner. The primary responsibilities are to periodically codify, index, and publish the Revised Code of Washington; and to revise, correct, and harmonize the statutes of administrative or suggested legislative action as may be appropriate. The committee meets at least twice a year.

Please submit a letter of interest and résumé 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 — Two Positions

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. 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.

Judicial Recommendation Committee

Application deadline: February 11, 2005

The WSBA Judicial Recommendation Committee is currently accepting applications from attorneys and judges seeking consideration for appointment to fill potential Appellate and Supreme Court vacancies. Interested candidates will be interviewed by the committee in March 2005. The deadline for receipt of questionnaires by the WSBA office is 5 p.m. February 11, 2005.

The committee's recommendations are reviewed by the WSBA Board of Governors and then referred to the Governor for review when appointments are made to fill vacancies on the Washington Court of Appeals and Supreme Court.

If you are interested in scheduling an interview, please contact the WSBA at 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, 206-727-8239; or e-mail barleaders@wsba.org,

to obtain a questionnaire. Please specify whether you need the questionnaire designed for a judge or an attorney.

10-Day CLE Bookstore Open in December for WSBA Members

'Twas the night before the MCLE reporting deadline . . .

For Group 1 members who must complete their MCLE credits before December 31, 2004, the WSBA-CLE Bookstore will be open at the WSBA office, 2101 Fourth Ave., Ste. 400, Seattle, from December 16 to December 30. Hours of operation will be from 9:00 a.m. to 4:30 p.m., Monday through Friday, except December 24, when the bookstore will be closed. Available MCLE A/V credit-approved material will include a limited supply of selected taped seminars with coursebooks. Payment may be made by cash, check, MasterCard, or Visa, and there are no shipping and handling charges for members who take their purchases

with them. (You may claim up to 15 total A/V credits for the current reporting period. All ethics credits can be acquired using approved A/V self-study.) For members who will be ordering CLE materials to be shipped in December, visit the online store at <http://store.yahoo.com/wsbastore> and check the list of regular- and express-delivery options at www.wsba.org/bookstore04.htm.

Free Online Legal-Research Tool Coming to WSBA Members

The WSBA will soon provide a free online legal-research tool to all members, through the Casemaker Consortium of Bar Associations. Casemaker is an online legal-research system providing access to state and federal materials.

Launched by the Ohio State Bar Association in 1999, the system is marketed only to bar associations. There are currently 20 member state bar associations, including our neighbors Oregon and Idaho. Other members are Alabama, Colorado, Connecticut, Georgia, Indiana, Maine, Massachusetts, Mississippi, Nebraska, New Hampshire, North Carolina, Ohio, Rhode Island, South Carolina, Texas, Utah, and Vermont. Michigan case law is also available to all lawyers who are members of Casemaker Consortium states. Each member bar shares its library with all the other member bars.

The WSBA will provide this benefit to WSBA members at no charge; the WSBA will absorb the cost of Casemaker. We anticipate that Casemaker will be available to all WSBA members by June 2005. Time is needed for Casemaker to create the Washington database, and for the WSBA to develop an online application that will enable members to access Casemaker quickly and easily through the WSBA website. Casemaker will be in a password-protected "members only" section of the website. Stay tuned for more information!

CLE Calendar Through December 2004 Online

To help you plan your schedule (whether you're reporting this year or otherwise), WSBA CLE lists upcoming seminars through the end of the year at www.wsba.org/cle/seminars. If the seminar is open for registration, you can register online. For later seminars, you can ask to be notified when registration opens.

2005 Licensing Packets

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

Fees. We encourage you to pay your mandatory fees promptly to avoid penalties. WSBA Bylaws require a 20 percent late-payment penalty if the annual license fee remains unpaid on March 2, 2005. After April 2, 2005, a 50

percent late-payment penalty is imposed. If your license fee, penalty assessment, or Lawyers' Fund for Client Protection (LFCP) (required by APR 15) assessment remains unpaid after May 2005, the delinquency will be certified to the Supreme Court, which will enter an order of suspension from the practice of law. In order to be reinstated to your former status after suspension for nonpayment, you must pay *double* the amount of the combined fee and penalty (*triple* the original fee). For active members, nonpayment of the \$13 LFCP assessment is also cause for suspension.

Software Conversion. In late summer 2004, the WSBA underwent a software conversion of the membership database. It is possible that not all information converted correctly. If you believe the amount showing on your licensing form (A2) is not correct, please call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

Resources. The 2005 *Resources* directory will print the contact information that is in the WSBA membership database on February 1, 2005. Now is the ideal time to check that the WSBA has your correct contact information in its database. You can check your contact information online at <http://pro.wsba.org>.

If your contact information has changed, please complete and return the Contact Information Change Form included in the licensing packet to the address shown on the form or fax to 206-727-8319, or e-mail the changes to questions@wsba.org. Please update your information as soon as possible, but no later than January 31, 2005, for inclusion in *Resources*.

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

Notice to WSBA Members on Active Military Duty

At its January 2004 meeting, the Board of Governors approved a Bylaw amendment that allows all active WSBA members who are on active duty in the military to waive WSBA license fees and remain active members for up to five years. (WSBA members on active duty whose WSBA membership status is inactive or emeritus must still pay the annual WSBA license fees.) If you are currently an active member on active military duty, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or questions@wsba.org.

Senior Attorneys Discussion Group: A Matter of Connection

We will meet on Thursday, December 16, from 4:00 to 5:30 p.m., and will share our volunteer activities. On Thursday, January 20, 2005, Dr. Jenny Favell will present her recent Commission on Lawyers' Assistance Programs national program, "Secondary Traumatic Stress: What You Don't Know Will Hurt You." We talk about issues important to senior attorneys who continue to be involved, creative,

healthy, and active. Please join us, at no cost, in the WSBA 4th-floor conference room. Contact Jenny Favell, Ph.D., 206-727-8267, for more information.

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 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 Jenny Favell, Ph.D., 206-727-8267.



WASHINGTON STATE BAR ASSOCIATION

New WSBA Leadership Institute Seeks Fellows for 2005

The WSBA seeks applicants for its newly established Leadership Institute. The WSBA recognizes that many young lawyers, particularly those of color, women, and those from traditionally underrepresented groups, have not been recruited for leadership positions or made aware of opportunities for skill development, professional growth, and leadership training that are available through the WSBA.

The mission of the WSBA Leadership Institute is to recruit, train, and retain Washington attorneys who have been admitted for 10 years or less for leadership positions in the legal community and in the WSBA, with an emphasis on racial, ethnic, gender, sexual orientation, disability, cultural, and geographic diversity.

Ten fellows will be carefully selected for the first year's program, which will take place February through September 2005. Fellows will devote approximately 70 hours to the program, which includes eight professional-development seminars (on topics such as the logistics of legal practice, the judiciary, public- versus private-sector employment, and the legislative process) and participation in a group community-service project. Fellows will earn 30 CLE credits. There will be no charge to participants.

Applications will be accepted until January 10, 2005, and selected fellows will be notified by January 31, 2005. Further information, including application forms and instructions, is available on the WSBA website at www.wsba.org/lawyers/leadership_institute.htm.

Thinking of Changing Your WSBA Membership Status? Consider Emeritus.

As the 2005 WSBA licensing period approaches, you may

be thinking of changing your membership status to more accurately reflect your current career or lifestyle. If you no longer need your active WSBA license, here's why you should consider emeritus status:

APR 8(e) creates a limited license status of emeritus for attorneys otherwise retired from the practice of law, to practice *pro bono* legal services through a qualified legal services organization. A qualified legal services organization is defined as "an organization that exists primarily for the purpose of providing legal services to low-income clients." There are no MCLE requirements (although you may attend optional CLE seminars at no cost so that you stay apprised of changes in the law). The 2005 license fee for emeritus is \$117. This is a significant savings in time and money if you are paying for an active license that you no longer need. Under most circumstances, emeritus attorneys can remain in emeritus status indefinitely without having to re-take the bar exam if/when returning to active status. Volunteering for a "qualified legal services organization" allows you to control your own schedule. Most importantly, the Emeritus Program provides an opportunity for attorneys to give something back to their communities by helping those who are less fortunate.

One or more qualified legal-service organizations are present in most Washington state counties. They include Columbia Legal Services, a statewide legal services program; Northwest Justice Project, a central statewide point of access for clients; specialized legal services programs (such as Northwest Women's Law Center, Unemployment Law Project, and others); and county volunteer-attorney programs. These organizations offer a wide variety of volunteer opportunities, such as direct representation, mentoring, advice clinics, self-help clinics, board service, telephone advice, and document preparation. Emeritus also allows for *pro bono* services for criminal cases through some public-defender offices. Emeritus attorneys and judges are currently volunteering in many capacities, including the Northwest Justice Project's CLEAR intake line (one remotely, from home); the Northwest Women's Law Center Board of Directors; a Columbia Legal Services administrative law case; King County Bar Association Neighborhood Legal Clinics; defense services for the Associated Counsel for the Accused in the Seattle Municipal Court's Mental Health Court; and writing wills for low-income seniors in Skagit County. We do our best to find a niche to fit your legal expertise and time schedule.

An emeritus training session has been scheduled for Tuesday, January 25, 2005, at the WSBA office in Seattle. This training is a requirement for changing to emeritus status and will provide an opportunity for you to meet the providers. Travel expenses will be reimbursed. For more information about the Emeritus Program, the training session, and the logistics of changing your WSBA status to emeritus, please contact Sharlene Steele, WSBA access to justice liaison, at 206-727-8262 or sharlene@wsba.org.

Washington Attorneys Assisting Community Organizations (WAACO)

WAACO is a statewide organization that matches volunteer attorneys with charitable and community-based nonprofit organizations in need of business-related *pro bono* legal services. Volunteer lawyers are needed. Those interested in volunteering are encouraged to attend a training seminar on December 7 in Seattle. E-mail contact@waaco.org or call 866-288-9695 for details.

Address Update Reminder

The 2005 licensing packets are scheduled to be mailed in early December. The deadline for updating your address to be included in the licensing packet mailing was October 15, so please call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA to request a duplicate packet if you have not received yours by December 31. 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, fax, 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 or 206-443-WSBA.

Just Released: 2005 Annual Publications Catalog

The 2005 edition of the Publications Catalog from WSBA-CLE Publications is now available! It's your convenient guide to outstanding products and services from WSBA CLE, the leader in innovative legal education. Save your catalog for the coming year to order our premier deskbooks, audiotapes, coursebooks, and more — whether online, or by phone, fax, or mail. Need another one? Call 800-945-WSBA.

MCLE Certification for Group 1 (2002-2004) Due February 1, 2005

Active WSBA members in MCLE Reporting Group 1 (2002-2004) will be receiving Continuing Legal Education Certification (C2) forms in the licensing packets being mailed this month. The deadline for returning the C2 forms to the WSBA is February 1, 2005. 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.

Included in the licensing packets that will be mailed to Group 1 members will be a Continuing Legal Education Certification (C2/C3) 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 in your MCLE online profile for the 2002-2004 reporting period. The C2/C3 form, not your online profile, is the official record of MCLE compliance.

If you have taken courses since the course information

on the C2/C3 form was printed, ensure that these courses have been added to your online profile, then print and attach the profile to the C2/C3 form. Indicate on your C2/C3 form that the attached profile is the true and correct record of the courses taken for the reporting period.

Alternatively, you may simply add by hand to the back of the C2/C3 form the additional WSBA-approved courses you took. Ensure that you include the Activity ID number and all other required information for each course.

The deadline for completing the C2/C3 form and returning it to the WSBA is February 1, 2005. All active members must send in a completed C2/C3 form.

If you are not able to meet the credit requirement by December 31, 2004, an automatic extension will be granted until May 1, 2005; however, a late fee will be imposed. If this is the first period in which you have not met MCLE compliance requirements, the late fee is \$150. The late fee increases by \$300 for each consecutive reporting period that you are late in meeting MCLE requirements.

See "MCLE Certification for Active Members — General Information" below 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 on 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.
- Six *pro bono* credits can be earned per year. Two of these credits are for the training prior to doing the *pro bono* work. Four credits of *pro bono* credit may be earned if at least four hours of *pro bono* work was provided through a qualified legal services provider.

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.

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 is \$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.

"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.

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/lawyertolawyer.htm.

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.

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in November 2004 was 2.193 percent. The maximum allowable interest rate for December is therefore 12 percent. Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills and past maximum interest rates for June 1988 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.

Visit the WSBA Online Store

Go to www.wsba.org and click "WSBA Store" in the left navigation bar to purchase Cutter & Buck polo shirts, twill baseball caps, ballpoint pens, and brass luggage tags, all sporting the WSBA logo. The store offers secure online credit-card ordering. You can also purchase logo merchan-

dise 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.

Upcoming Board of Governors Meetings

December 10-11 — Everett

January 21-22 — Olympia

February 18-19 — Seattle

March 11-12 — Seattle

With the exception of a one-hour executive session the morning of the first day, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Please contact Donna Sato at 206-727-8244 or donnas@wsba.org. The complete Board of Governors meeting schedule is available on the WSBA website at www.wsba.org/info/bog/2004-2005meeting/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 non-profit organizations — contact the WSBA Service Center for details.

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.

The Alliance for Equal Justice Hosts Successful Open House Project

The Alliance for Equal Justice of Washington State hosted open houses in 19 locations across the state on October 27, 2004. The Alliance is a network of organizations that provide legal aid — information, advice and representation — to those with nowhere else to turn. Nearly 1,000 community members participated in an open house event where local volunteer and legal aid attorneys were honored for their contributions to equal justice in our state.

Keynote speakers included five Supreme Court justices,

federal and local judges, and leaders in the legal community. At each of the events, they spoke about the critical importance of civil legal aid and the need for increased services. According to the Washington State Supreme Court's Task Force on Civil Equal Justice Funding, an additional \$28 million per year is required to provide sufficient legal aid to Washington's poor and vulnerable residents.

At several open-house events, former clients of legal aid shared their personal stories about how legal aid made a difference in their lives. In Bellevue, a victim of domestic violence told how legal aid helped her and her children escape from a dangerous household. The woman and her children are now safe; she is working and her children are thriving. In Kennewick, a single mother of five told how she lived in her subsidized apartment for seven years without a problem, when suddenly she faced being put out on the street for a matter involving one of her children. It turned out to be a case of mistaken identity. Legal aid protected her housing.

For more information about this event or about how to get involved in ongoing efforts to support civil legal aid for low-income people, please contact the Equal Justice Coalition at 206-447-8168 or equalj@ejc.org.

19th Annual Goldmark Award Luncheon

The Legal Foundation of Washington will present the 2005 Charles A. Goldmark Distinguished Service Award to Ada Shen-Jaffe at the 19th Annual Goldmark Award Luncheon. The luncheon will be held Friday, February 18, 2005, at the Emerald Ballroom of the Red Lion Hotel on 5th Avenue between 12:00 p.m. and 1:30 p.m.

Ms. Shen-Jaffe receives the award in recognition of her leadership in the equal justice community both in Washington and nationally. Ms. Shen-Jaffe has played a key role in the architecture and strategy of civil legal justice since 1981, when she became Deputy Director of Evergreen Legal Services, which later became Columbia Legal Services, which she directed for the last 18 years.

Joaquin Avila, Visiting Professor at Seattle University School of Law, MacArthur Fellow and noted authority on minority voting rights issues, will give the keynote address.

The Goldmark Award honors the memory of Charles A. Goldmark, Seattle attorney, community leader, and ardent supporter of access to justice. Mr. Goldmark served as the Legal Foundation's president at the time of the tragic assault that led to his death in 1986. The public is invited to attend the luncheon, which pays tribute to all the volunteer lawyers and legal aid providers in Washington state.

The Legal Foundation is a not-for-profit organization that has distributed over \$70,000,000 for legal aid to the poor since 1985. Visit www.legalfoundation.org or contact Barbara C. Clark at 206-624-2536 for more information about the Goldmark Award and the IOLTA program.

Third-Party Liability Information

If your client is involved in a personal injury case and has received or is receiving medical assistance (Medicaid) payments for medical care, you are required to contact the

Department of Social and Health Services (DSHS). RCW 43.20B.060 places a lien against any settlement or judgment your client receives from a third party that is responsible for your client's injuries in order to reimburse the medical bills that have been paid by Medicaid. Before settling your client's claim with the third party and/or the client's insurance company, please supply the information that DSHS requires by contacting the COB Casualty Unit of DSHS at 800-562-6136; or writing to COB Casualty Unit, PO Box 45561, Olympia, WA 98504-5561; or visiting www.fortress.wa.gov.dshs/maa/ltpr. Failure to pay any lien imposed by the department on any settlement or judgment obtained by your client can subject you to personal liability for any funds improperly distributed. (RCW 43.20B.070.)

18th Annual Northwest Minority Job Fair a Success

The 18th Annual Northwest Minority Job Fair was held October 2 at the Seattle offices of Dorsey & Whitney LLP, the host of the event for the second year. The job fair attracted 250 law students from around the country and 35 Northwest regional employers looking to interview and hire.

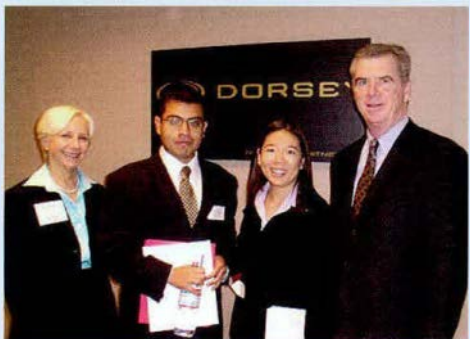
The event, which was solely for law students and legal employers, was sponsored and funded by a consortium of private- and public-sector legal employers from the Northwest to give law students the opportunity to meet regional employers and fellow law students from across the country.

The 250 law students came from 33 law schools around the nation, and participating employers included Dorsey & Whitney, Davis Wright Tremaine, the King County Prosecuting Attorney, Microsoft, the U.S. Coast Guard, and the Washington State Office of the Attorney General.

Sponsors included the Asian Bar Association of Washington, the King County Bar Association, the Ethnic Diversity in the Legal Profession Committee, the King County Bar Foundation, Seattle Area Legal Recruiting Administrators, Seattle University School of Law, and the Latina/o Bar Association.



L to r: Brian Park, recruiting partner, Dorsey & Whitney; Joseph Gaffney, managing partner, Dorsey & Whitney; Judge Richard Jones; Nancy Gallup, diversity partner, Dorsey & Whitney.



L to r: Nancy Gallup; Daniel Apoloni, student, University of Oregon; Angela Tsai, student, Seattle University; Joseph Gaffney.

APPEALS

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former justice,
Washington State Supreme Court;
fellow, American Academy of
Appellate Lawyers

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former law clerk,
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Emmelyn Hart-Biberfeld,

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MILLS MEYERS SWARTLING

is pleased to announce that

Geoffrey M. Grindeland

has joined the firm as an associate.

His practice will include aviation and maritime law, product liability, insurance coverage, and personal injury litigation.

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1000 Second Avenue, 30th Floor
Seattle, WA 98104-1064

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Facsimile: 206-386-7343
E-mail: mms@mms-seattle.com
www.mms-seattle.com

FORSBERG & UMLAUF, P.S.

A LITIGATION DEFENSE FIRM

is pleased to announce that

Jennifer R. Petersen

has joined the firm as an Associate.

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Telephone: 206-689-8500 • Fax: 206-689-8501
E-mail: firm@forsberg-umlau.com

Lybeck ❖ Murphy^{LLP}

is pleased to announce that

Jennifer L. King

has joined the firm as a partner.

Ms. King joins the firm following practice with the Trusts and Estates group of the Seattle office of Davis Wright Tremaine. With Lybeck Murphy LLP, Ms. King will continue to focus her practice on estate planning for taxable estates, probate, and trust administration. Ms. King frequently presents estate tax and probate topics at CLEs, and served as an adjunct professor at Seattle University School of Law, where she taught Income Taxation of Trusts and Estates. She currently serves on the Executive Committee of the Real Property, Probate & Trust Section of the Washington State Bar Association.

Lory R. Lybeck, PS
James P. Murphy, PS
Janet H. Somers, PLLC
Sue Stepp Tamblyn, PLLC
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is pleased to announce that

Shawn M. O'Neil

has become a partner of the firm, practicing in our Portland office,

Robert C. Levin

has become a partner of the firm, practicing in our Seattle office, and

Thomas A. Heinrich

has joined the firm as an associate, practicing in our Portland office.

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It's been a great year at
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- **Bill Bailey** was inducted into the International Academy of Trial Lawyers, whose membership is limited to 500 active Fellows in the United States under the age of 70.
- **Larry Mills** was elected as a Fellow of the College of Commercial Arbitrators, an elite national organization of experienced arbitrators.
- **Dave Swartling** received the 2004 Washington State Bar Association President's Award for his distinguished service to the Bar as an outstanding lawyer.

Congratulations to Bill, Larry and Dave!

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MCGLOTHIN MYHRE PLLP

is pleased to announce that

James C. McGuire

has joined the firm as Of Counsel.

James graduated *cum laude* from Seattle University School of Law, and is admitted in both Washington and California. He is experienced in civil trial practice, including complex commercial, real estate, employment, construction defect, and personal injury matters.

McGlothlin Myhre is a civil trial and appellate firm emphasizing complex commercial, business, real estate, employment, personal injury, and family law matters in its practice.

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HELSELL FETTERMAN LLP

is pleased to announce that

Michael P. Witek

has been promoted to Of Counsel
and will lead the Land Use Practice

Mike's practice focuses on land use and environmental issues. He is available for referral, consultation, and association.

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Fax: 206-621-9686	Fax: 206-448-1022

The law firm of
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& LEEDOM, P.S.**

is pleased to announce that

Timothy Allen

has joined the firm as an associate.

Mr. Allen is a 2004 graduate of the University of Washington School of Law. As a law student, Tim served as a Notes and Comments Editor of the Washington Law Review and a member of the Moot Court Honor Board, from which he was elected to the National Order of Barristers. Prior to law school, Tim was a professor of political science and argumentation at Western Washington University, where he also directed the university's debate program. Tim's practice focuses on litigation, including the defense of medical negligence claims and insurance coverage disputes.

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**WILSON SMITH COCHRAN
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Dylan E. Jackson

has returned to the firm as an Associate, and

Randy A. McCaskill

has joined the firm as an Associate.

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Calendar

Please check with providers to verify approved CLE credits. To announce a seminar, please send information to:

WSBA Bar News Calendar
2101 Fourth Avenue, Suite 400
Seattle, WA 98121-2330
Fax: 206-727-8319
E-mail: comm@wsba.org

Information must be received by the first day of the month for placement in the following month's calendar.

Business Law

Insurance Today: How to Navigate Placement, Claims and Other Rough Waters — and Stay Dry

December 14 — Seattle. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Creditor/Debtor

Foreclosing, Protecting and Defending Liens

December 8 — Seattle; December 9 — Spokane. 5.75 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Criminal Law

A Year to Remember: 2004 Transforms the State Felony Landscape

December 3 — Seattle. 6.25 CLE credits, including 1 ethics. By WACDL; 206-623-1302.

Environmental

Annual Water Law Conference

December 10 — Tukwila. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Estate Planning

Charitable Giving

December 8 — Seattle. 6.5 CLE credits, including .75 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics

Negotiation Ethics: Winning Without Selling Your Soul, featuring Martin E. Latz

December 1 — Telephone CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Impeach Justice Douglas! Handling Controversies Ethically: An engaging theatrical performance combined with panel discussion

December 2 — Seattle; December 7 — Lacey. 3 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

The Art of Law — A Workshop on Professionalism for Lawyers

December 2 — Seattle. 3 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

12th Annual Professional Responsibility Institute

December 11 — Seattle. CLE credits pending. By UW-CLE; 800-CLE-UNIV.

Ethics for Employment Lawyers

December 14 — Telephone CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics for Business Lawyers

December 15 — Telephone CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics: Frivolous Defenses

December 15 — Spokane. 4 ethics credits. By WSTLA; 206-464-1011.

Ethics Teleconference

December 17 — Telephone. 2 ethics credits. By WSTLA; 206-464-1011.

The Ethics of Excellence, with Judge Coughenour and Dr. Himma

December 21 — Seattle. 8 ethics

credits. By Emerald Education Group; 206-985-4351.

Family Law

Adoption Practice and Procedure: Keeping Current

December 3 — Seattle. 6.25 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

How to Handle Your First (or Next) Dissolution Trial with Confidence

December 9 — Seattle. 6.25 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

General

Law, Literature & Film: Uses and Abuses

December 3 — Seattle. CLE credits pending. By UW-CLE; 800-CLE-UNIV.

Yellow Flags and Red Herrings for the Generalist Part I

December 9 — Seattle. 8 CLE credits. By Emerald Education Group; 206-985-4351.

Best of CLE — Encore of Excellence

December 10 — Seattle. 6 CLE credits, including 3 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Communication in the Courtroom

December 10 — Seattle. 7.5 CLE credits, including 1 ethics. By CLE Services; 206-985-4351.

A Day with Judge Coughenour and Colleagues: A Pre-Trial Litigation Skills and Strategy Institute

December 16 — Seattle. 8 CLE credits, including 2 ethics. By Emerald Education Group; 206-985-4351.

American College of Trial Lawyers' Greatest Hits

December 17 — Seattle. 7 CLE credits, including .5 ethics. By Emerald Education Group; 206-985-4351.

The History, Theory and Practice of Free Expression

December 17 — Seattle. CLE credits pending. By UW-CLE; 800-CLE-UNIV.

Constitutionalism and the Theory of Constitutional Interpretation

December 17 — Seattle. CLE credits pending. By UW-CLE; 800-CLE-UNIV.

Last Chance Video Round Up

December 20-21 — Seattle. CLE credits vary. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Tegland's Evidence and Procedure Update 2004

December 20 — Seattle. 4 CLE credits. By Emerald Education Group; 206-985-4351.

Trial Themes and Exhibits Workshop

December 20 — Seattle. 4 CLE credits. By Emerald Education Group; 206-985-4351.

CLE Jubilee (Procrastinator's Paradise)

December 30 — Seattle. 16 CLE credits, including 8 ethics. By Emerald Education Group; 206-985-4351.

International Law

International Business Strategy: Not Just for Boeing and Microsoft Anymore

December 15 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Land Use

The Latest on Land Use: What You Need to Know

December 15 — Seattle. CLE credits pending. By UW-CLE; 800-CLE-UNIV.

Law Office Management

Law of Lawyering Conference

December 16-17 — Seattle. Day One, 6 ethics credits. Day Two, 6.25 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Litigation

Trial as Theatre

December 10 — Seattle. 5.5 CLE credits. By WSTLA; 206-464-1011.

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GENERAL PRACTICE

• **Dec. 9th: Yellow Flags & Red Herrings for the Generalist (Part I):** Just enough Family, Employment, Real Estate & Estate/Elder Law to help you spot key issues and avoid malpractice. 8.0 credits

• **Dec. 15th: Yellow Flags & Red Herrings for the Generalist (Part II):** Just enough DUI, Consumer Bankruptcy, Consumer UCC, Intellectual Property, Appellate Basics & Client Communications Law to help you spot key issues and avoid malpractice. 8.0 credits

LITIGATION

• **Dec. 16th: A Day With Judge Coughenour & Friends: An Advanced Litigation Skills & Strategy Institute** (including 2.0 Ethics hours: "Pit Bull Ethics"). 8.0 credits

• **Dec. 20th: Tegland's Evidence & Procedure Update 2004** Recent Cases and Recurring Issues That Matter to Trial Lawyers. (morning) 4.0 credits

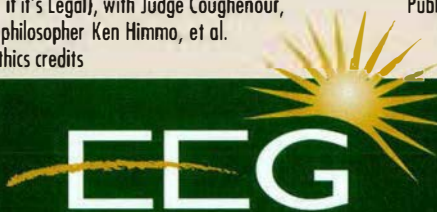
• **Dec. 17th: American College of Trial Lawyers' Greatest Hits:** Big Case, Big Lessons -- Winning Skills, featuring 20 Fellows [Public interest litigator scholarships available.] 7.0 credits

• **Dec. 20th: Trial Themes & Exhibits Workshop:** How to Make Your Case Come Alive for Settlement & Trial -- Even on a Budget, featuring Kathy Cochran (afternoon) 4.0 credits

ETHICS

• **Dec. 21st: The Ethics Of Excellence:** How to Do What's Right (Even if it's Illegal), and Avoid Doing Wrong (Even if it's Legal), with Judge Coughenour, legal philosopher Ken Himmo, et al. 8.0 Ethics credits

• **Dec. 30th: CLE Jubilee (Procrastinator's Paradise):** Negotiation, War Crimes, Witness Prep, Public Speaking & Other Greatest Hits 2004. 16 credits (8 iGems), incl. 10 Ethics.



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Practice for Sale

Westport, Washington, law office for sale: Owner retiring after 51 years of practice. Adequate law library and file system. Furniture for complete office. Only attorney in town. Terms of purchase can be arranged. Beautiful beaches and fishing recreation available. 360-648-2182.

Space Available

Office space for rent in Southcenter law building. Contact Christine, 206-574-6661.

Office space in downtown Seattle: Attorney offices available for lease in One Convention Place building. Each office is approximately 150 RSF; includes office furniture. Five offices available. Access to conference room and kitchen space. Adjacent legal assistant space available. Shared receptionist, high-speed Internet access and law library access possible. Close to Federal Court. Contact Jeff Kerneen, Betts, Patterson & Mines, 206-268-8603 or jkerneen@bpmllaw.com.

Downtown Seattle office-sharing: \$175. Full-time offices also available on 32nd fl., 1001 Fourth Avenue Plaza. Close to courts. Short-term/long-term lease. Conference rooms, reception, telephone answering, mail handling, legal services, and much more. 206-624-9188.

Professional office space across the street from the Pierce County Courthouse. Four offices, conference room, kitchenette, secretarial area, entry area, free parking, 2,800 sq. ft. \$2,350/mo. Call Brett Purtzer at 253-272-2157 or e-mail questions to brett@montehester.com.

Office space in downtown Seattle: Small firm space available for lease in One Convention Place building. Includes office furniture and has attorney offices, work spaces, reception desk, conference rooms, and kitchen area. Shared telephone receptionist, high-speed Internet access, and law-library access possible. Close to Federal Court. Contact Jeff Kerneen; Betts, Patterson & Mines; 206-268-8603 or jkerneen@bpmllaw.com.

Share busy east Bellevue office: Richard C. Carrithers is expanding his office at Robinswood Office Park. Space for two independent attorneys or related professionals who want to share a busy, upbeat office with an experienced attorney also available for mentoring. Share fax, phone-answering service, excellent library, high-speed Internet, spacious conference room, complete lunchroom facilities, copy/workroom, spacious file storage, and congenial receptionist. Each large office has private balcony. Room for overflow referrals possible. Easy freeway access. 15 minutes to King County Courthouse. Free attorney and client parking. Call Richard Carrithers at 425-747-9252; fax 425-747-9282; e-mail rcarrithers@msn.com.

Kent office space: Large, fully furnished corner office with private entrance in elegant, newly constructed small law building. All amenities included. Gated entrance with own parking lot. Highly visible location close to RJC. 206-227-8831.

Seattle: Shared space available in recently refinished Lower Queen Anne plaintiff-side law firm. Rent \$2,750; includes two window offices, two secretarial work stations, private small conference room, DSL network ready, filing cabinets, shared access to two additional conference rooms, kitchen, reception, phone system and voice-mail, library, mail handling, postage machine, fax, copy room with networked scanning-capable copy machine. Furnished/unfurnished. Computers available at additional cost. Capacity-dependent le-

gal staff available at additional cost. Contact Dave Helfer, 206-285-2828.

Seattle: One beautiful new office with secretary station. UW area. Includes two large conference rooms, copier, fax, kitchen, shower. Phone system in and network ready. Air conditioned. 206-522-7633.

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Attorneys: Quality attorney recruitment for contract and direct-hire placement, including lateral-hire partnership and of-counsel positions. We specialize in engagements with Puget Sound's premier law firms of large to small/solo membership, corporate legal departments, boutique practices, and governmental agencies. Please contact Law Dawgs, Inc. in confidence at 206-224-8269; e-mail seattle@lawdawgs.com; www.lawdawgs.com.

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

Minzel and Associates, Inc. is a temporary- and permanent-placement agency for lawyers and paralegals. We are looking for quality lawyers and paralegals who are willing to work on a contract and/or permanent basis for law firms, corporations, solo practitioners, and government agencies. If you are interested, please e-mail your résumé as a Word attachment to resumes@minzel.com. Please visit our website at www.minzel.com.

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neys and law students are also welcome to apply. Visit our website at www.jagcnet.army.mil. Send cover letter and résumé to Commander, 70th Regional Support Command, Attn: AFRC-CWA-JA (Staff Judge Advocate), 4570 Texas Way W., Fort Lawton, WA 98199-5000.

Seattle creditor rights firm is seeking an associate with two or more years' litigation experience to work in real estate and lender-related litigation. The successful applicant will have attention to detail, practical problem-solving skills, persuasive writing, a strong work ethic, and enjoy litigation as well as an independent work environment. Salary is competitive, plus benefits. Send résumé to Hiring Partner; Bishop, White, Miersma & Marshall PS; 720 Olive Way, Ste. 1301, Seattle, WA 98101; or e-mail hr@bwmmlaw.com (Word format only).

Associate attorney: Stafford Frey Cooper, a mid-sized, growth-oriented law firm, is seeking an experienced associate to join its distinguished litigation practice. Candidate must have a minimum of three years' litigation experience, outstanding oral and written communication skills, ability to mentor, professional integrity, trial management and leadership skills, strong client relations, marketing experience, and a team-player attitude. SFC offers great benefits and a culture where professional development, learning, and fun are in balance. For more information about the opportunity to join SFC, send your résumé to Martha Tanner, HR Director, Stafford Frey Cooper, 601 Union St., Ste. 3100, Seattle, WA 98101; or e-mail your résumé to mtanner@staffordfrey.com.

Attorney with at least three years' experience needed for a growing, mid-sized, downtown Portland, Oregon, law firm to defend tort litigation claims. Position is located in our Portland office, but will cover cases in SW Washington. WSBA membership required. Oregon bar membership a plus. Applicants must have excellent academic credentials and exceptional written and oral communication skills. Please send cover letter, résumé, and class standing to Managing Partner, Smith Freed & Eberhard PC, 1001 SW 5th Ave., 17th Fl., Portland, OR 97204. For more information, visit www.smithfreed.com.

Associate attorney: AV-rated commercial litigation firm seeks full-time associate to assist in civil defense work with emphasis on professional liability. Only active Washington attorneys who are presently admitted and have no disciplinary history should apply. Minimum two years' experience as civil litigator, preferably on defense side. Must have strong legal writing, research, and analysis skills, and be dedicated to producing top-quality work efficiently. Mail résumé, writing sample, and salary requirements promptly to Firm Administrator, Eklund Rockey Stratton, 521 2nd Ave. W., Seattle, WA 98119-3927.

Litigation associate: Small Bellevue PI/WC firm seeks candidates with strong credentials and references demonstrating diligence, thoroughness, reliability, and prior success as a litigation attorney. Applicants should thus possess a minimum of several years' recent litigation experience, with preference for candidates that have prosecuted appeals of workers' compensation claims. Applicants should be comfortable with having primary responsibility for strategy and execution of litigated matters, but will also have significant responsibility for pre-litigation matters. An ability to work well with an established team of paralegals and support personnel is crucial. We offer competitive salary and benefits, flexible and reasonable hours (PT/FT), and a genial work environment. E-mail cover letter, résumé and references to swahlgren@Lehmlaw.com.

Small downtown firm of defense attorneys seeking a litigation attorney for immediate assistance in growing health-care practice. Excellent academic credentials and writing skills required. Send résumé and writing samples to Marcella C. Murray, Office Administrator, Fain Sheldon Anderson & VanDerhoef PLLC, 701 5th Ave., Ste. 4650, Seattle, WA 98104; or e-mail marce@fsav.com.

Business attorneys: Lasher Holzapfel Sperry & Ebberson PLLC has an immediate opening for two attorneys to support our diverse business department. Interesting work and a great firm atmosphere for motivated individuals who desire to build or expand a practice. We are seeking one attorney with at least six years' practice in business, real estate, and tax, with specific experience counseling private and family

businesses, and a second attorney with at least two years' experience in business, real estate, and estate planning. Candidates must have excellent academic credentials as well as strong interpersonal, writing, and research skills. LLM or comparable degree preferred. Current WSBA membership required. We offer competitive salary and benefits, and a creative, energetic workplace. Interested candidates should submit résumé and writing sample to Sonya Baker, Lasher Holzapfel Sperry & Ebberson PLLC, 601 Union St., Ste. 2600, Seattle, WA 98101; fax 206-340-2563; www.lasher.com.

Eastern Washington — criminal defense lawyer: Seeking criminal defense attorney to work in Okanogan County. Work will primarily be in District Court, but may include some felony and juvenile matters. Some experience preferred, but not essential. Salary \$36-60K plus benefits DOE. Job begins January 1, 2005. Send résumé to Ronald Hammett, 23 S. Wenatchee Ave., Ste. 117, Wenatchee, WA 98801; or e-mail to hanumetlaw@nwi.net.

Small Pioneer Square firm with general practice is seeking an attorney with at least three years' experience as an associate, or "in house" contract lawyer. Rent/overhead concessions for office sharing available. Candidate must have some trial and transactional experience, good writing skills and be a self-starter. This is an opportunity to work on interesting cases and grow within an established firm. Send cover letter, résumé, and references to Hiring Partner; Seligmann, Beckerman & Flaherty PLLC; 216 1st Ave. S., Ste. 200, Seattle, WA 98104; or e-mail to griff@sbfir.com. No telephone inquiries.

Real estate attorney: Geonerco Management Inc. seeks a real estate attorney for its Seattle office. Preferred candidates will be licensed in either WA, OR, CA, CO, or UT, and have heavy real property purchase/transaction experience. This is a temporary position lasting approximately four months. Geonerco Management Inc. is not a law firm; we are a real estate management company. Due to the nature of our business, Geonerco Management will not be able to consider candidates expecting to work remotely or telecommute. Competitive salary DOE, no benefits. Interested candidates should fax résumé and cover letter to 206-

352-2010, Attn: HR. Include salary requirements for further consideration. Geonerc Management is an EOE.

Staff attorney in charge of China program: Provides legal and policy expertise on rural land-tenure reforms in China and other developing countries, including land access, tenure security, and land market, and promotes interests of rural poor related to these topics. Conducts field research and farmer interviews in rural China. Prepares legal memos, research papers, and articles. Draft laws, regulations, and policies. Conducts training, presentations, and briefings for Chinese government officials. Requires J.D., minimum of two years' practice experience with bar license, and fluency in Mandarin. Send résumé to RDI, 1411 4th Ave., Ste. 910, Seattle, WA 98101.

Brayton Purcell, Portland, has an immediate opening for an associate attorney for its Washington and Oregon product liability practice. Requirements: current WSBA membership; minimum three years' litigation experience; willingness to travel. Washington litigation experience preferred. Excellent benefits. Salary DOE. Send cover letter and résumé to Hiring Administrator, 621 SW Morrison, Ste. 950, Portland, OR 97205.

Clinical law position and director of clinic: Willamette University College of Law

has an opening for a clinical law teaching position for academic year 2005-2006. Candidates must demonstrate a superior record of performance in law school and several years of practice. In addition to teaching responsibilities, the faculty member will direct a Civil Legal Clinic operated by the College of Law. Admission to law practice in the state of Oregon is necessary, although it is not required to apply for the position. Please submit a letter of interest and résumé to Kathy T. Graham, Associate Dean, Willamette University, College of Law, 245 Winter St. SE, Salem, OR 97301.

Seeking

Law office seeks certain volumes of current Washington Digest 2d books. Contact Christine, 206-574-6661.

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Contract attorney: All aspects of litigation and appeals, including research. Former name partner in boutique litigation firm. 12-plus years' experience. Have conducted numerous civil jury trials, including complex litigation. Reasonable rates; variable per type of work. Pete Fabish, 206-545-4818.

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

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

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

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

book by Lorelei Stevens, www.fastcashbook.com. Larry & Lorelei Stevens; 800-423-2114. Notes appraised for estates.

Earth movement: Nationally recognized landslide, subsidence, sinkhole, and ground failure expert. WA Licensed Engineering Geologist #501. William C. Haneberg, Ph.D. 206-935-0846 or www.haneberg.com.

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Miscellaneous

Whistler/Blackcomb condo for rent: Two-plus bedrooms, two bathrooms. Our second home is a nice corner unit and includes all amenities. Ski in/out. 206-719-6858. <http://home.comcast.net/~geoff18/whistlercondo.html>.

Invitation for public comment on the Reappointment of U.S. Bankruptcy Judge Philip H. Brandt: The current term of the Honorable Philip H. Brandt, U.S. Bankruptcy Judge for the Western District of Washington, is due to expire in October 2005. The U.S. Court of Appeals for the Ninth Circuit is considering the reappointment of the judge to a new term of office of 14 years. The court invites comments from the bar and public about his performance as a bankruptcy judge. The duties of a bankruptcy judge are specified by statute, and include conducting hearings and trials, making final determinations, and entering orders and judgments. Members of the bar and public are invited to submit comments concerning Judge Brandt for consideration by the Court of Appeals in determining whether or not to reappoint him. Anonymous responses will not be accepted. However, respondents who do not wish to have their identities disclosed should so indicate in the response, and such requests will be honored. Comments should be submitted no later than Monday, January 3, 2005, to the following address: Gregory Walters, Circuit Executive, Office of the Circuit Executive, Attn: Reappointment of U.S. Bankruptcy Judge Philip H. Brandt, PO Box 193939, San Francisco, CA 94119-3939; fax 415-556-6179.

(EDITOR — continued from page 64)
of the small things I had written and drawn. Writers began to accuse me of plagiarism, invasion of privacy, libel and un-American activities. This is known as success in America.”

Lawyers turn up in his stories and drawings as well. There’s the famous cartoon of an irritated lawyer standing before the bench, pulling up a life-sized kangaroo and suggesting to the startled witness, “Perhaps *this* will refresh your memory.”

He liked the line so well, he used it again, in a story.

“A newsboy went by shouting something about the Waterbury trial.

“ . . . ‘Perhaps this will refresh your memory.’ The District Attorney suddenly thrust a heavy automatic at the quiet figure on the witness stand. ‘Have you ever seen this before?’ Walter Mitty took the gun and examined it expertly. ‘This is my Webley-Vickers 50.80,’ he said calmly. An excited buzz ran around the courtroom. The judge rapped for order”

His fondness for words — the luxurious combination of sounds and images they conjure — meant the verbiage of the law turned up in the most surprising places. In Thurber’s collection of drawings, *A New Natural History*, “Creatures of the Meadow” features a subterranean “99-year lease working its way slowly to the surface through the years.” Two types of a ferret-like species are billed as the Black Rage and the White-Faced Rage. “A Group of More or Less Pleasant Birds” includes the Barred Barrister. Leaf over a few pages to meet two “widely distributed rodents”: the barefaced and white lies. There’s the Moot, a fish; and in “Plants of the Temperate Zone,” The False Witness and the Double

Jeopardy.

I’ve always wondered that more lawyers aren’t Thurber fans. So much of the practice is like being trapped in one of his concoctions, with all of their bureaucratic mazes, houses that glare at their owners, and inexplicable dead ends, like “All right, have it your way — you heard a seal bark,” or the woman demanding of the hippo, “What have you done with Dr. Millmoss?” Some suggest Thurber is a period piece with no relevance to the present. After all, Thurber himself described *The Thurber Carnival* as “a selection of the stories and drawings the old boy did in his prime, a period which extended roughly from the year Lindbergh flew the Atlantic to the day coffee was rationed.”

Maybe so. But through it all is a resilience, a wry acceptance and sense of perspective people can use in this season and throughout the year.

“Every time is a time for humor,” Thurber wrote in a letter to E.B. White. “I write humor the way a surgeon operates, because it is a livelihood, because I have a great urge to do it, because many interesting challenges are set up, and because I have the hope it may do some good.” Looking back on his one-time officemate’s career years later, White disagreed. Quoting that passage in his 1961 obituary for Thurber in *The New Yorker*, he summed up the genius that was the nervous writer from Columbus: “During his happiest years, Thurber did not write the way a surgeon operates, he wrote the way a child skips rope, the way a mouse waltzes.”

Maybe I *did* hear a seal bark. ✍

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The man who liked dogs

by Lindsay Thompson, Bar News Editor

Midst the hubbub of the holiday season, take some time, find one of James Thurber's books, and read a while. Thurber wrote, in the preface to *The Thurber Carnival* (1944), "James Thurber was born on a night of wild portent and high wind in the year 1894, at 147 Parsons Avenue, Columbus, Ohio. The house, which is still standing, bears no tablet or plaque of any description, and is never pointed out to visitors. Once Thurber's mother, walking past the place with an old lady from Fostoria Ohio, said to her, 'My son James was born in that house,' to which the old lady, who was extremely deaf, replied, 'Why, on the Thursday morning train, unless my sister is worse.' Mrs. Thurber let it go at that."

That's Thurber for you. Life — slightly off-kilter. His masterworks are mainly stories of his youth in Columbus, like "The Night the Bed Fell," "The Day the Dam Broke," and "The Night the Ghost Got In." Adam Gopnik's midsummer appreciation of Thurber in *The New Yorker* called these stories "the Western Reserve of Kafka Country, a world of premonitions and stretched nerves and — there is no other phrase for it — constant existential dread. The point, of course, is that Thurber's people are funny to us exactly because their dread is out of proportion to their essential security. But *they* don't know that. He worked with material that he knew always touched the outer edge of craziness.

And yet the same edgy, complex mind came up with that simplest of creatures, the Thurber Dog. It began as an accident in a sketch: he drew a bloodhound's head too big. To get the

rest of the dog on the page, he had to park it on the stunted body of a basset hound. But it worked. "He may not be as keen as a genuine bloodhound," Thurber wrote, "but his heart is as gentle: he does not want to hurt anybody or anything; and he loves serenity and heavy dinners, and wishes they would go on forever, like the brook."

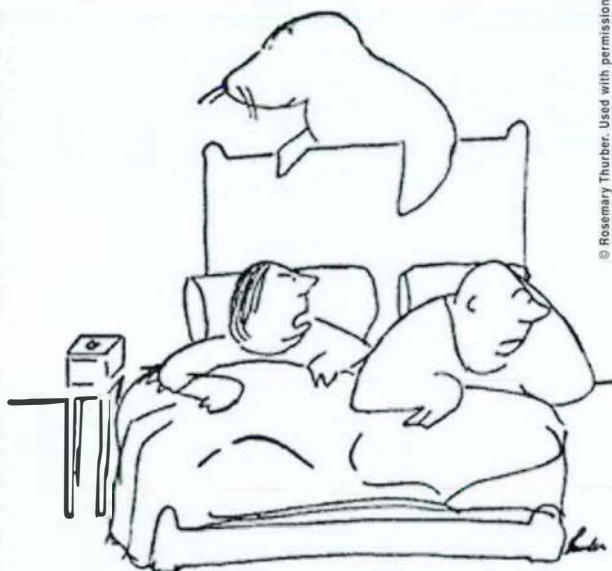
Thurber, widely thought to be the embodiment of the mild-mannered

friends with, struggling as he did with blindness, mental upheavals, and drink. He straddled a world that no longer was and a world that got progressively more baffling. Even as he chronicled America's entry into the nervous, complicated, urban world or the post-war era, he clung to his past. In an elegant evocation of that past, he wrote, "The clocks that strike in my dreams are often the clocks of Columbus."

That's Thurber for you, too. After you've read his stories for their laughter, read them again for his skill in writing. It's brilliant. His long apprenticeship as a journalist (he didn't publish anything first-rate until he was thirty-six, Gopnik notes) and sharing an office with E.B. White at *The New Yorker*, brought a clean, crisp line to his work. His words are as simple and elegant as his drawings — just a few strokes of the pen.

He had a thing about lawyers. Imagine having a client who could write his attorney, as Thurber did in 1949. "Up to 1934 my budget for barristers had consisted of \$500 which I paid upon the occasion of my divorce from the Kappa Rosebud I married in 1921, when I was getting \$35 a week. With the approach of the arthritic period of life, with its Book-of-the-Month-Club symptoms and its tendency to sell stories to the movies, I suddenly attained that primary mark of the successful casual writer: my annual legal fees assumed the proportions of those of a small business firm hiring fifteen people, nine men and six women. People began to make ballets, print dresses, fired enamel tea trays, beer coasters, recordings and oratorios out

(EDITOR — continued on page 63)



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"All right, have it your way — you heard a seal bark!"

eccentric, cultivated that notion. At 50, he wrote of himself, "Thurber goes on as he always has, walking now a little more slowly, answering fewer letters, jumping at lighter sounds . . . he plans to spend his days reading *Huckleberry Finn*, raising poodles, laying down a wine cellar, playing boules, and talking to the little group of friends which he has managed somehow to take with him into his crotchety middle age."

In his roundabout way, that snippet of Thurber autobiography reveals much of the real man while wrapping him in a comic mist. James Thurber was a hard man to live with or be

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