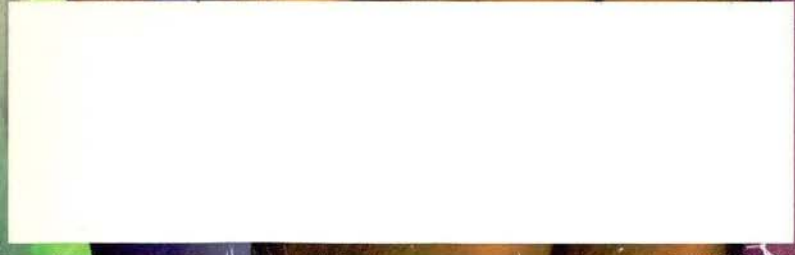


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# BarNews

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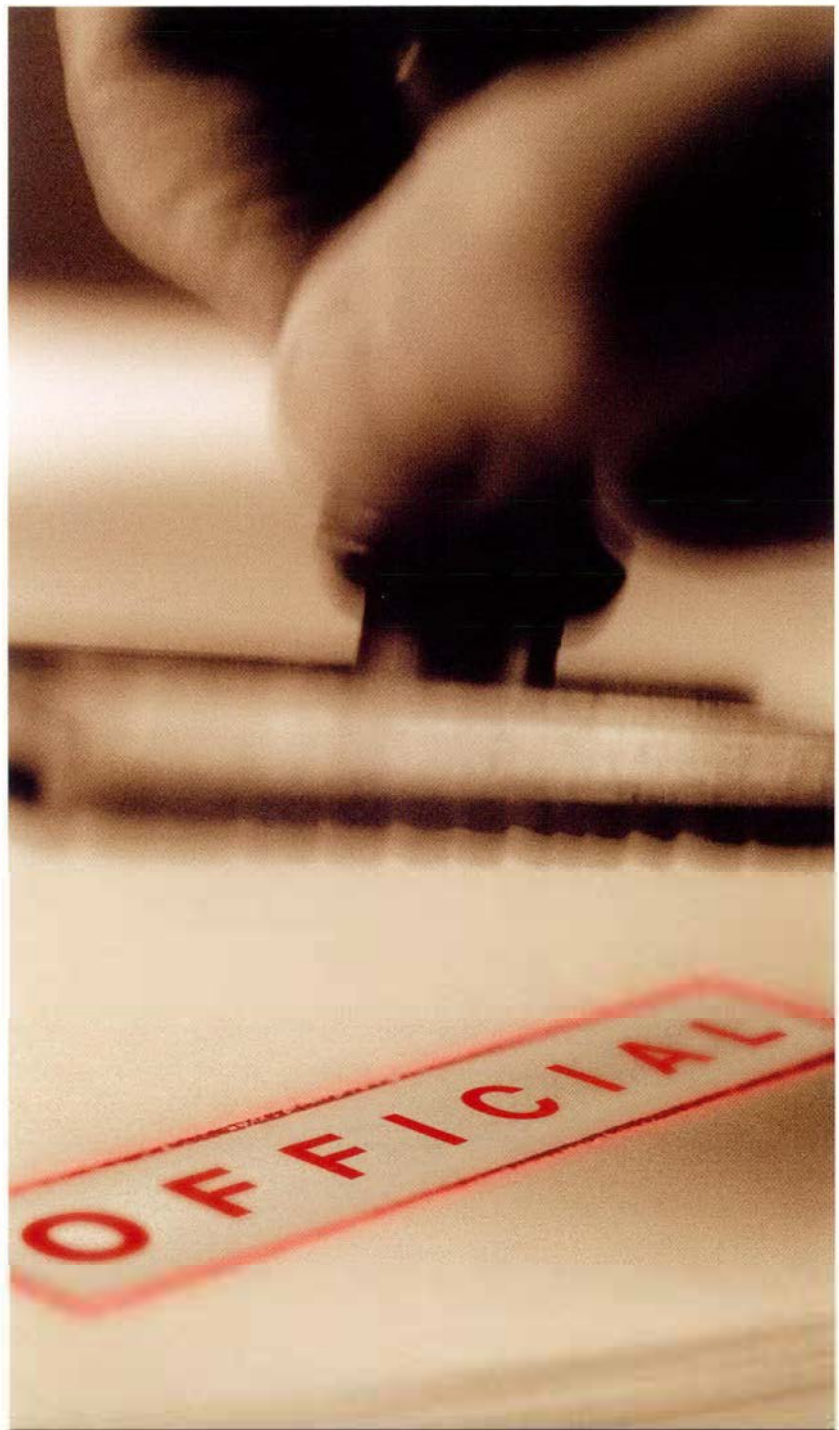
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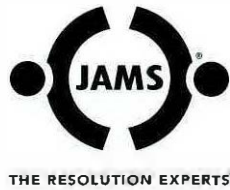
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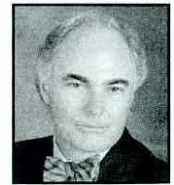
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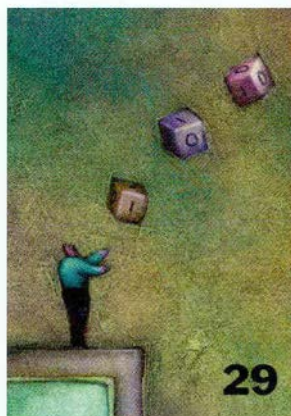
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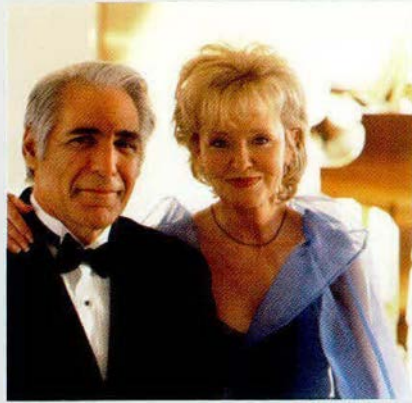
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### Law Week: It's a good thing

The WSBA Public Information and Media Relations Committee has as its mission the goal of "broadening public knowledge about and respect for the law; the rule of law; and the roles, responsibilities and contributions of lawyers and judges, including their ethical commitments." As the chair of that committee I would like to urge all attorneys who are members of the WSBA to support Law Week by volunteering their services. Law Week consists of weeklong

community outreach in which judges and lawyers visit classrooms the week of May 1 of every year to meet with students and teachers to educate them about selected legal issues (this year the program begins on April 26). Members of the Public Information and Media Relations Committee will be volunteering their efforts in support of the planned programs, and hope to be participating in that event with many WSBA members.

The Committee members have re-

cently voted to undertake a community forum (or forums), in a town meeting format, on significant legal issues in connection with next year's Law Week. The ultimate goal is that the forum will be taped or preserved in some other fashion, so that it may be more broadly disseminated to news media in the local communities after Law Week has ended. Given that goal, the Committee is requesting your assistance in identifying legal topics of public concern that you think would be a means of educating the public about the respective roles of lawyers, judges and perhaps Congress or the state Legislatures in addressing those issues (for example, the USA Patriot Act). Please send your suggestions to committee liaison Judy Berrett at [judithb@wsba.org](mailto:judithb@wsba.org).

Karrin Klotz  
Kirkland

### Posthumous discipline notices are a gratuitous slap

Why must WSBA admonish a man who is already dead? Charles McCullough died in May 2003. *Bar News* published an admonition in January 2004. ELC 3.5(d) does *not* require publication of an admonition.

Theresa E. Tilton  
Tacoma

Editor Lindsay Thompson responds: *It was no one's intention to embarrass the memory of Mr. McCullough, or his family. Many years ago the Board of Governors directed that disciplinary notices be printed as drafted by the Office of Disciplinary Counsel. The only discretion Bar News has in the matter is, if there are too many for one issue, to carry some over to the next.*

*Additionally, there is no established process for people to notify WSBA — and Bar News — of the death of members. I write all obituaries not contributed by others, and they, too, sometimes may be delayed from month to month depending on overall space availability in a given issue of the magazine.*

*Mr. McCullough was ordered to receive an admonition. He subsequently*

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Clockwise from left: Vernon Smith,  
Douglas Cowan, William Kirk,  
Garth O'Brien

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died. ELC 3.5 (b) says notice of an admonition must be provided to Bar News, and 3.5(c) gives counsel to the Disciplinary Board discretion in drafting notices which "should include sufficient information to adequately inform the public and the members of the Association about the misconduct, the rules violated and the discipline imposed." The reason for discipline notices is not to embarrass anyone, but to inform and teach with an eye toward deterrence. Because of the elimination of the discipline backlog, the WSBA has a large number of discipline notices, with the result that this was not published until several months after Mr. McCullough had died.

### Critical Thinking 101

Brian L. McCoy (*Bar News*, Letters, January 2004) needs to get a grip on his logic, not to speak of his overblown rhetoric. He calls *Lawrence v. Texas* "an act of judicial terrorism." Not one person has died as a result of that ruling. According to Mr. McCoy the legislative and judicial branches have the moral obligation to proscribe and punish such offensive private conduct, listing further examples such as incest through "mere possession of child pornography."

Mr. McCoy fails to distinguish between private acts between consenting adults that do not cause harm to third parties or society in general, and acts that clearly do cause such harm. Most would agree that the creation of child pornography causes harm to minors. It is at least arguable that incest risks the social harm of having to support genetically impaired offspring (although there is scant evidence that proscribing first cousin marriage serves any such purpose). Even proscribing bestiality supports the notion that non-human creatures have the right not to be abused.

As for prostitution, a strong argument can be made that the proscription has created far worse social ills than if it was instead regulated and contained. The same goes for our often-hypocritical policies toward various drugs and their users and abusers.

Supporters of criminalization of "sodomy" need to produce evidence of harm

to society or individuals from the actions of consenting adults before we should take their arguments seriously. Reference to a spinning "moral compass" is not evidence. This type of argument is similar to the outraged opposition to the movement to afford non-heterosexuals equal protection under the law. Both are based on fear. I would rather have laws based on the morality of hope and compassion.

Personally, my fear is that we will continue to underfund our schools,

leading to the production of ever more adults without the capacity to think critically. At least there is evidence to support this concern.

Toby Thaler  
Seattle

### Lawyers make poor politicians

Even more "curious" than Steve Jones' letter about Initiative 601 limits on spending (*Bar News*, Letters, February 2004) is the Editor's note reporting

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

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WSBA General Counsel's response. The question raised was whether Initiative 601 limits on fee increases apply to bar dues. The published response was, "The Legislature does not have authority to set fees for licensing of lawyers. That is within the exclusive authority of the Supreme Court."

This response may suggest a plausible legal argument, but what it really achieves that is more damning is a quotable example of lawyers' lack of political savvy. I have witnessed wrangling by the Legislature, attempting to provide access to justice within budget restraints imposed upon it by the people's initiative. Programs have been cut, services have been eliminated. Living within the confines of 601 has been a painful process for the Legislature. The "curious" thing is why the Bar would choose to publicize disdain for the Legislature by suggesting it can do what it wants without consideration of the laws affecting every other licensed professional as well as every public service this state has to offer. This is particularly notable given the fact that various budget requests to the Legislature this year include: \$207,000 by the Supreme Court, \$900,000 for the Law Library; \$265,000 by the Court of Appeals, and \$4.6 million by the Administrator of the Courts. Why not consider the policy behind 601 and its application to bar dues? It seems a better approach than thumbing one's nose at the Legislature.

*Joan K. Mell  
Fircrest*

### What would Dr. King think?

I find myself writing once again to address the issue of perceived racial inequality within the state bar association. The perceived inequality has arisen this time in the form of the President's Corner in the January 2004 *Bar News*.

Mr. Savage speaks thoughtfully about a topic that has clearly been troubling him, namely, the disparity between the various races and other unique characteristics of our population versus the percentage the various groups are represented in the bar association. It seems that once again the notion is being prof-

ferred that the bar association, as a whole, is whiter, older, and more male than the rest of the state's population. He then concludes that more must be done to even out the disparities.

While Mr. Savage has clearly spent considerable time contemplating the matter and planning to address the disparity, his premises are flawed. First, implied in the article is a notion that the differences between age, sex and race amongst the bar's members and the members of the population as a whole

is automatically bad. It is unreasonable to expect all professions, or even one specific profession, to be a perfect mirror of society. There are too many variables, and people in our country are, subject to opportunity and ability, free to choose their professions. I suspect that if a larger study were conducted, disparities would be found in all or nearly all professions.

Second, Mr. Savage concludes that the problem is that we are simply not doing enough to recruit members of un-

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to practice over 15 years now, and that may be the very first time I've heard someone seriously suggest we need more lawyers. I cannot imagine how he arrived at this conclusion. Is there some place in this country where we are raising our children in such a way to prevent them from hearing about our profession?

I had the poor taste to turn 40 last year. Since I was already white, male, middle class, married, Protestant and heterosexual, I have suddenly, at 40, become a symbol of what the bar association's leadership seems to think is wrong with our happy little club. But I'm not a lawyer because I'm white, or because I'm male, or any of those other demographics. And it's not because I was granted any breaks for being white. My parents never seemed to have two nickels to rub together. I'm a lawyer because that's what I always wanted to be, and I worked very hard to become one.

Bigotry is evil. Discrimination is evil. If there is something the bar has been doing, or even the law schools, or other schools, to erect barriers to any group of

people on a discriminatory basis, then I say, by all means, let's identify the problem(s) and plan an intelligent and vigorous course to reverse that discrimination. Just assuming there is a problem based on numbers is not an intelligent approach. If there is a problem, then we need to identify it. I would fully support such a study. So far, the problem has been assumed and the plan has been formulated with no examination for the underlying cause(s).

Over 40 years ago, Martin Luther King Jr. spoke of a dream that foresaw a day when children were judged not by the color of their skin, but by the content of their character. I suggest the bar take that cue when judging its members.

Tom Pacher  
Freeland

### Jonathan Swift probably giggled, too

Jim Rigby probably had fun composing his *Bar News* December 2003 letter and I

am sure he is now on the floor howling with glee after reading the letters in response (*Bar News*, Letters, February 2004). How can this be? Irony: a method of humorous or subtly sarcastic expression in which the intended meaning of the words used is the direct opposite of their usual sense.

Anyone with a sense of humor on the wry side would know, after reading his letter, that Mr. Rigby thinks mandatory *pro bono* is an absurdly bad proposal. He is filled with glee since everyone who wrote in on the issue also thinks mandatory *pro bono* service is a bad idea, for the 28 reasons stated. (OK, I made that number up.)

When I am working for free and opposing counsel asks how my client found me, I like to reply: "My name is on the work release list at the jail, because I can get out during the day if I am doing *pro bono*." Making *pro bono* service mandatory would take all the fun out of it. Get it?

Scott K. Wilson  
Bellevue

### Thanks, but no thanks

After reading the Editor's Page (*Bar News*, January 2004), I'll bet Rule No. 1 around Poulsbo is, or is about to become, "Never accept a referral from Jeff Tolman!" So how long have Jablonkenstein, McDonally and Morrena been saddled with Jeff's rejects? Have they figured out what is going on yet?

Pat Anderson  
Snoqualmie

### Art for art's sake

Is WSBA engaged in some kind of competition to determine who can come up with the ugliest magazine cover? If so, allow me to nominate your February 2004 issue for the grand prize.






The last time I saw colors like that, they were on some leftovers that had stayed in the fridge long enough to turn into a science project.

Joseph Dundin  
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## Listening to Diversity Concerns

by David Savage, WSBA President

**O**n February 27, the WSBA held our first-ever “Celebrating Diversity” Listening Forum, followed by the third annual Diversity Reception. This program, jointly sponsored by the WSBA Committee for Diversity and the Board of Governors, was exciting and enlightening, and I wanted to share it, to the extent possible, with all WSBA members. So I’m devoting my column this month to my opening remarks at the forum and a few snapshots.

The listening forum drew approximately 65 lawyers and judges, and even more attended the reception. I want to thank those who participated for their thoughtful input and creative ideas. Notes from all the roundtable discussions are being compiled, and we’re happy to provide the finished product to anyone who’s interested (contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or [questions@wsba.org](mailto:questions@wsba.org)). And as always, I enjoy hearing from WSBA members. Contact me at [savage2@imsblaw.com](mailto:savage2@imsblaw.com) or 509-332-3502.

### Diversity Reception Opening Remarks

As president of the Washington State Bar Association and on behalf of the Board of Governors, it is my pleasure to welcome each of you to the Washington State Bar Association’s Board of Governors’ first meeting devoted to the interests and concerns of the voluntary bar associations which represent the diverse interests and backgrounds of Washington’s lawyers.

This program is the product of the Board of Governors and the WSBA Committee for Diversity, which is capably chaired by Leona Colegrove and Mike Schestopol. President-elect Ron Ward and Governors Zulema Hinojos-Fall and Fawn Sharp have played key roles in making it a reality.

While I do not claim to bring any special qualifications to the dialogue that I hope develops today, I can tell you that practicing in a rural environment — I practice in Pullman, Washington — at a distance of 300 miles from this Association’s Seattle nerve center, I have a nominal sense of what it means to be “outside” the inner circle of decision-makers. As a consequence, and with the conviction that this Bar Association must embrace our diversity and promote inclusion if it is to serve as more than a “dues and discipline” regulatory agency and if it is to serve well

our client public in the future, I have made diversity, inclusion, and relevance the centerpiece of my term. Indeed, I am convinced that in our diversity lies our strength.

The Washington State Bar Association has committed itself to enhancing its diversity. In 2000, the Board of Governors passed Bylaw III.M, which created two at-large seats in order to bring more diverse representation to the Board. This was followed by the Board’s adoption in its Strategic Goals of Goal No. 9, which provides: “The WSBA will promote diversity, equality and cultural competence in the courts, legal profession and the bar.”

As a partner to this commitment, the WSBA’s standing Committee on Diversity provides advice and oversight with respect to association activities with a view to achieving this commitment.

Respect for, and appreciation of, diversity is critical to us as lawyers, judges, employers, good citizens and, maybe most important, individuals.

It is important to us as individuals because we are all different. Indeed, it is our differences that attract us to one another, enlighten our thinking (I think a good argument can be made that diversity at its core describes an open-minded acceptance of one another — a freedom from preconceptions and stereotypes), and serve as the proud bedrock of our civics. Remember, we regularly, in pledging allegiance to our flag, commit ourselves to the proposition of “justice for all.”

As lawyers, diversity is, and should be, important to us, because together with the judicial system, we have been entrusted with the professional obligation to ensure that the lofty principles of our federal and state constitutions, which codify our commitment to diversity, are met in fact. In this complex and diverse society, a lawyer cannot deliver competent legal services with integrity without an appreciation and respect for all the many faces that constitute our multicultural and pluralistic society.

We enjoy a state-sanctioned monopoly on the right to practice law. Consequently, we have a unique duty to ensure that we make our services available regardless of gender, color, disability, age, economic circumstance, national origin, or sexual orientation. Indeed, if we fail to do so, I think we can and should expect to lose the benefit of this special privilege.

The need for legal counsel is great, as revealed most recently by the Civil Legal Needs Study commissioned in November 2001 by the Washington State Supreme Court. The assessment phase of the report was just released in January 2004, and it reports as follows:

- 87 percent of low-income households experienced at least one civil legal need during the year of the study, yielding an aggregate need of more than one million unaddressed legal problems per year.
- Less than 15 percent of low-income people are able to get help with their civil legal problems.
- Reasons given for not securing legal help in order of report:
  - 28 percent think nothing can be done.
  - 24 percent don't know who can help.
  - 22 percent worry about cost.
  - 21 percent don't recognize a legal problem.
- Women and children have the highest per-capita rate of legal problems.
- Among those who seek, but do not get, an attorney's help, only 21 percent feel positively about the justice system,

while more than 50 percent of those who are able to get an attorney's help have a positive attitude toward the justice system.

The State Supreme Court has committed itself to achieving respect for di-

spect that the population has for the orders of our judicial system. Respect for the orders of our judicial system is, obviously, directly related to the public sense that this institution of government is not only respectful but representative of the population it serves.

The ABA and the National Bar Association conducted a national survey of lawyers in 1998-99, for a special section on race and the law in the *ABA Journal*. It revealed that the perceptions of African-American and white lawyers were strikingly different.

When asked how much racial bias existed in the justice system, 52.4 percent of black lawyers said "very much," while only 6.5 percent of white lawyers gave the same answer. Only 1.2 percent of black lawyers said "very little," while 29.6 percent of white lawyers said so. More than 66 percent of the black lawyers said they had witnessed racial bias in the justice system in the past three years, while more than 80

percent of white lawyers said they had not made such an observation. More than 92 percent of black lawyers said the justice system has the same amount of racial bias or more compared to other segments of our society while almost half of white lawyers said there was less.

A June 1999 survey, "How the Public Views the State Courts," conducted for the Washington Administrative Office of the Courts (available at [www.courts.wa.gov](http://www.courts.wa.gov)), revealed other striking and troubling differences.

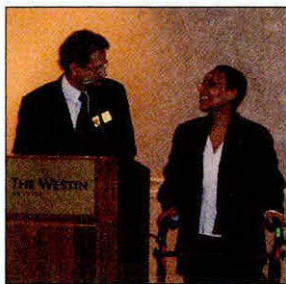
When asked about equal treatment in the court system, only 7 percent of the total sample (all races) thought African Americans received better treatment, while 52 percent said they received worse. The percentages were identical as to Hispanics.

Among Washington African-American attorneys, only 6 percent thought African Americans received better treatment, while 78 percent thought it was worse (including 40 percent saying "far worse").

When asked whether judges were gen-

### Rhonda Brown Receives WSBA's Local Hero Award

On February 27, 2004, WSBA President Dave Savage presented the Local Hero Award to Tacoma attorney Rhonda J. Brown. Ms. Brown, a WSBA member since 1987, has for the last two years been a consultant for the Washington Coalition of Sexual Assault Programs (WCSAP).



She previously served as Housing Program coordinator for the Tacoma Area Coalition of Individuals with Disabilities, as an adolescent psychiatric careworker for Camelback Hospital in Scottsdale, Arizona, and as a central-intake assessor for Franklin County Children's Services in Columbus, Ohio. She co-organized the Disability Caucus, served on the Governor's Committee on Disability Issues and Employment, and is a

former secretary of Washington Protection and Advocacy. She is also a former secretary of the Minority Concerns Task Force, two-term president of the Pierce County Community Development Corporation, president of the Tacoma/Pierce County Fair Housing Coalition, and president of the Fair Housing Center of South Puget Sound. Ms. Brown is also a member of numerous community-based committees and has volunteered for the Emergency Housing Network, the Community Housing Resources Board, the Emergency Food Network, Pierce County Rape Relief, and Planned Parenthood of Arizona.

iversity and cultural competence. The beauty of our legal system is that its power is, in the end, not physical, but rather founded in moral persuasion and respect. The power of this civic moral force, however, is wholly dependent upon the re-

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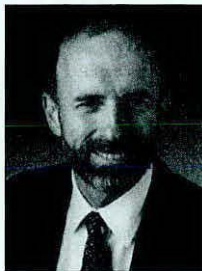
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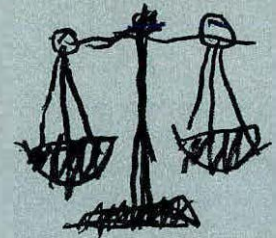
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erally honest and fair in deciding cases, only 19 percent of Washington Caucasians said no, while 38 percent of Blacks and 25 percent of Hispanics said no. When asked whether court personnel were helpful and courteous, only 19 percent of Caucasians said no, while 35 percent of Blacks, 30 percent of Hispanics, and 28 percent of Asian Americans said no.

Perceptions count.

Our system of jurisprudence is dependent upon the public's perception that we fairly, uniformly, and comprehensively administer justice.

This Bar Association has an obligation to reflect the public we serve. Remember, as I noted above, many oppressed persons simply do not seek legal assistance. A significant reason for this is that they do not see in the established legal community the faces of lawyers who they believe have an understanding of their problems. It is not my contention that the delivery of competent legal services requires cultural or racial identity between the provider and the recipient of legal services, but rather that the credibility of our institution as a whole will, should be, and has been judged significantly on the basis of

whether we do in fact reflect the public we serve in terms of gender, color, disability, age, economic circumstance, national origin, or sexual orientation. We cannot expect to be regarded as the trustees of individual and public civil rights, nor turned to for protection of them, if our professional ranks consist largely of a homogeneous group of the elite. It is difficult to look at the photos of our past presidents which hang on the wall of our Bar office and not suffer a sense of shortfall — it is a monochrome group with only two women over a 115-year history and no persons of color. Happily, President-elect Ward's election changes this picture.

But we must institutionalize change. This is a phrase I am uncomfortable with, because institutionalizing anything has a way of draining its life away. In a positive sense, however, it can represent a commitment to keeping change alive. This must occur through concrete steps.

The WSBA's addition of its at-large seats on the Board of Governors is such a step. The prohibition against discrimination based upon sex, race, age, creed, religion, color, national origin, disability, sexual orientation, or marital status into Washington's Rules of Professional Responsibility is yet another.

These steps, this undertaking, are not finite tasks, nor do they have a completion date or a terminal point. We must build a respect and appreciation for diversity into our own thinking, and that of the courts and our Bar Association, so that doors, once opened, remain so.

We hope that as a result of today's discussion this Bar Association can educate itself as to how to better serve the interests and needs of those of you who have gathered here today. We are committed to hearing you and learning from what we have heard.

Making change a reality, however, requires a commitment on your part as well. I understand you may wish to first see this Association demonstrate its concern for your interests. I sincerely hope you leave today's meeting with the conviction that you have seen such evidence.

President-elect Ron Ward has made this commitment, as have Governors Hinojos-Fall and Sharp, J.D. Smith, president of the Young Lawyers Division and a WSBA Young Lawyers Division ABA delegate, has made this commitment.

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Paula Boggs, a member of the Washington State Bar Association's ABA delegation, has made this commitment, as have Sonia Rodriguez, a member of the Washington State Bar Association Young Lawyers Division ABA delegation; Elizabeth Li, active in the ABA through an ABA/YLD Minorities in the Profession Committee Scholarship; and others.

I hope you will consider becoming active with the WSBA, whether in governance, committee, or section activities. Based on my personal experience, I highly recommend section involvement. It is a great way to interact with other fine law-

yers and to sharpen your skills in a particular practice area. Wilda Heard, who has played an active role in making the International Law Section one of our most vital, has convinced me that section membership may well be the best avenue for inclusion. The Bar has 23 sections. They are all described on the WSBA website at [www.wsba.org/lawyers/groups/sections.htm](http://www.wsba.org/lawyers/groups/sections.htm). I encourage you to review them and consider joining.

Join them, join me, join all of the governors and officers of the Washington State Bar Association and our fine staff in making change a reality. ✍

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## Introducing Deputy Director Paula Littlewood

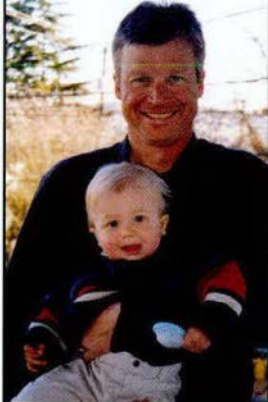
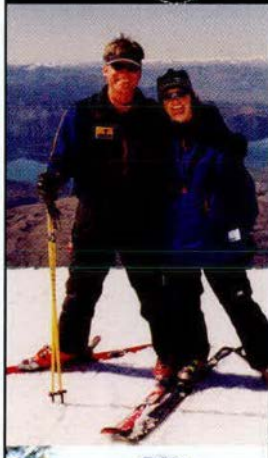
by Jan Michels, WSBA Executive Director

### Creation of the Deputy Director Position

**B**efore I joined the WSBA in 1998, the Board of Governors had considered creating, simultaneous with hiring the new executive director, a deputy director position, in recognition that there were two bodies of work in the executive director's job: (1) Board support and membership interface, and (2) management of the WSBA's 120 staff and \$14 million budget. The Board ultimately decided that the new executive director should review the office and job functions and develop a recommendation.

In my first five years at the WSBA, as I became increasingly familiar with the needs of members, governors, and staff, I recognized that both components of the executive director work needed more than half my available time. In 2003, the Board approved a reorganization that created the deputy director position within the current allocation of staff positions and available funding. This new position was approved effective with the 2004-2005 budget.

This deputy director position is responsible for helping coordinate the day-to-day operations of the WSBA by ensuring inter-departmental coordination and oversight of personnel matters. The posted requirements included an advanced degree with a J.D. preferred, increasingly responsible management experience of at least five years, and budgeting and fiscal management experience. Following the inclusive selection process that then-WSBA President Justice Mary Fairhurst pioneered with my hiring, a staff committee, the WSBA directors, and I selected Paula Littlewood for the position.



Top to bottom: Paula at the WSBA; Paula skiing in New Zealand with husband Will Wasson; Will and their son, Parker Blue Wasson.

### Introducing Paula Littlewood

Paula is a Washington native who grew up in Pullman. After graduating from high school, she spent most of the next 10 years out of the state, beginning with a trek to California to earn her bachelor's degree in political science and history from Claremont McKenna College in 1988. During her time out of the state, she enjoyed a wide range of experiences, including interning with Congresswoman Patricia Schroeder in Washington, D.C., working as a research assistant in the House of Commons in London, teaching English to children in Taiwan for two years, and traveling through China and Southeast Asia for another 10 months.

After returning to Washington state, Paula worked as a fundraiser on local and statewide political campaigns, then completed her J.D. and Master's in International Studies at the University of Washington in 1997. While in law school, Paula also served as editor-in-chief of the U.W. School of Law's *Pacific Rim Law & Policy Journal*.

Following graduation and the bar exam, Paula accepted a position as an Assistant Dean at the U.W. School of Law. Paula spent five years at the law school, first as Assistant Dean for Development and later as Assistant Dean for Administration and Public Relations. Paula managed the law school's budget, supervised the business office and the computing services department, and handled the law school's media and government relations. She also worked closely with the many student organizations. Paula brings solid credentials as our operations coordinator and a strong understanding of Washington's legal community.

Prior to taking the deputy director position, Paula was a frequent volunteer for the WSBA, and served on a number of committees and task forces. She served as the chair of the Editorial Advisory Board during the difficult transition to a new *Bar News* editor, and was a member of the Legislative Committee for three years. As deputy director, Paula continues her work with WSBA volunteers by helping to staff the Student Loan Crisis Task Force and the Professional Development Implementation Committee. She is also involved with a number of the Access to Justice initiatives cur-

rently underway in our state.

Paula and her husband, Will Wasson, have a 1-year-old son, Parker Blue Wasson. Will is a ski coach and instructor in Telluride, Colorado, during the winter, which requires not only a complex pattern of interstate commuting but also careful choices in their long-distance telephone plans! Paula shares Will's passion for skiing; she also plays competitive volleyball in local leagues (including one team consisting mainly of law school classmates), and is often found walking around Green Lake with friends on the weekend.

Paula is naturally and easily a friendly person who genuinely likes people and likes working with them. Her "How's it going?" trademark isn't cursory courtesy; it is genuine interest in the person. She elicits trust, truthfulness, and directness, and is already helping to strengthen the bonds among a broad range of the WSBA staff and programs.

#### **Six-Month Assessment**

In the now six months Paula and I have worked together I have noticed her ability to learn things quickly, her attention to detail, and her goodwill with staff. With Paula minding the home front, I have more time to work with the Board as well as to interface with the Supreme Court, other bar associations, and WSBA members, sections, and committees.

Paula refers to her work at the WSBA as "connecting the dots" — getting all the WSBA programs, initiatives, and services working together more cohesively. She is available day-to-day to resolve issues and shepherd steps toward longer-range goals. An apt analogy to Paula's work is the ad for BASF: "We don't make the product, we make it better!" Having Paula join us is not creating new products or services; rather it is making our products and services better.

Having the deputy director position and having Paula in it has resulted in a number of very right improvements for WSBA members and staff. Welcome, Paula! ✍

*Paula Littlewood can be reached at paulal@wsba.org or 206-443-WSBA.*

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# Addressing the Civil Legal Needs of Sexual-Assault Victims

**Legal resources to stabilize the physical, emotional, and financial welfare of the victim**

by Catherine A. Carroll

**W**hen most people think about rape and the law, they think of criminal justice. Yet few people understand the powerful effect sexual assault can have on a victim's entire social and economic life. One incident of sexual assault can destabilize a victim's housing, schooling, privacy, employment, immigration status, and basic long-term financial welfare.

To address the civil legal needs of victims and to prevent long-term socio-economic harm, our nation needs to change how it responds legally to allegations of rape. Instead of focusing our legal resources exclusively on the issue of criminal sanctions against the assailant, we need to concentrate our legal resources on stabilizing the physical, emotional, and financial welfare of the victim. We need to keep victims in school, keep them employed, and protect their privacy.

Yet, on a practical level, to accomplish this paradigm shift we must establish that sexual-assault victims are entitled to restorative civil remedies regardless of the status of criminal sanc-

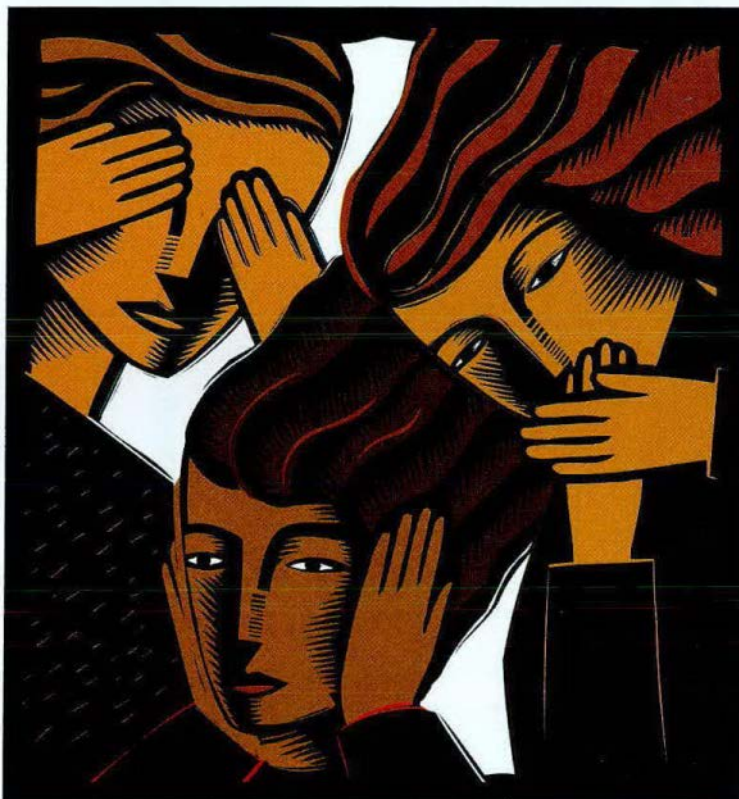
tions against the assailant. Today, many of the civil remedies that sexual-assault victims need depend either technically or discretionarily upon criminal-justice outcomes. On a technical level in Washington, for example, a victim cannot access state victim-compensation programs unless she<sup>1</sup> cooperates with law enforcement. On a discretionary level, most third-party institutions and

rape case. That should be handled by the criminal courts."

The current paradigm — making basic civil remedies for sexual-assault survivors dependent upon the outcome of the criminal justice system — is problematic, for two reasons.

First, rape remains the most underreported crime in America. In Washington, one in three adult women have experienced sexual assault in their lifetime.<sup>2</sup> Only 15 percent of those victims reported the crime to law-enforcement authorities. Nationally only five percent of college victims report. Of those reports, approximately 24 percent result in an indictment and 12.5 percent result in conviction. This means that approximately 75 percent of the rapes reported to law enforcement are never prosecuted. Given this reality, if civil remedies are contingent on criminal justice outcomes, the vast majority of victims are left without any assistance.

Second, to have any meaning and to prevent serious harm, most civil remedies (housing, protection orders, privacy, education, employment, etc.) need to be secured quickly in the weeks to months following an assault. However, the time from indictment and arraignment to a plea or trial in a criminal case may take up to two years, and appeals can take even longer. Most victims will have left their jobs, their housing, or



decisionmakers, such as housing authorities, schools, and employers, are extraordinarily wary of imposing significant restrictions on an assailant unless criminal charges exist. Landlords, employers, and educators send the message, "I do not want to decide a

their educational institution by the time a criminal sanction is imposed.

Civil issues for sexual-assault survivors are a complex range of legal matters. Below is a general overview of the civil needs of sexual-assault survivors.

### Privacy

Sexual-assault victims generally seek to protect their privacy to the greatest extent possible. This includes limiting the number of people in their immediate social circle who know about the assault; keeping their names out of public documents, including newspapers;

and keeping medical and counseling records out of the hands of defense counsel. These concerns are serious when the assailant is a member of the same social circle, attends the same school, works for the same employer, lives in the same apartment building, or goes to the same church as the victim.

Vital to protecting a sexual-assault victim's right to privacy is preventing the unauthorized disclosure of information about the victim. Attorneys can conduct preventive measures on behalf of victims by discouraging the unauthorized disclosure of private information. Sexual as-

sault victims often lack adequate representation to protect their privacy interests in criminal cases where they are a victim-witness. Prosecutors are limited in their ability to protect the privacy interests of victims, and often victims do not know what their rights are with respect to the criminal-justice system.

### Protection orders

A victim's sense of physical safety may be shattered, and she may remain hypervigilant, anxious, and frightened for months and even years after the assault. Therefore, safety planning is a critical element of any legal representation. Safety planning is a process a victim engages in to prepare herself in as many ways as possible if another assault or act of abuse should occur. For guidance on comprehensive safety planning in your community, enlist the help of an experienced rape-crisis or domestic-violence advocate. Each victim will have different options depending upon her unique circumstances and her relationship to the assailant.

However, protection orders may not be an available remedy for sexual-assault victims, given the status of the relationship with the assailant. Although a victim may pursue an anti-harassment order if she does not meet the relationship requirements of a domestic-violence protection order, it may be difficult to obtain one if the assault has not risen to a "pattern of conduct." Therefore, safety planning is very important.

### Financial compensation

Sexual assault can have devastating economic consequences. Hospital and medical bills, lost wages, lost school tuition, psychotherapy bills, and housing relocation costs mount quickly, but very few victims ever recoup these losses. Potential avenues of recovery include Crime Victims' Compensation, restitution through civil protection orders or criminal conviction, and third-party tort liability.

In Washington, Crime Victims' Compensation covers the cost of all rape exams if conducted to collect evidence for possible prosecution. However, the reality is that victims need to do more than just report sexual assault

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to law enforcement to receive assistance. It is not uncommon for victims to experience challenges when attempting to receive victims' compensation benefits.

### Employment

Sexual assault often has a substantial impact on a victim's employment. The emotional and physical consequences of sexual assault can make it difficult to continue working. A victim may need to take time off; she may need to transfer to a different location to feel safe; she may need to reduce responsibilities or change jobs for a period of time. In some workplaces, these types of accommodations are not a major problem. For more marginal workers, however, such changes can result in lost employment.

In Washington, unemployment benefits have been extended to victims of domestic violence and stalking — but not to victims of sexual assault.

### Education

Sexual assault is rampant on America's campuses. The U.S. Department of Justice estimates that for every 10,000 undergraduate females, 350 are sexually assaulted every year. When a student is sexually assaulted, a range of legal issues surface and her educational progress may be put in jeopardy. The victim must contend with disciplinary proceedings, housing issues, tuition issues, stay-away orders, and privacy concerns. Maintaining school attendance or securing a transfer to another educational institution is a baseline goal of any representation.

Appreciating a school's policies with respect to sexual assault is fundamental to representing victims in school disciplinary hearings. It is not uncommon for policies to call for mediation between the assailant and the victim. This is potentially very damaging to victims and can further traumatize them.

### Housing

Many sexual assaults take place in the victim's home. For example, among university students who are assaulted on campus, almost 60 percent of sexual assaults take place in the victim's dormitory. When a victim is raped in her own home, she often wishes to move. If the

assailant lives in the same housing complex or the same dormitory, the victim may want to seek to have the assailant move.

### Immigration

Many sexual-assault victims are non-citizen immigrants. If this is the case, paying attention to the unique immigration concerns is important. Many immigrant sexual-assault victims will not report the crime or seek help out of fear of the impact it may have on their own status, the status of family members (who are possible witnesses), or the

status of the assailant. Some victims will be pressured by members of their immigrant community not to go to the police, because they do not want the assailant to be deported.






### Criminal justice

Society generally expects the criminal-justice system to be the primary venue for "trying rape cases." For example, in a recent child-custody hearing in which the mother alleged that the child was a product of a "date rape," the judge stated, "I am not going to try a rape case in my courtroom." Universities, high

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schools, housing authorities, and employers expect the criminal-justice system to respond to rape. For this reason alone, it is vital for attorneys to understand what the criminal-justice process does and does not offer sexual-assault victims. In short, sexual-assault victims cannot be effectively represented in the civil realm if attorneys do not understand the basics of the criminal-justice system. The U.S. Constitution guarantees that all criminal defendants are entitled to zealous representation. Victims of sexual violence should be entitled to the same.

### Suing the assailant, and third-party liability

Claims on behalf of adult survivors of childhood sexual abuse are governed by RCW 4.16.340. Actions may be based upon intentional tort theory, such as battery, assault, or intentional infliction of emotional distress/outrage. In addition, negligence claims may be brought against a person or entity in a position of control over the assailant, or a person or entity with an obligation to protect the abused child.

The victim may have a right of action against third parties who owe the

victim a duty of care and who failed to prevent the assault because of their negligence. Owners or operators of convenience stores, universities and colleges, commercial landlords, bus stations, hospitals, high schools, restaurants, bars, parking lots, hotels, and other third parties may be liable if the victim can establish that a legal duty exists to protect individuals from foreseeable violent acts. Such cases may include negligent hiring, retention, or supervision of an employee if the employer should have known the employee presented a risk of danger to others. Last, if a special relationship exists between an employer and the victim that requires a duty of reasonable care to protect the victim from all foreseeable harms — including sexual assault — there may be a basis for a vicarious-liability cause of action against the third-party employer. (*Niece v. Elnview Group Home*, 131 Wn.2d 39, 929 P.2d 420 (1997).)

For additional information, see *Guide for Civil Law Suits*, a tool for victims of sexual assault, available on the legal page of the Washington Coalition of Sexual Assault Programs (WCSAP) website at [www.wcsap.org](http://www.wcsap.org).

Most attorneys do not enter the legal profession to work with rape victims. It is difficult work. It requires a degree of personal attention, patience, and compassion that our training in law school and beyond rarely provides. In Washington, victims of sexual assault are entitled to a support person to accompany them to all proceedings — legal and medical. Advocates can provide support to attorneys working with victims and are an invaluable resource. (RCW 70.125.030.)

Unfortunately, we live in a country where sexual assault is common. However, much of it is denied, shamed into silence and ultimately left to erode the emotional, physical, and financial welfare of many in our communities. Appreciating the complex range of civil issues that may impact a sexual-assault survivor is the first step towards shifting the current paradigm. As attorneys, we have great power to make a difference in people's lives. Working with rape survivors is an opportunity to provide civil representation in a complex and

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emerging area of law that attorneys can shape in order to meet the needs of sexual-assault clients. April is Sexual Assault Awareness and Prevention Month. It is my hope that our collective professional awareness rises to appreciate that sexual-assault victims are entitled to restorative civil remedies regardless of the status of criminal sanctions against the assailant. Indeed, this is how we begin to transform our nation's response to rape beyond the criminal-justice system.

WCSAP is a membership coalition representing more than 40 rape-crisis programs throughout Washington. In the fall and winter of 2004, WCSAP's Legal Department will be providing a series of eight regional civil sexual-assault trainings throughout the state. The trainings will be no cost and are anticipated to provide four CLE credits in addition to a training manual adopted for Washington law. The training series will be presented in partnership with the Washington Association of Prosecuting Attorneys and the Northwest Women's Law Center. If you would like more information about the training series, please contact me at [catherine@wcsap.org](mailto:catherine@wcsap.org).

*Catherine Carroll is staff attorney for WCSAP. WCSAP's legal program is funded by Legal Assistance for Victims Grant, U.S. Department of Justice, Office of Justice Programs, Office on Violence Against Women (Grant 2001-WL-BX-0036). Points of view in this article are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice. This article is excerpted and adapted from Beyond the Criminal Justice System: Transforming Our Nation's Response to Rape, A Practical Guide to Representing Sexual Assault Victims, published by the Victim Rights Law Center, Boston, MA, June 2003. In particular, portions of Chapter One, "Core Practice Dynamics," pp. 1-3, 23-25, authored by Susan H. Vickers, Esq., and Angela G. Lehman, Esq., are excerpted here with permission from the authors. To purchase a full copy of the Victim Rights Law Center's manual, including chapters covering sexual-assault victims' safety, privacy, housing, employ-*

*ment, immigration, and financial compensation rights, go to [www.victimrights.org/html/purchase.htm](http://www.victimrights.org/html/purchase.htm). I wish to thank the editors for permission to publish portions of the manual free of charge for this article.*

**NOTES**

<sup>1</sup> According to the Bureau of Justice Statistics, the vast majority of rape victims are female and the vast majority of offenders are male. "Sex Offenses and Offenders: An Analysis of Rape and Sexual Assault," by Lawrence Greenfeld. BJS, 1997, NCJ-163392, p. iii.

<sup>2</sup> *Sexual Assault Experiences and Perceptions of Community Response to Sexual Assault: A Survey of Washington State Women*. Principal investigator: Lucy Berliner, Harborview Center for Sexual Assault and Traumatic Stress; research consultant: David Fine; survey research coordinator, Danna Moore, Washington State University/Social and Economic Sciences. Research supported by: Office of Crime Victims Advocacy, Washington State Office of Community Development. November 2001. For the complete report, including methodology, see <http://depts.washington.edu/hcsats/pdf/research/sexualassaultexpr2001-11.pdf>.

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# Your Sale of Goods — The Law Applied May Not Be What You Expect

## Understanding The United Nations Convention on the International Sale of Goods

by Brett W. Smith

Consider this hypothetical exam question:

**C**, a manufacturer of consumer products, orders from S, a widget manufacturer, a total of 1.2 million widgets to be incorporated into C's products. The order is placed by telephone, and in their conversation the parties agree upon quantity, price, payment and shipping terms. No other terms are discussed. The parties had not dealt with each other before this order.

S ships the widgets in 11 separate shipments, each with an accompanying invoice. The invoices all contain a number of terms, including a clause selecting a particular forum for resolution of disputes. C takes delivery of and pays for each shipment, incorporates the widgets into its products, and sells the products (including the widgets) to the public. Later, C discovers that the widgets are defective. C wants to sue S in a different forum than the one specified in the invoices.

What are the rights and responsibilities of the parties?

The typical answer to this hypothetical exam question would likely discuss issues such as whether there is an enforceable contract under the statute of frauds under the Uniform Commercial Code (UCC),<sup>1</sup> and whether, as between merchants, the seller's additional terms become part of the contract under the UCC.<sup>2</sup>

However, if one of the parties is located outside the United States, the typical answer to the exam question could be wrong. (More importantly to a practicing attorney, the typical advice given in a parallel situation in real life could be wrong.) Since Washington ranks fifth in the nation for exports,<sup>3</sup> contracting with foreign parties is not uncommon. If the foreign party is located in a country which (like the United States) has ratified the United Nations Convention on the International Sale of Goods (CISG), then the CISG and its associated caselaw may provide the rules for the resolution of the dispute, rather than the UCC.



### Background of the CISG

The CISG was promulgated by the United Nations Commission on International Trade Law (UNCITRAL), and adopted by diplomatic conference in 1980. It came into force on January 1, 1988, among the 11

original signatory nations, one of which was the United States.<sup>4</sup> There are currently 62 countries which have adopted the CISG,<sup>5</sup> including four out of the top five of the United States' major trading partners.<sup>6</sup> The CISG has been described as "the most successful international trade treaty so far."<sup>7</sup>

Earlier international conventions on the sale of goods had appealed primarily to countries following western European legal systems. In contrast, the CISG was designed to be acceptable to countries having a variety of legal and economic traditions.<sup>8</sup> Consequently, the applicability of the CISG was specifically limited to "the formation of the contract of sale and the rights and obligations of the seller and the buyer arising from such a contract."<sup>9</sup> Topics not covered by the CISG include "the

validity of the contract, the effect which the contract may have on the property in the goods sold or the liability of the seller for death or personal injury caused by the goods to any person."<sup>10</sup>

The CISG contains 101 articles, grouped into seven chapters. Topics addressed include: formation of the contract, delivery of the goods, conformity of the goods, payment of the price, remedies, anticipatory breach, and damages.

Generally speaking, as a self-executing treaty,<sup>11</sup> when ratified by a particular country, the CISG becomes part of the laws of that country, and applies automatically to contracts falling within its coverage. The CISG provides that it applies "to contracts of sale of goods between parties whose places of business are in different States"<sup>12</sup> — that is, in different countries that have ratified the CISG. However, it also provides that contracting parties may "exclude the application of this Convention"<sup>13</sup> — that is, opt out.

### Chateau des Charmes case

As mentioned in the discussion of the hypothetical above, cases adjudicated under the CISG may have different outcomes than they would have if the UCC were applicable. The hypothetical was adapted from the recent case of *Chateau des Charmes Wines Ltd. v. Sabaté USA Inc.*, 328 F.3d 528 (9th Cir. 2003). Chateau des Charmes was a Canadian winery that purchased special corks for its wine bottles by telephone order from Sabaté USA, a California subsidiary of Sabaté, S.A., a French company. Sabaté claimed that the corks would not taint wines with cork flavors. The shipments were made by the French company, and the accompanying invoices stated that disputes were to be resolved under the sole jurisdiction of a specific court in France.

When Chateau des Charmes found that its bottled wines were spoiled by cork flavors, it sued both the California subsidiary and the French parent com-

pany in federal court in California. The defendants moved to dismiss the case based on the forum selection clause in the invoices. The district court found that the forum selection clause was enforceable, and granted the motion to dismiss.

On appeal, the 9th Circuit reversed. The court noted that the places of business of the parties were in different countries (France, Canada, and the United States), each of which had ratified the CISG. Consequently, the court held that the CISG "governs the substantive question of contract formation as to the forum selection clauses."<sup>14</sup>

The court then noted that the UCC would have required "a contract for the sale of corks for the value involved here to be evidenced by a writing."<sup>15</sup> The CISG, on the other hand, provides that a sales contract "need not be concluded in or evidenced by writing."<sup>16</sup> Therefore, the court held that the oral agreements between Sabaté's California subsidiary and Chateau des Charmes "as to the kind of cork, the quantity, and the price were sufficient to create complete and binding contracts."<sup>17</sup>

The 9th Circuit then pointed out that the oral agreements had no forum selection clause. Sabaté argued that the forum selection clause in the invoices became part of the agreement between the parties. The court disagreed. It stated that while the CISG allows the modification of a contract by "the mere agreement of the parties,"<sup>18</sup> it also provides that "[a]dditional or different terms" relating to topics such as dispute resolution "are considered to alter the terms of the offer materially."<sup>19</sup> The court concluded: "There is no indication that Chateau des Charmes conducted itself in a manner that evidenced any affirmative assent to the forum selection clauses in the invoices. Rather, Chateau des Charmes merely performed its obligations under the oral contract. Nothing in the Convention suggests that the failure to object to a party's unilateral attempt to alter materially the terms of an otherwise valid agreement is an 'agreement' within the term of Article 29."<sup>20</sup>

Since Sabaté's forum selection clause was not a part of the contract between the parties, the court reversed the district court's dismissal of the action.

### Opting Out of the CISG

If the parties to a contract for the sale of goods do not want the CISG to apply, they may include a provision to "opt out" of the CISG. The CISG does not explain how to do so; it merely states that parties "may exclude the application of this Convention."<sup>21</sup> In an "Explanatory Note" on the CISG prepared by the Secretariat of UNCITRAL (for "informational purposes" and not as official commentary<sup>22</sup>), the Secretariat expressed the opinion that: "The exclusion of the Convention would most often result from the choice by the parties of the law of a non-contracting State or of the domestic law of a contracting State to be the law applicable to the contract."<sup>23</sup>

Nevertheless, caselaw reveals that a simple statement as to which law applies to an international contract for the sale of goods will not necessarily result in the CISG being found to be inapplicable. For example, in *Ajax Tool Works, Inc. v. Can-Eng Manufacturing Ltd.*, 2003 WL 223187 (N.D. Ill. 2003), the plaintiff was an Illinois corporation, while the defendant was an Ontario corporation. The contract between the parties stated: "This agreement shall be governed by the laws of the Province of Ontario, Canada."<sup>24</sup> The court held that this statement did not exclude the CISG. Rather, the court held, "because the CISG is the law of Ontario, the CISG governs the parties' agreement."<sup>25</sup>

Similarly, in *Asante Technologies, Inc. v. PMC-Sierra, Inc.*, 164 F. Supp. 1142 (N.D. Cal. 2001), the plaintiff's purchase orders

provided that California law governed, while the defendant's terms of sale provided that British Columbia law governed.<sup>26</sup> The court held that both parties' choices of law provisions were "inadequate to effectuate an opt out of the CISG."<sup>27</sup> Nevertheless, the court went on to state that "selection of a particular choice of law, such as the California Commercial Code or the Uniform Commercial Code" could amount to an implied exclusion of the CISG.<sup>28</sup>

One commentator collected a variety of clauses recommended to be used to opt out of the CISG, as follows (selecting the law of Florida instead):

- This Contract shall be governed by and construed under the laws of [the] State of Florida not including the 1980 United Nations Convention on Contracts for the International Sale of Goods.

- Disclaimer of UN Convention on Sale of Goods. PURSUANT TO ARTICLE 6 OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, THE PARTIES AGREE THAT THE UN CONVENTION SHALL NOT APPLY TO THIS AGREEMENT.

- The validity and performance of this Agreement shall be governed by the internal law of the State of Florida without regard to its rules of conflicts of law. The parties exclude the application of the 1980 United Nations Convention on Contracts for the International Sale of Goods

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if otherwise applicable.

• In contrast, if the parties elect to have the convention apply in total, the parties should use a provision similar to the following: "The terms of this Contract shall be governed by and construed under the 1980 United Nations Convention on Contracts for the International Sale of Goods."<sup>29</sup>

### Conclusion

Practitioners and their clients would be well advised to carefully consider whether particular transactions might be governed by the CISG instead of the state law to which they are accustomed. Otherwise,

they may find the law applicable to the sale to be quite different from what they expected. ✍

*Brett W. Smith is Corporate Legal Counsel for RAHCO International, Inc., of Spokane, a custom manufacturer of heavy equipment for domestic and international sales.*

### NOTES

<sup>1</sup> See RCW 62A.2-201.

<sup>2</sup> See RCW 62A.2-207.

<sup>3</sup> U.S. Department of Commerce, International Trade Administration, Office of Trade and Economic Analysis, "State Merchandise Ex-

port Totals to the World, 1993-2000, Ranked by 2000 Export Value," located at [www.ita.doc.gov/td/industry/otea/state/merchandise/Worldtot2.txt](http://www.ita.doc.gov/td/industry/otea/state/merchandise/Worldtot2.txt).

<sup>4</sup> Secretariat of the United Nations Commission on International Trade Law, "Explanatory Note by the UNCITRAL Secretariat on the United Nations Convention on Contracts for the International Sale of Goods," paragraph 4 (June 1989), reprinted at the Pace Law School Institute of International Commercial Law website at [www.cisg.law.pace.edu/cisg/text/p23.html](http://www.cisg.law.pace.edu/cisg/text/p23.html).

<sup>5</sup> See the United Nations Commission on International Trade Law website at [www.uncitral.org/english/status/status-e.htm](http://www.uncitral.org/english/status/status-e.htm).

<sup>6</sup> These four countries are Canada, Mexico, China, and Germany. The one "top five" trading partner of the United States which has not adopted the CISG is Japan. See the U.S. Census Bureau website at [www.census.gov/foreign-trade/top/dst/current/balance.html](http://www.census.gov/foreign-trade/top/dst/current/balance.html).

<sup>7</sup> Kilian, Monica, "CISG and the Problem with Common Law Jurisdictions," 10 *Journal of Transnational Law & Policy* 217 (Spring 2001).

<sup>8</sup> "Explanatory Note," *supra*, paragraph 3.

<sup>9</sup> United Nations Convention on Contracts for the International Sale of Goods, Apr. 10, 1980, S. Treaty Doc. No. 98-9 (1983), art. 4, reprinted at [www.uncitral.org/en-index.htm](http://www.uncitral.org/en-index.htm).

<sup>10</sup> "Explanatory Note," *supra*, paragraph 11.

<sup>11</sup> Butler, Allison E., "Knowing When, Why, and How to 'Opt Out' of the United Nations Convention on Contracts for the International Sale of Goods," 76 *Florida Bar Journal* 24, 26 (May 2002).

<sup>12</sup> CISG, *supra*, art. 1.

<sup>13</sup> CISG, *supra*, art. 6.

<sup>14</sup> 328 F.3d at 530.

<sup>15</sup> *Id.* at 531 n.3.

<sup>16</sup> CISG, *supra*, art. 11.

<sup>17</sup> 328 F.3d at 531.

<sup>18</sup> CISG, *supra*, art. 29(1).

<sup>19</sup> *Id.* art. 19(3).

<sup>20</sup> 328 F.3d at 531.

<sup>21</sup> CISG, *supra*, art. 6.

<sup>22</sup> See heading of "Explanatory Note," *supra*.

<sup>23</sup> "Explanatory Note," *supra*, paragraph 12.

<sup>24</sup> 2003 WL 223187 at 1.

<sup>25</sup> *Id.* at 3.

<sup>26</sup> In this case, both the plaintiff and the defendant were Delaware corporations. The CISG was still found to be applicable, because the plaintiff's place of business was in California, while the defendant's place of business was in British Columbia.

<sup>27</sup> 164 F. Supp. at 1150.

<sup>28</sup> *Id.* (emphasis in original).

<sup>29</sup> Butler, *supra*, at 30.

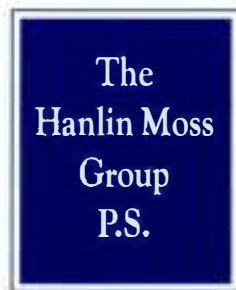
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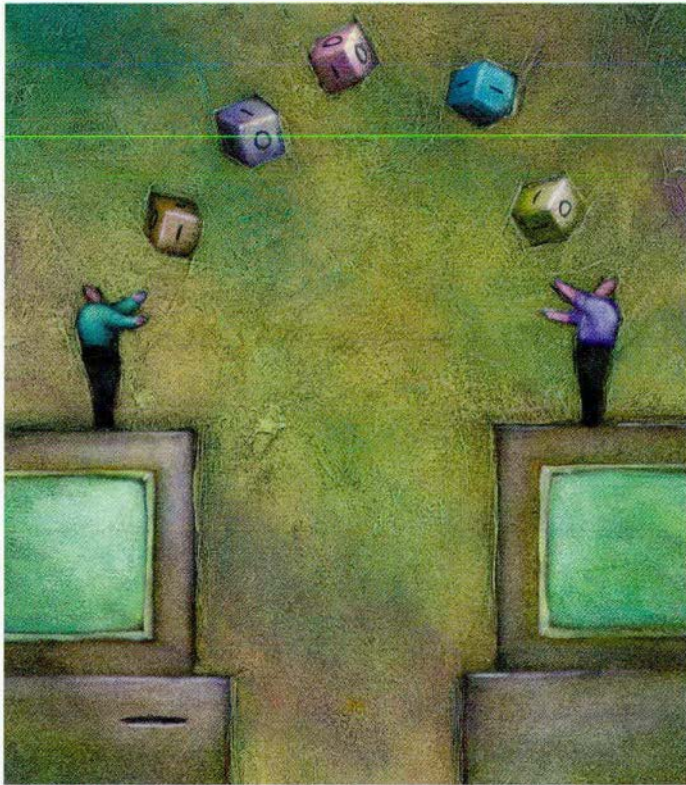
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# Bigger than E-filing: E-service

**E-service is the electronic exchange of litigation documents where the parties have agreed that the electronic exchange constitutes official service in the case.**



by Scott Wetzel

The September 2003 *Bar News* contained two noteworthy articles about electronic filing: “Justice at Web Speed” (p. 22, or see [www.wsba.org/media/publications/barnews/2003/sept-03-clarke.htm](http://www.wsba.org/media/publications/barnews/2003/sept-03-clarke.htm)), and “Plans for Electronic Filing in King County” (p. 26, or see [www.wsba.org/media/publications/barnews/2003/sept-03-sherfey.htm](http://www.wsba.org/media/publications/barnews/2003/sept-03-sherfey.htm)). Both articles rightly recognized the convenience, cost savings, and efficiencies that result from filing documents electronically with courts. But as the first article notes: “Although the ability to electronically file anytime and anywhere is useful and potentially saves money, lawyers often report that *the really attractive feature of e-filing is electronic service.*” (Emphasis added.) Let’s take a look at some of the benefits of electronic service; survey the vendors who provide electronic-service products; look at a few examples of firms who are already enjoying e-service; and learn how Washington law firms can enjoy the benefits of electronic service immediately.

## What does e-service cost?

The costs of using traditional (paper) service are not insignificant. The first chart shows traditional cost assumptions. The second chart shows an estimate of the cost of serving the parties by paper.<sup>1</sup> The third chart shows that the break-even point is a 10-page filing served upon three parties. Everything beyond that point is, as they say, money in the bank.<sup>2</sup> So, for example, e-serving 25 parties with a 100-page filing is a 97 percent savings over traditional service costs (\$12 vs. \$373.10).

### Traditional Cost Assumptions (in dollars except where noted)

Input pages	1	10	50	100	250	500
Paper cost	0.05	0.50	2.50	5.00	12.50	25.00
Envelope cost	0.01	0.01	0.01	0.03	0.06	0.10
Label cost	0.07	0.07	0.07	0.07	0.07	0.07
First-class postage	0.37	0.55	2.16	3.00	4.00	6.00
<b>Direct cost subtotal</b>	<b>0.50</b>	<b>1.13</b>	<b>4.74</b>	<b>8.10</b>	<b>16.63</b>	<b>31.17</b>
Labor (in minutes)	5	5	10	15	20	25
Labor cost (minutes x \$25/hr)	2.08	2.08	4.17	6.25	8.33	10.42
<b>Total cost</b>	<b>2.58</b>	<b>3.21</b>	<b>8.91</b>	<b>14.35</b>	<b>24.96</b>	<b>41.59</b>

### Paper Costs per No. of Parties Served (in dollars — copies to court included)

No. pages per filing

	1	10	50	100	250	500
No. parties						
1	5.16	6.42	17.82	28.70	49.92	83.18
2	7.74	9.63	26.73	43.05	74.88	124.77
3	10.32	12.84	35.64	57.40	99.84	166.36
4	12.90	16.05	44.55	71.75	124.80	207.95
5	15.48	19.26	53.46	86.10	149.76	249.54
10	28.38	35.31	98.01	157.85	274.56	457.49
25	67.08	83.46	231.66	<b>373.10</b>	648.96	1,081.34
40	105.78	131.61	365.31	588.35	1,023.36	1,705.19
50	131.58	163.71	454.41	731.85	1,272.96	2,121.09
100	260.58	324.21	899.91	1,449.35	2,520.96	4,200.59

### Dollars Saved — E-service (\$12) vs. Paper Filing (in dollars)

No. pages per filing

	1	10	50	100	250	500
No. parties						
1	(6.84)	(5.58)	5.82	16.70	37.92	71.18
2	(4.26)	(2.37)	14.73	31.05	62.88	112.77
3	(1.68)	.84	23.64	45.40	87.84	154.36
4	.90	4.05	32.55	59.75	112.80	195.95
5	3.48	7.26	41.46	74.10	137.76	237.54
10	16.38	23.31	86.01	145.85	262.56	445.49
25	55.08	71.46	249.66	<b>361.10</b>	636.96	1,069.34
40	93.78	119.61	353.31	576.35	1,011.36	1,693.19
50	119.58	151.71	442.41	719.85	1,260.96	2,109.09
100	248.58	312.21	887.91	1,437.35	2,508.96	4,188.59

### What is e-service?

Broadly stated, e-service is nothing more than the electronic exchange of litigation documents where the parties have agreed that the electronic exchange constitutes official service in the case. Typically, e-service is done via web-based software tools that build the

electronic case docket in real time. The court can be (but is not necessarily) involved. A stipulation between the parties stating that electronic service is official service is usually all that it takes to begin e-service in a case.

Newly adopted GR 30, which became effective on September 1, 2003,

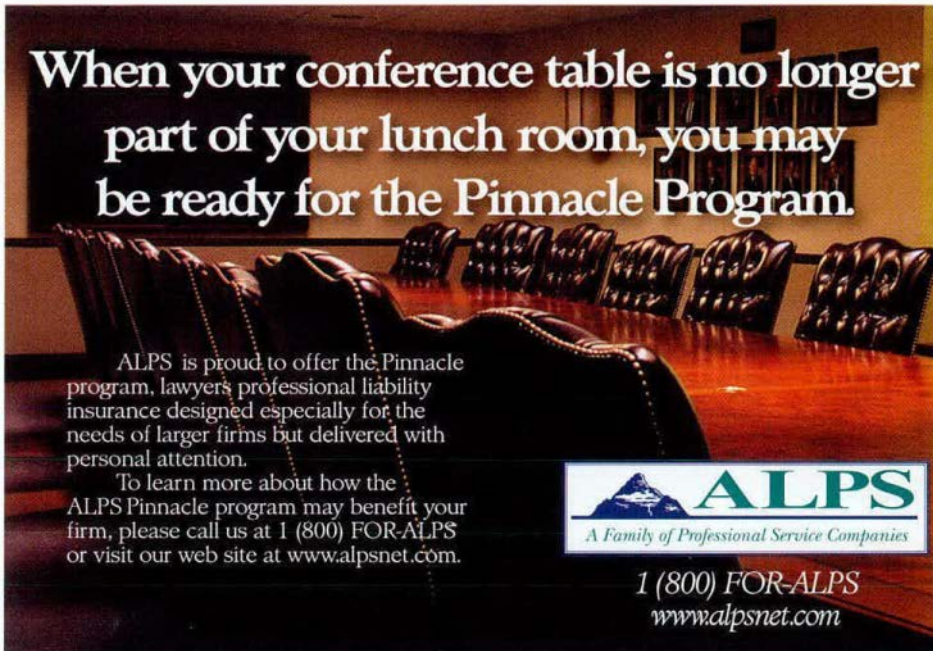
authorizes e-filing and e-service in Washington state. (See [www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=GR&ruleid=gagr30](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr30).) While GR 30 deals mostly with the details of electronic *filing*, it authorizes electronic *service* as well. See GR 30.2(d), which reads “*Electronic Service By Parties*. Parties may electronically serve documents on other parties of record only by agreement.”<sup>3</sup>

Why should Washington lawyers care about e-service?<sup>4</sup> First, visualize the workflow involved in serving litigation documents in the paper world, and then imagine doing the same process electronically over the web. Instead of printing pleadings, making copies, addressing and stuffing envelopes, suffering paper cuts, and licking envelopes, and then paying postage or courier fees, you serve documents on the parties by clicking a button and paying a transaction fee. The law firm’s original word processing documents are automatically converted to PDFs, uploaded to a secure document repository, and the parties are notified that service of documents has occurred.

### Why not e-mail for e-service?

Speaking of e-mail, why not simply use e-mail to effect online service? In basic e-service applications — for example, the federal court’s “CM/ECF” (case management/electronic case filing) system — notification of service arrives via e-mail. The more robust, commercial e-service applications allow the user to select whether the e-mail notification comes with a link to the document, with the document sent as an attachment, or by no e-mail notification at all (in which case you’d go into the application’s e-service “inbox”).


There are a number of advantages that e-service applications have over e-mail. First, they’re secure and web-based, rather than insecure, virus-prone, hacker-susceptible, and e-mail based. Beyond that, e-service applications are organized. Sure, you can set up e-mail “rules” so that mail from so-and-so gets stuck in such-and-such a folder, but this requires time, energy, and maintenance. Unlike e-mail, robust commercial e-service applications organize documents into an online case file — an



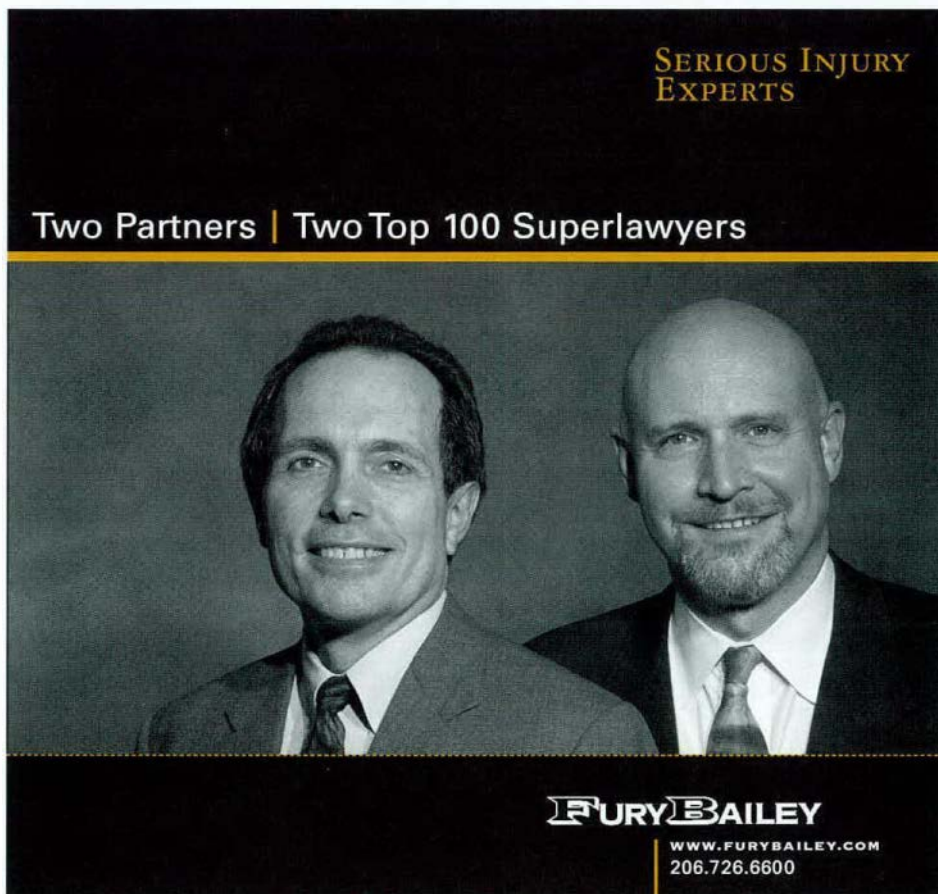
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electronic filing cabinet, if you will — that is sortable and searchable. E-service applications use a common file format (PDF), are available anytime and any place you have connectivity, come with built-in virus protection, and are not subject to document size limits (well, this doesn't include the federal CM/ECF system, which has a two-megabyte size limit, but that's another story). Yet another strength of e-service programs is that they come with built-in, no- or low-maintenance service lists, and the online case file or online "docket" is indexed to allow searching on lots and lots of different fields.

**What does e-service cost?**

The economic benefits of e-service are compelling. In federal court cases filed in jurisdictions that have adopted the CM/ECF system designed by the Administrative Office of the U.S. Courts in Washington, D.C., the litigants consent to electronic service and serve documents on the parties without any charge at all. (There is a \$.07 per-page fee to view documents after your one "free view.") Private e-service vendors, whose products are generally used in state courts, charge a flat transaction fee that allows a party to serve pleadings (with exhibits and attachments and no page limit) upon the parties.

The costs of using traditional (paper) service are not insignificant. (See the charts on page 29.) Eliminating the cost of copying, mailing, organizing, and storing paper documents makes inherent sense, even in small cases.

**The numbers don't lie**

In certain types of cases, e-service provides dramatic cost savings to firms. This is particularly true in complex litigation and mass-tort actions. According to Rob Haegele, a paralegal at Seattle's Hagens Berman: "We are frequently involved in litigation where the service list is as long as your arm. For example, we represent the plaintiffs in a drug-pricing action. It would cost us literally hundreds of thousands of dollars annually to serve the parties using traditional (paper) means. E-service allows us to serve all of the parties at a small fraction of that cost."

For many lawyers, it is the online document repository that is the single biggest virtue of e-service systems. When pleadings are served using any of the commercial e-service products, the online case docket is created in real time and acts like an electronic filing cabinet. Houston lawyer Ryan Beason, who acts as defense counsel for a number of silica defendants in silicosis litigation in the Lone Star State, says: "I enjoy having all of my case documents available to me wherever I have connectivity. Electronic service provides an extremely cost-effective method of get-

ting litigation documents to all of the parties, but what I like best is not being tied to the files in my office. I enjoy having anywhere-anytime access to a virtual filing cabinet that contains all of the documents filed in my complex litigation cases."

**Mass torts = mass service lists = mass adoption**

It has been mass-tort litigation that has driven the early adoption of e-service products. For example, in Middlesex County, New Jersey's mass-tort capital, diet pills, tobacco, breast implants, HIV-



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infected blood, fire-retardant-treated plywood, asbestos, latex, the diabetes drug Rezulin, and the cold-medicine and diet-pill additive phenylpropranolamine have all been designated mass torts and transferred to Judge Marina Corodemus. In some of these actions, a small Pennsylvania e-service company called Verilaw provides electronic service. Verilaw's product "vServe" was among the earliest e-service applications developed. vServe is generally well regarded and competitive in the marketplace.

The big players in the industry are paying attention. Also among the early

developers of an e-service product is the Bellevue, Washington-based e-filing business unit of LexisNexis. LexisNexis, of course, is well known as a leading provider of online legal and business research. The company's e-filing and e-service product, "LexisNexis File & Serve," is believed to be the most widely used commercial e-filing product in the business. At last report, File & Serve was used by more than 27,000 registered users in 5,200 firms with approximately 236,000 cases online in around 140 courts in nine states and the District of Columbia.

File & Serve has shown that it is not only complex litigation and mass-tort actions that benefit from electronic service. In Colorado, Delaware, and Texas, File & Serve has been implemented statewide in virtually every type of case class, from adoption cases to probate matters. Colorado law firms have this to say:

"Can you believe that six months ago we did this on paper?" — legal secretary at White & Steele

"I can't believe how much I can get done during the day now that I don't stand in line for the copy machine." — Karline Van Pelt, paralegal at Denver's Rothgerber Johnson & Lyons

"The fee agreements with my clients specify what they will or will not pay for. Copies are often considered an overhead expense or are chargeable to the client at a flat fee per page. LNFS saves the attorneys and/or the clients a great deal of copy expense." — Clayton Russell, attorney at Denver's Wood Ris & Hames

"It's so great that the other side can't 'claim' to have not been served, or my attorney can't accuse me of missing a service recipient. I have instant proof that I did what I was supposed to do." — Anonymous paralegal

#### "Civil" litigation? Unheard of!

One of the strange side effects of e-service is that civil litigation becomes more, well, civil. E-service increases control and reduces uncertainty over the service of litigation documents. Practitioners have noticed that with the immediate delivery and immediate proof of delivery, there are fewer discovery squabbles to the tune of "I wasn't served!" and fewer phone calls regarding "Did you send?" and "Did you receive?" (Judges have never enjoyed these type of discovery disputes, either.) Lawyers also remark that since there is less of a rush to finish documents to fit the constraints of the paper world (think copying, stuffing, addressing, and postal and courier schedules again), they have more time to prepare documents. This makes for a higher-quality work product and increased control over the service process.

#### What's it going to take for me to get going?

The hardware requirements of e-service applications are fairly minimal. A firm



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needs a computer, web connection, and scanner to digitize documents and exhibits that were not created electronically. Depending on the e-service system you use, you may need software that converts your word-processing documents to the PDF format (most of the mainstream e-service systems automatically convert word-processing documents to PDFs, the only exception being the federal CM/ECF system).

If your firm is involved in litigation of any size, you may want to consider e-service of litigation documents. Look for one case that could be a pilot for your firm, and assign an attorney in your firm to take the lead on investigating online service options. Pick a case with reasonable attorneys (under GR 30, you must agree to e-service). The point is that litigants need not wait for courts to slowly adopt e-filing and e-service tools on a one-by-one, patchwork basis; the technology is here now.

I believe the increased control and reduced uncertainty that e-service delivers — not to mention the convenience, cost savings, and efficiency of having all of a case's litigation documents at your fingers — will in coming years be a tool about which we will ask "How did we ever get along without it?"

*Scott Wetzel practiced law in Seattle from 1983 to 1988 and founded CD Law, Inc., a Seattle-based online legal publishing company, in 1989. He is now the director of new business development in the Bellevue offices of LexisNexis CourtLink. His current focus is on e-service projects.*

For more information about the products discussed, see [www.verilaw.com](http://www.verilaw.com), [www.lexisnexis.com/fileandserve](http://www.lexisnexis.com/fileandserve), and <http://pacer.uscourts.gov/cmecf/>; or e-mail Scott Wetzel at [scott.wetzel@lexisnexis.com](mailto:scott.wetzel@lexisnexis.com).

**NOTES**

<sup>1</sup> The first two charts estimate that it costs \$5.16 to serve one party, \$6.42 to serve 10 parties, \$17.82 to serve 50 parties, etc. The costs of paper, envelopes, labels, first-class postage, labor at \$25/ hour, and serving the court with one copy are included.

<sup>2</sup> The third chart assumes a flat rate of \$12 per transaction for e-service. For this flat fee, a litigant can serve all of the other par-

ties, regardless of the page length of the document, the number of firms served, or the number of recipients within each firm. <sup>3</sup> Interestingly, the rule as proposed reads: "Parties may electronically serve documents on other parties of record only by agreement or order of the court." According to a representative of the Judicial Information System Committee ([http://www.courts.wa.gov/committee?fa=committee.home&committee\\_id=74](http://www.courts.wa.gov/committee?fa=committee.home&committee_id=74)), which promulgated the rule, the deletion of "or order of the court" was made at the insistence of some attorney groups who were uncomfort-

able with the possibility of the court's ordering them to electronically serve other parties when both parties weren't in agreement.

<sup>4</sup> We should be careful to distinguish between original service under CR 4 — the act that commences an action and establishes jurisdiction over a defendant — and service of all subsequent pleadings under CR 5. To my knowledge, no jurisdiction has yet authorized electronic original service of process. Electronic service of pleadings under CR 5 and its counterparts is becoming commonplace in some parts of the country.

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# Bar News Survey — The Results Are In!

**Bar News reader survey shows members mostly like their magazine, and have plenty of ideas for improving it.**

by Lindsay Thompson

**A** year and a half ago the Board of Governors (BOG) created a committee to look into *Bar News's* continued relevance to readers in a new century. In particular, they told the group to consider (1) whether the editor should be an independent lawyer or a WSBA employee; (2) whether the magazine should be published less often; and (3) whether it should become a more or mostly Internet-based publication.

The committee's members were WSBA President David Savage, who acted as chair; WSBA Governors Rob Boggs, Joni Kerr, and Fawn Sharp; Washington Young Lawyers Division Representative Paul Richmond; WSBA Executive Director Jan Michels; WSBA Deputy Director Paula Littlewood; WSBA Director of Member and Community Relations Judy Berrett; and yours truly. The committee members worked hard and met frequently.

## The editor's role

The first thing they had to decide was whether the editor should be an independent contractor or a WSBA employee. While a dozen practicing lawyers have edited *Bar News* since 1947, the WSBA is in a tiny minority of state bar associations doing it that way. Far more common is having a staff person, usually with a journalism background, edit the magazine. While the committee considered the matter in 2003, I served as interim editor on a temporary basis.

In the end the committee felt the current system works well, and recommended it be retained. The Editorial Advisory Board and BOG agreed, and I was hired as editor in September 2003.

## The survey

To help them consider their other charges, the committee members took an innovative step: it asked *Bar News* readers what they think about the magazine. They asked the BOG to fund the hiring of GMA Research in Bellevue to develop a telephone survey of enough WSBA members to get an accurate sense of what you think about the magazine, what you like and don't like, and what you'd like to see different. The survey was

also designed to develop demographic and other information to help sell the advertising that supports all of the magazine's direct costs.

Several hundred WSBA members took 10 to 15 minutes in November and December to answer the survey's questions. More filled out and mailed in the version we ran in *Bar News*. Every answer was read and the results compiled.

## The results

Here's what you told us:

Seventy-four percent of WSBA members read *Bar News* always or usually. You read *Bar News* more than any other legal publication, including *ABA Journal* (28 percent); *Washington Law & Politics* (15 percent); *King County Bar Bulletin* (nine percent); WSTLA's *Trial News* (eight percent); and the *Oregon State Bar Bulletin* (six percent). A third of respondents rely on *Bar News* alone for legal news.

A majority of you gave *Bar News* a "good" rating — 3.4 on a scale of 1 to 5. You rated the magazine 3.6 for appearance/design; 3.5 for readability; 3.2 for overall content; 3.0 for interest, and 2.9 for usefulness.

You said you like the disciplinary notices the best of *Bar News* sections (3.8), followed by feature articles (3.5), "Around the State" (3.2), "FYI" (3.1), and letters and the editor's page (3.0 each).

Besides what you like, the survey also asked what you'd like to see that's not there. Among the ideas you mentioned is more coverage of new developments in the law (4.0); ethics coverage (3.8); substantive areas of law and practice tips (3.7); local news (3.3); profiles of WSBA members and technology coverage (3.2 each); and access to justice matters (3.0).

Fifty-seven percent of readers surveyed like the magazine in its current format; 77 percent think monthly publication works best. Forty-eight percent of you think *Bar News* should come out on paper still, but with expanded content on the Internet. Seventy-eight percent of you consider the magazine to be as good as or better than other legal

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publications you read.

Many readers took extra time to provide individual comments as well as answering the survey questions. A number thanked the committee for asking what members thought, for a change. Others expressed some sympathy for the task of trying to satisfy a readership as diverse as the WSBA's.

Others offered more specific ideas.

Some members think disciplinary notices are too long, others think they aren't long enough. The committee bounced around the idea of running a short abstract of the notices in the magazine, with a longer text on the *Bar News* website. One advantage of doing that is that it may free the time of a WSBA staff member to do other things; the downside is that not everyone uses the Internet, and only about a third of you look at *Bar News* on the Internet as is. We'd like to know more of what you think about this: please e-mail me at [tradelaw@thompson-law.com](mailto:tradelaw@thompson-law.com).

You also said you'd like to see more practice checklists, practice-oriented articles, historical pieces, more on legal ethics, shorter letters to the editor and shorter substantive articles, and more about government lawyers and in-house counsel.

#### **We need your help**

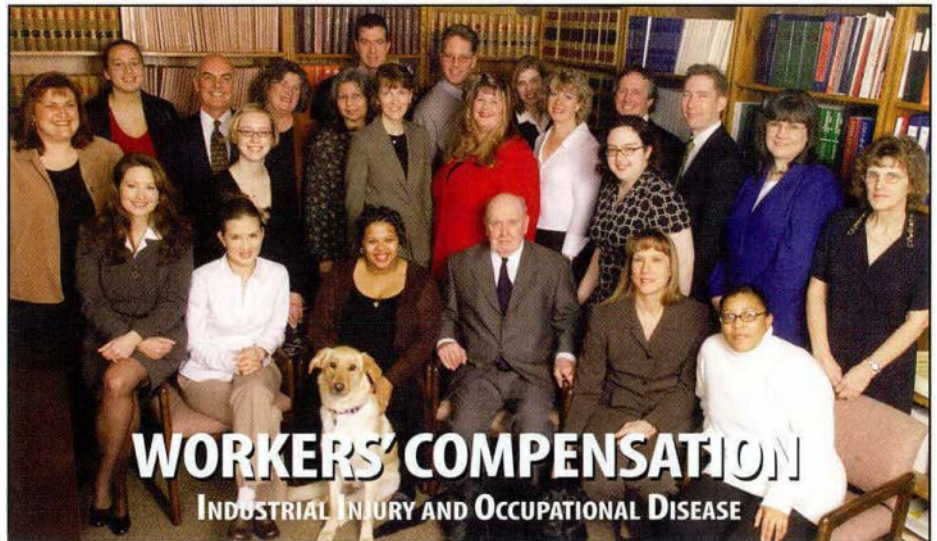
Some of these things we are already working on; in those cases it's nice to know we're on the right track. Others we need help on. Because *Bar News* depends on readers for articles, if you believe an area or point of view is not appearing enough, contact me about getting something in the magazine.

Meeting in January, the *Bar News* Review Committee voted to make a final report to the BOG in February and disband. The survey results were given to the Editorial Advisory Board, with whom I will work to act on more of them in the coming year.

And keep in mind you can give us your opinion anytime: just write or call. We listen to them all with gratitude.

---

*Lindsay Thompson is the editor of Bar News. For some other readers' comments, see page 64.*



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# Volunteering for Service in Iraq

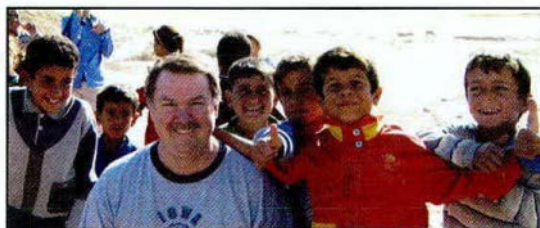
Editor's note: *WSBA members have a long and distinguished history of international service and activism. When Anthony Weeks offered us an account of his service on reconstruction projects in Iraq, we felt his story gave a different, hands-on account the national media doesn't always provide.*

by D. Anthony Weeks

I recently returned from successfully completing a 120-day tour in support of the 4th Infantry Division (ID) operating out of one of Saddam's major palace complexes, renamed Camp Iron Horse, located in the City of Tikrit, Iraq. Our area of responsibility included the Iraqi provinces of Salah Ad Din, At Tamim, and Diyala — an area otherwise known as the Sunni Triangle. I was responsible for managing the activities of six Iraqi engineers to ensure the adequate and accurate preparation of civil works engineering assessments. My office was located with the 4th ID Engineer on Camp Iron Horse, while the Iraqi engineers were provided an office adjacent to the Civil and Military Information Center (CMIC) in downtown Tikrit. Assignments, briefings, site visits, staffing, and logistics were managed accordingly. Although I did travel throughout northern Iraq, I normally accompanied the Iraqi engineers on site visits only when U.S. Military escorts were available. Those of you who have decided to volunteer for service or are considering volunteering for service in southwest Asia may find the following observations to be of value.

1. By far the most important thing you can do to prepare for your tour is to honestly identify and understand why you have elected to volunteer. About half the people I met told me that they did it for the money and about half told me they wanted the experience. If you are going for either of those purposes you will not be disappointed. You will be reasonably well paid and you will have the experience

of a lifetime. Regardless of why you volunteered, at some point in time during your tour you will ask yourself, "What am I doing here?" Knowing and focusing on the answer will help you survive the tough times. If you can't answer that question honestly before you leave, you will prob-



ably find it difficult to answer it once you arrive. The experience, at least initially, is overwhelming. Therefore, I strongly recommend that you understand why you volunteered and be prepared to defend your decision. Uttering the words "I didn't expect it would be like this" will not be well received.

2. You must be willing and prepared to accept responsibility for your own well-being. You will be living in a strange and hostile environment. Take care of yourself and cope with your needs, both emotional and physical. There are no "tour managers" whose responsibility it is to make sure you are having an enjoyable time. That said, I never met more people willing to help each other and sacrifice for another's comfort than I met while serving with the 4th ID. Perhaps it is because everyone wants to be on his or her best behavior, just in case. Nevertheless, everyday acts of kindness and compassion are a common occurrence and common vir-

tue. It is a humbling experience. Thus, be prepared to meet or exceed the following standard of performance: "Complete your assigned tasks in sufficient time to assist others in completing theirs." That standard was not only routinely met, but often exceeded. The quality of the people you will meet, both Iraqi and American, is truly exceptional.

3. Do your job as well as you are capable. If you fail to perform, the mosaic created by our collective efforts will suffer and could fail. If you have been selected for deployment, you are considered a talented employee, capable of accomplishing your job in a professional manner in a hostile environment with little or no supervision, management, or review.

Keep that in mind and stay focused on your job. At the same time, understand that your co-workers were also selected because of their observed talents under similar criteria. Recognize that there are usually several ways to approach and solve problems, and refrain from criticizing the approaches taken by others. Keep an open mind, accept the judgments of others (within reason), and be willing to act collectively.

4. With spring, summer, and fall temperatures well in excess of 100 degrees, mere movement from one locale to another while wearing and

carrying heavy equipment (including your luggage) can be very physically demanding. The work environment too is demanding and requires mental alertness, if for no other reason than your own safety. Ultimately, it is a matter of strength and stamina. To give you an idea of what to expect, pack your bags for a four-month trip and carry them around the block without letting any of your bags



(From top to bottom) Weeks with Iraqi schoolchildren, with Iraqi engineers, and out in the field.

out of your sight. Do it again, only add a sea bag full of military-issued items. You have just experienced moving to an aircraft for departure and from that aircraft upon arrival. Remember, there are no baggage handlers or conveyor belts, and you may or may not be offered a ride out to your aircraft. So do yourself a favor and start getting in physical shape before you leave — or pack very light.

5. Upon arrival at your duty station, you may find yourself living in a luxury hotel with a private bath or sleeping on a cot in a room with 20 to 50 people. There may or may not be indoor bathroom facilities, and they could be co-ed. You may occasionally have to sleep on the floor or even on the ground under a canvas shelter-half. You may dine exclusively on MREs and water, or you may have access to quality restaurants. Regardless of your living and dining accommodations, keep one thing in mind — the quality of the life-support facilities has nothing to do with your job, title, grade, or years of service. When it comes to life-support facilities, one size does in fact fit all. Be prepared to become one with the world. Some of you may find this a humbling experience. Realize that everyone you meet, like you, is aware and has accepted that he or she may be called upon to make the ultimate sacrifice. You will find solace in sharing bread with them.

6. The experience will likely change your outlook on life. Upon your return, you may appear standoffish and unapproachable. Try to explain to friends, family, and co-workers that you are processing a lot of information. Not only are you trying to fit what you have just experienced into a wholly different environment; you will be playing catch-up with past relationships. It can become very frustrating. At times you may become angry when you observe those who did not volunteer demand that you immediately address and maintain their comfort levels. I suggest that you isolate yourself as much as possible, confide in someone you trust, and generally try to sort things out. I have no idea how long this portion of the experience lasts, as I am still working through it myself. I have had to realize that others have made sacrifices resulting from my deployment and

are seeking relief from those added responsibilities. You will be torn between deploying again (escape) and trying to cope with everyone's demands. I try to think of these demands as part of my deployment sacrifices and consider the reasons I initially volunteered.

I have come full circle. All things considered, I found the experience very worthwhile, and I am certain that it will contribute to further growth. I learned a great deal about others and myself, and have a new appreciation for the complex-

ity of our times. I made what I believe will be lifelong friends and look forward to someday reuniting with them, as unlikely as that may be. It is a bittersweet experience. Please feel free to call me at 509-527-7708 or e-mail me at david.a.weeks@usace.army.mil if you would like to discuss any specifics.

Best of luck — stay safe — enjoy! ✍

*D. Anthony Weeks is an attorney with the U.S. Army Corps of Engineers in Walla Walla.*

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## Opportunities for Service

### WSBA Presidential Search

*Deadline: May 15, 2004*

The WSBA Board of Governors is seeking applicants for the position of WSBA president for 2005-2006. Pursuant to Article IV(A)(2) of the WSBA Bylaws, the primary place of business of candidates for president for 2005-2006 must be Western Washington, outside King County. The WSBA member selected to be president will have an opportunity to provide a significant contribution to the legal profession.

Applications for 2005-2006 WSBA president will be accepted through May 15, 2004, and should be limited to a current résumé, a concise application letter stating interest and qualifications, and no fewer than five nor more than 10 references. The Presidential Search Committee and the Board of Governors will consider endorsement letters received by May 30, 2004. Applications and endorsement letters should be sent to the WSBA Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

Confidential interviews with the Presidential Search Committee will be conducted May 17-31, 2004, at the WSBA office. Direct contact with the governors is also encouraged. All candidates will have an interview with the full Board of Governors in open session at the June meeting. Following the interviews, the Board will select the president.

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

The commitment begins in June 2004 following selection. A one-year term as president-elect will begin at the Annual Business Meeting in September 2004. The president-elect is expected to attend the two-day board meetings held approximately every six weeks, as well as numerous subcommittee, section, regional, national, and local meetings. In September 2005, at the WSBA Annual Business Meeting, the president-elect will assume the position of president. During their service, the president-elect and president will also be required to meet with members of the Bar, the courts, the media, and public and legal interest groups, as well as be involved in the Bar's legislative activities. Appropriate time will need to be devoted to communication by letter, e-mail, and telephone in connection with these responsibilities.

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

*Presidential Search Committee:* Robert Boggs, chair; David Savage, WSBA president; Andrea Brenneke; Bryce Dille; Randolph Gordon; Fawn Sharp.

### Board for Court Education

*Deadline: May 21, 2004*

The WSBA Board of Governors will be nominating one WSBA member who will be appointed by the Supreme Court to serve a three-year term on the Board for Court Education. The three-year term will commence July 1, 2004 and continue through June 30, 2007. A written expression of interest and a résumé are also required in the event that the incumbent elects to seek reappointment.

The Board for Court Education was established by Supreme Court order, and is charged to identify the educational needs of trial-court judges and court personnel, to coordinate educational programs and services, and to recommend programs and budget to meet the educational needs of the Washington judiciary. It is a 15-member board that meets four times a year. For additional information, visit [www.courts.wa.gov/programs\\_orgs/pos\\_bce](http://www.courts.wa.gov/programs_orgs/pos_bce).

Please submit a letter of interest and résumé to WSBA Bar Leaders Division, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; or [barleaders@wsba.org](mailto:barleaders@wsba.org).

### Commission on Judicial Conduct

*Deadline: April 23, 2004*

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a four-year term on the Commission on Judicial Conduct. Two positions are available: one as a member and one as an alternate. A written expression of interest and a résumé are also required in the event that the incumbents elect to seek reappointment.

The goal of the commission is to maintain confidence and integrity in the judicial system by seeking to preserve both judicial independence and public accountability. The public interest requires a fair and reasonable process to address judicial misconduct or disability, separate from the judicial appeals system that allows individual litigants to appeal legal errors. The commission reviews new complaints, discusses the progress of investigations, and takes action to resolve complaints. The commission consists of 11 members who serve four-year terms — six nonlawyer citizens, three judges, and two lawyers. The lawyers must be admitted to the practice of law in Washington and are selected by the WSBA. The four-year terms will commence June 16, 2004. Please submit a letter of interest and résumé to WSBA Bar Leaders Division, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; or [barleaders@wsba.org](mailto:barleaders@wsba.org).

### Washington Pattern Jury Instruction Committee

*Deadline: May 21, 2004*

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving a four-year term on the Washington Pattern Jury Instruction

Committee. There is one position available. The four-year term will commence July 16, 2004. A written expression of interest and résumé are also required in the event that the incumbent elects to seek reappointment.

Committee members review, discuss, and vote upon instructions in the civil or criminal area as drafted by subcommittees or staff. The committee meets monthly in Seattle on Saturday for three to four hours (except July and August), and requires a considerable time commitment. It is a large committee with more than 30 members, composed of judges and lawyers, including two WSBA representatives.

Please submit a letter of interest and résumé to WSBA Bar Leaders Division, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; or [barleaders@wsba.org](mailto:barleaders@wsba.org).

### WYLD President-Elect 2004-2005 Elections

*Deadline: June 1, 2004*

Young lawyers interested in serving as president-elect of the WYLD are invited to submit a statement of eligibility and qualifications for this position. The president-elect automatically succeeds to the position of the WYLD president upon completion of a one-year term commencing October 1, 2004. The president-elect shall be selected by a majority of the WYLD Board of Trustees from among those persons who are selected by the Nominating Committee or who file for office. The election of president-elect shall be conducted at the last regular meeting of the Board prior to the WSBA annual meeting.

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

Any active member of the WSBA is also a member of the WYLD until the 31st day of December of the year in which he or she turns 36 or until the 31st day of December of the fifth year in which he or she has been admitted to practice, whichever is later.

*To Apply.* Individuals intending to stand for election must send the following: (1) a cover letter describing yourself, your practice, and why you feel you are a strong candidate for the position; (2) no fewer than three but no more than five letters of recommendation from attorneys in your district; and (3) a current résumé.

Send application materials to Lisa Harper, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; [lisak@wsba.org](mailto:lisak@wsba.org); fax: 206-727-8319.

### WYLD Trustee Elections

*Deadline: June 1, 2004*

Young lawyers interested in serving on the WYLD Board of Trustees are invited to submit a statement of eligibility and

qualifications for the following Trustee District positions:

- *King District* — representing King County
- *Southwest District* — representing Clark, Cowlitz, Pacific, Skamania, and Wahkiakum Counties
- *Snohomish District* — representing Snohomish County
- *Greater Spokane District* — representing Lincoln, Pend Oreille, Spokane, and Stevens Counties

*Eligibility.* To be eligible for one of these positions, a candidate must reside or have his or her principal place of business in the district he or she wishes to represent and must be a member of the WYLD for at least the first two full years of the position. Elected trustees will serve a three-year term commencing October 1, 2004.

Any active member of the WSBA is also a member of the WYLD until the 31st day of December of the year in which he or she turns 36 or until the 31st day of December of the fifth year in which he or she has been admitted to practice, whichever is later.

*To Apply.* Individuals intending to stand for election must send the following: (1) a cover letter describing yourself, your practice, and why you feel you are a strong candidate for the position; (2) no fewer than three but no more than five letters of recommendation from attorneys in your district; and (3) a current résumé.

Send application materials to Lisa Harper, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; [lisak@wsba.org](mailto:lisak@wsba.org); fax: 206-727-8319.

### 2004 Board of Governors Election, and Candidates' Biographical Statements

On April 15, ballots will be mailed to all active WSBA members eligible to vote for the 4th or 7th-Central District governor. Returned ballots must be postmarked by May 15 in order to be counted. Board of Governors nomination forms for the 2nd, 4th, 7th-Central, and 9th Congressional Districts have been received from Eron M. Berg (2nd District), unopposed; Terry P. Abeyta, Elizabeth F. Baker, Stanley A. Bastian, George Fearing, and Gerald J. Moberg (4th District); Lonnie Davis and Thomas W. Hayton (7th-Central District); and James E. Baker (9th District), unopposed. The governors-elect and candidates have provided the following biographical statements:

#### *2nd District*

**Eron M. Berg**, governor-elect/2nd District, states: I am running for this position to advocate for our profession and to fight for improvements to Washington's legal system. We have faced more and more challenges, some including issues with public debates in which the very honor of our profession is at stake. My experience in public office, in-

cluding as a mayor, will allow me to better face these challenges. I will focus on the needs of the attorneys I represent, as well as our shared goal of a stronger, better funded, professional system of justice. I would be honored to represent you, and I ask for your vote.

#### **4th District**

**Terry P. Abeyta**, candidate/4th District, states: I was born and reared in Yakima. I graduated *summa cum laude* and *Phi Beta Kappa* from Whitman College in 1973. I graduated in the top 15 percent of my class from the University of Washington School of Law in 1976. I practiced law for two years in Kirkland prior to returning to Yakima in 1978. I had a general practice before limiting my practice to personal injury. I am a past president of the Yakima County Bar Association and have held several officer positions for the Washington State Trial Lawyers Association. I have contributed to several WSBA and WSTLA deskbooks.

**Elizabeth F. Baker**, candidate/4th District, states: I was raised on a farm in Winlock, Washington. I am 36 years old and the mother of three children. I attended Pacific Lutheran University and then Gonzaga University, graduating in 1987 with a Bachelor of Arts. I graduated from the (then known) University of Puget Sound School of Law in 1993. I have worked for the courts, large firms, and sole practitioners on both sides of the mountains in Washington. I have learned invaluable lessons from the bar and my clients, and hope to bring those experiences to this position for the benefit of this congressional district.

**Stanley A. Bastian**, candidate/4th District, states: My 20-year legal career includes a variety of different jobs, and this will provide a unique perspective for service on the Board. I have practiced law in both western and eastern Washington, and my career has included both government service and private practice. I have worked as a law clerk for the state court of appeals, a public defender for the City of Renton, and a prosecutor for the City of Seattle. Most of my career has been as a partner at Jeffers, Danielson, Sonn & Aylward, and my practice is now focused on civil litigation.

**George Fearing**, candidate/4th District, states: I am a 1982 graduate of the University of Washington School of Law. The focus of my practice is civil litigation. I have handled, for institutions, municipalities, and individuals, a variety of civil cases, including civil rights, employment, real estate, personal injury, medical malpractice, and business suits. I previously served on the WSBA Disciplinary Board. From sitting on this board, I have mixed emotions about how the bar association treats eastern Washington. I wish to advocate, as a governor, the interests of eastern and central Washington. Advocating those interests includes presenting the needs and desires of small and midsize firms.

**Gerald (Jerry) J. Moberg**, candidate/4th District, states: I attended and received my J.D. from Gonzaga in 1973. From 1973 through 1988 I practiced with a small firm and a midsize firm, handling litigation which included civil and criminal cases. My caseload included the representation of both plaintiffs and defendants. From 1989 through 1992, I served as a Grant County Superior Court judge. In 1992, I joined the trial department of a large firm in Spokane, and in 1997 I started my own practice. Since 2000, I have primarily represented cities, counties and school districts in litigation claims. I understand the issues affecting sole practitioners, midsize to large firms, plaintiff attorneys, defense attorneys, and municipal lawyers.

#### **7th-Central District**

**Lonnie Davis**, candidate/7th-Central District, states: I work for the Disabilities Law Project providing representation on civil rights issues. I am a technical advisor to the Washington Supreme Court's Minority and Justice Commission, and an associate member of the Governor's Committee on Disability Issues and Employment. I served on the WSBA Civil Rights, Access to Justice Technology Bill of Rights, Conference Planning, and Impediments Committees. Previous community activities include membership on the Board of Directors of the Seattle Community Services Center for the Deaf and Hard of Hearing, United Cerebral Palsy of King County, VSAW (an organization of artists with disabilities), and consultant to the Washington Coalition of Sexual Assault Programs.

**Thomas W. Hayton**, candidate/Seventh-Central District, states: I have practiced for 30 years in public and private civil litigation, and currently am a shareholder in Cutler Nylander & Hayton, a small firm which concentrates on trade practice and intellectual property. I have met some success in these enterprises, and have concluded that civility and humor are necessary ingredients. My involvement in formal WSBA business is three (eye-opening) years on the Disciplinary Board. I believe that the things I have found useful in the practice of law should also be helpful in Board business. I confess to impatience with meetings, but hope that someone interested in their efficiency would help.

#### **Ninth District**

**James E. Baker**, governor-elect/9th District, states: I have been active in the WSBA since early 1980, when I served on the Board of Trustees of the Young Lawyers Division. I have served on numerous boards and committees of the WSBA. I am a 1979 graduate of Gonzaga Law School. Since 1986, I have represented injured persons at my current law firm (Miracle, Pruzan, Pruzan & Baker). I have lived in Burien for more than 10 years. My other bar memberships include the King County Bar Association, the South King County Bar Association, and the Federal Bar Association (W.D. Wash.).

## 2004 WSBA Award Nominations Sought

Each year, members of the WSBA are asked to identify those members of our profession and the public who deserve the legal profession's recognition and thanks.

### Nominations are sought for the following awards:

**Award of Merit.** First given in 1957, this is the WSBA's highest honor. The Award of Merit is most often given for long-term service to the Bar and/or the public, although it has also been presented in recognition of a single, extraordinary contribution or project. It is awarded to individuals only — both lawyers and nonlawyers.

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

**Angelo Petrus Award for Lawyers in Public Service.** Named in honor of the late Angelo R. Petrus, a senior assistant attorney general who passed away during his term of service on the WSBA Board of Governors, this award is given to a lawyer in government service who has made a significant contribution to the legal profession, the justice system, and the public.

**Outstanding Judge Award.** This award is presented for outstanding service to the bench and for special contribution to the legal profession at any level of the court.

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

**Courageous Award.** This award is presented to a lawyer who has displayed exceptional courage in the face of adversity, thus bringing credit to the legal profession.

**Excellence in Diversity Award.** This award is made to a lawyer, law firm, or law-related group that has made a significant contribution to diversity in employing ethnic minorities, women, and disabled persons.

**Outstanding Elected Official Award.** This award is presented to an elected official for outstanding service, with special contributions to the legal profession. It is awarded to an individual who has demonstrated a commitment to justice beyond the usual call of duty.

**Excellence in Legal Journalism Award.** This award recognizes that describing the context, facts, and players involved in the legal system with fairness and sensitivity requires intelligence, knowledge, dedication, and skill. This award is given to the journalist and his or her organization that has set the standard for relevance, clarity, accuracy, and understanding in reporting.

*Award presentations:* It is important to note that presentation of any WSBA award is made only when there is a truly deserving recipient. Some years, no award is given in some categories.

*Nomination submissions:* If you know of someone who fits the criteria set forth above, please visit [www.wsba.org/barleadershomepage.htm](http://www.wsba.org/barleadershomepage.htm), and complete and submit the nomination form. Self-nominations will not be accepted. *Please note that the completed nomination form must accompany each nomination to be considered.*

The deadline for *Pro Bono* Award nominations is April 16, 2004. The deadline for all other nominations is April 30, 2004.

Please send nominations to WSBA, Attn: Annual Awards, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; fax: 206-727-8319; e-mail: [oed@wsba.org](mailto:oed@wsba.org)

The awards will be presented at the WSBA Annual Awards Dinner in Seattle September 16, 2004, with the following exceptions: The *Pro Bono* Award will be presented at the Access to Justice Conference in Yakima on June 12, and the Outstanding Judge Award will be presented at the Washington Judicial Conference in September.

## Notice of Deadline for Filing WSBA Resolutions

Pursuant to WSBA Bylaw Article VII, Section F — Resolutions, any 10 active members of the Washington State Bar Association may present a written resolution to the Board of Governors for consideration at the WSBA's annual business meeting. This year's meeting will be September 16, 2004, beginning at 6 p.m. at the Seattle Marriott Waterfront Hotel, 2100 Alaskan Way, Seattle. Resolutions must be filed with the WSBA executive director at least 90 days before the annual meeting (by 5 p.m. June 17, 2004), and must be accompanied by a written report explaining the resolution. The resolution and explanatory report together must not exceed a total of 1,000 words. Send resolutions to WSBA Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

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

Not more than 11 nor fewer than seven days before the annual meeting, the Resolutions Committee will hold a public hearing at the WSBA office (2101 Fourth Ave., Ste. 400, Seattle) to consider the views of proponents and opponents of resolutions. Proponents and opponents may attend the hearing in person or present their views in written form for consideration by the committee. Proposed resolutions will be published in the August 2004 issue of *Bar News*, along with the date of the Resolutions Committee meeting and a list of committee members.

For further information, contact WSBA General Counsel Robert D. Welden at [bobw@wsba.org](mailto:bobw@wsba.org) or 206-727-8232.

## Interest in Establishment of New State and Local Tax Section

This notice is posted pursuant to the WSBA Bylaws, Article IX, "Sections," regarding a six-month prior notification of intent to establish a new section. There is a current

effort to form a State & Local Tax Section. For additional information, please contact John T. Piper at 206-224-8045.

### Seattle's Union Gospel Mission Legal Services Volunteer Appreciation Celebration

Seattle's Union Gospel Mission Legal Services (UGMLS) will be hosting its first Volunteer Appreciation Celebration Thursday, April 22, 2004, from 3:30 p.m. to 5:30 p.m. at the Mission's Men's Shelter, 318 Second Ave. Extension S., near Pioneer Square. The reception will also celebrate UGMLS's fifth anniversary. Over the course of the last year, volunteer attorneys and law students through UGMLS have donated more than 850 hours of free legal service to homeless men and women. UGMLS was established in 1999 to continue the Mission's goal of providing help for the whole individual. As clients take proactive steps to mend, both physically and spiritually, they are also encouraged to address legal issues, which are often integral to making a fresh start. With the support of volunteer lawyers and law students, UGMLS is able to staff regular legal aid clinics and help clients as they deal with the past and look to the future. To receive an invitation, please contact Esther Park at [epark@ugm.org](mailto:epark@ugm.org) or 206-622-5177, ext. 119.

### Representative Jim McDermott to Receive 2004 Ralph J. Bunche Award

The WSBA's World Peace Through Law Section's annual Ralph J. Bunche Award, which honors an individual who has made



significant contributions toward the goal of achieving international peace, will be presented April 30 to Representative Jim McDermott at a luncheon to be held from 11:30 a.m. to 1:30 p.m. at the Washington Athletic Club in Seattle. WSBA President-elect Ronald Ward will present the Ralph J. Bunche Award, which is named for the recipient of the

1950 Nobel Peace Prize. Congressman McDermott will speak after the presentation of the award. WSBA members and the public are invited to attend; cost, including lunch, is \$35 (students/seniors \$25). For a registration form, please visit [www.wsba.org/lawyers/groups/worldpeace](http://www.wsba.org/lawyers/groups/worldpeace), or contact the WSBA Service Center at 800-945-WSBA, 206-443-WSBA, or [questions@wsba.org](mailto:questions@wsba.org).

### MCLE — Moot Court Amendment Sent to Washington State Supreme Court

Proposed amendments to APR 11 were sent to the Washington State Supreme Court on January 12, 2004, to authorize CLE credit for judging moot-court competitions at ABA-approved law schools, provided that there is an educational component in addition to the judging. Specifically, Regulation 103 would be amended to include moot-court judging, and Regulation 104(d)7, which disallows it, would be deleted. These proposed amendments are the result of a recommendation from the WSBA Professional Develop-

ment Committee. The proposed amendments have been forwarded to the Supreme Court Rules Committee for prompt consideration.

### Law Week 2004

Law Week is an exciting opportunity for lawyers and judges to bring public legal education into the classroom. Each



year, Law Week provides an enriching experience to youth through positive interactions with lawyers and judges. Law Week 2004 will take place the

week of April 26. To learn more about the program or to participate, visit [www.lawweek.org](http://www.lawweek.org), or contact Lysander Johnson at 206-239-2117 or [lawweek@wsba.org](mailto:lawweek@wsba.org).

### MCLE Certification for Group 3 (2001-2003) — Automatic Extensions to Complete Credits Given Until May 1

MCLE Reporting Group 3 members should have completed all the credits for the 2001-2003 reporting period by December 31, 2003. Members in Group 3 include active members who were admitted to the WSBA from 1984 to 1990 or in 1993, 1996, or 1999. (Members admitted in 2002 are also in Group 3 but are not due to report until 2006.) The credit requirements for the period are shown below.

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

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

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

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

To look up an activity ID number for a course or to apply for course approval, you can use the MCLE system at

<http://pro.wsba.org>. After logging into the MCLE system site, click on the "Member" tab and then select "Member Login." The online instructions will lead you through the process of creating a confidential password and beginning to use the system. Additional online help is also available.

If you have questions about the MCLE system or MCLE requirements, or if you need a C2 affidavit, contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or [questions@wsba.org](mailto:questions@wsba.org).

### 2004 License Fees

License fees, if still unpaid, are now past due. The packet, including your license fee invoice, trust account declaration form and, if applicable, the MCLE certification form, was mailed in mid-December. If you have not received your licensing packet, please call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail [questions@wsba.org](mailto:questions@wsba.org), to request a duplicate. Active members *must* complete, sign, and return a Trust Account Declaration and, if applicable, an MCLE Certification. There are other forms included in the packet that you may wish to complete and return, such as updating your contact information, reporting *pro bono* hours, and requesting a web link from the WSBA attorney directory to your website (payment required).

*If you are mailing your forms and payment.* The return envelopes for your forms and payments have instructions on the reverse side for improvement in processing and ease of use. Please review them carefully before mailing your forms and payment. The white envelope should be used for returning your licensing form (A2) with a check payment. The blue envelope should be used for your licensing form when making a payment by credit card. Also use the blue envelope for mailing the Trust Account Declaration, MCLE Certification, and any voluntary forms.

*If you are paying your fees online.* To pay your fees online, go to <http://pro.wsba.org>, click on the "Member" tab, and sign in with your WSBA Bar number and password. Prompts will lead you through the process to pay your 2004 license fees by MasterCard or Visa. Note that you do not need to return the A2 form if you pay online, but active members *must* complete and return a Trust Account Declaration and, if applicable, an MCLE Certification. Other forms included in the licensing packet are voluntary and need to be returned only if you need to update contact information, report *pro bono* hours, or request a link between the WSBA attorney directory and your website. If you wish to take the Keller deduction, you will need to return by mail your A2 form with a check or credit card information completed; the online system is not yet able to handle the Keller deduction.

*Trust Account Declaration.* The Trust Account Declaration included in your licensing packet *must* be completed by all active members regardless of whether you have a trust account. Failure to file this form can result in disciplinary action.

*Payment deadline.* Please note that if your payment is postmarked or delivered in person to the WSBA offices later

than April 1, 2004, a 50 percent penalty will be assessed.

*Presuspension Notice.* A presuspension notice was sent in mid-March to those members from whom the WSBA had not yet received their 2004 license fee payment. If you received such a notice and believe that you have paid, you can verify receipt of your payment (please allow 10 days from date sent for processing) by checking online at <http://pro.wsba.org> or by contacting the WSBA Service Center at 206-443-WSBA, 800-945-WSBA, or [questions@wsba.org](mailto:questions@wsba.org).

*Important note about paying your fees.* If either your license fee (including late fees) or, for active members, the Lawyers' Fund for Client Protection assessment remains unpaid two months after the mailing of the presuspension notice, the Bylaws require the WSBA to certify delinquency to the Supreme Court, which will enter an Order of Suspension from the practice of law.

*Contact information.* APR 13.b states that address updates shall be provided to the WSBA within 10 days after the change. You can go to the online lawyer directory on the WSBA website at <http://pro.wsba.org> to check your listing. If your contact information has changed, please complete and return the Contact Information Change form included in the license packet to the address shown on the form or by fax to 206-727-8319, or e-mail the changes to [questions@wsba.org](mailto:questions@wsba.org).

*More information.* For more information, see the WSBA website at [www.wsba.org/lawyers/licensing/annual\\_licensing.htm](http://www.wsba.org/lawyers/licensing/annual_licensing.htm). The WSBA Service Center is also available to assist you Monday through Friday, 8 a.m. to 5 p.m., at 800-945-WSBA, 206-443-WSBA, or [questions@wsba.org](mailto:questions@wsba.org).

### 2004 Bar Leaders and Access to Justice Conference

The ninth annual Access to Justice Conference will be held in conjunction with the WSBA Bar Leaders Conference June 11-13 at the Yakima Convention Center. Registration brochures will be mailed in April. For more information, or to confirm that you are on the conference mailing list, contact Sharlene Steele at 206-727-8262 or [sharlene@wsba.org](mailto:sharlene@wsba.org) (Access to Justice Conference), or Desiree Ogden at 206-733-5931 or [desireeo@wsba.org](mailto:desireeo@wsba.org) (Bar Leaders Conference).



### Notice to WSBA Members on Active Military Duty

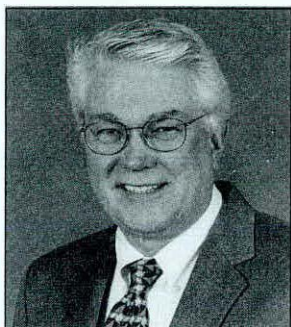
At its January meeting, the Board of Governors approved a bylaw amendment that allows all active WSBA members who are on active duty in the military to waive WSBA license fees and remain active members for up to five years. (WSBA members on active duty whose WSBA membership status is anything other than active 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](mailto:questions@wsba.org).

### Emeritus Status for Lawyers

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

### David Leen Elected President of Legal Foundation of Washington

At its November 22, 2003, meeting, the Board of Trustees of the Legal Foundation of Washington unanimously elected David A. Leen of David A. Leen & Associates the Foundation's president for 2004.



Robert T. Anderson of the University of Washington Native American Law Center was elected vice president, Lynn A. Watts, attorney of Spokane, was elected secretary, and Carol J. Haire, limited practice officer for the University of Washington Real Estate Office, was elected treasurer.

The WSBA Board of Governors also elected Judge Michael E. Schwab to his first two-year term as trustee beginning January 1, 2004. Erika L. Lim, director, Career Services, Seattle University School of Law, and Nancy A. Pacharzina, of Hagens Berman LLP, were appointed by the Governor each to her first term as trustee. John R. Kephart, of Foundation Bank, and Victor H. Lara, of Hurley, Hurley, Lara & Hehir, will return as trustees.

The Foundation was established in 1985 at the direction of the Washington State Supreme Court to support legal services and law-related education through the Interest on Lawyers'/Limited Practice Officers' Trust Account (IOLTA) program.

### "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.

### Third-Party Liability Information

If your client is involved in a personal-injury case, and

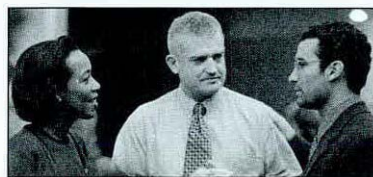
has received or is receiving medical assistance payments for medical care, you are required to contact the Department of Social and Health Services (DSHS). RCW 43.20B.060 places a lien against any settlement or judgment your client receives from a third party who is responsible for your client's injuries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

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

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

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

The WSBA's Lawyer-to-Lawyer Program matches newer admittees with experienced lawyers. The program is not a structured mentoring program and does not supplant any



similar programs of local or specialty bars. We connect lawyers with similar practices in the same geographic area for mutual information-

sharing and goodwill. We need experienced attorneys to serve as informal mentors, especially in King County. Help new lawyers get a head start on learning those lawyering skills not found in any textbook. Interested members may contact Pete Roberts (206-727-8237; [peter@wsba.org](mailto:peter@wsba.org)) in the Law Office Management Assistance Program. Program guidelines and sign-up forms are on the WSBA website at [www.wsba.org/lawyers/services/lawyertolawyer.htm](http://www.wsba.org/lawyers/services/lawyertolawyer.htm).

### Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in March 2004 was 1.008 percent. The maximum allowable interest rate for April is therefore 12 percent. Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills and past maximum interest rates for June 1988-June 1999 ap-

pear on page 53 of the June 1999 *Bar News*. Information from January 1987 to date is on the WSBA website at [www.wsba.org/media/publications/barnews/usury.htm](http://www.wsba.org/media/publications/barnews/usury.htm).

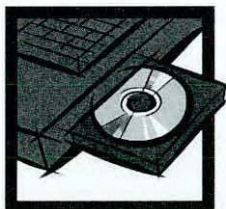
### Upcoming Board of Governors Meetings

April 2-3 — Seattle  
 May 14-15 — Ocean Shores  
 June 11 — Yakima

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

### Learn More about Case-Management Software

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



### Resources on Sale for Half Price

The 2003-2004 *Resources* membership directory is now on sale for half price: \$9 for WSBA members (\$9.79 in WA) and \$18 for non-WSBA members (\$19.85 in WA).

To order *Resources*, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or mail a request to WSBA Order Processing, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330. Payment may be made by check (payable to WSBA), MasterCard, or Visa, and must accompany your order. *Note:* The 2004-2005 edition will be available in the spring.

### Consumer-Information Pamphlets Available

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

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

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

### Keep in Touch

The WSBA uses e-mail to communicate with members quickly, efficiently, and inexpensively, and increasingly it is becoming the preferred method of communication among committees and sections. If you haven't already, please consider providing us with your e-mail address.



Contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or [questions@wsba.org](mailto:questions@wsba.org). Representatives are available Monday through Friday, 8 a.m. to 5 p.m.

### Website Links from Online Lawyer Directory

A link to your website can be added to your directory listing, so that current and potential clients can find out more about you and your practice at the click of a button. The fee is \$75 annually (\$50 for the first year if you sign up July 1 or later). If your firm has seven or more lawyers, you'll save through our special pricing structure. Special pricing is also available for those who work for nonprofit or government agencies. For more information and sign-up instructions, see [www.wsba.org/lawyers/addlink.htm](http://www.wsba.org/lawyers/addlink.htm).

### The WSBA Store Is Open

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

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

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

### Juvenile Justice Assessment Project

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

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

View the complete study at [www.wsba.org/jjstudy.pdf](http://www.wsba.org/jjstudy.pdf), a summary at [www.wsba.org/jjsummary.pdf](http://www.wsba.org/jjsummary.pdf), and FAQs at [www.wsba.org/jjfaqs.pdf](http://www.wsba.org/jjfaqs.pdf).

## The Board's Work

by Lindsay Thompson

Seattle, February 27-28, 2004

**A**fter recent excursions afield, the BOG assembled at the WSBA HQ for this meeting.

There's always an executive session of an hour to an hour and a half. In it the BOG considers litigation or personnel matters, talks about legislative strategy, reviews the discipline caseload, and administers reprimands. Then they open the session and the president gives a

summary about like the one I just gave you. After some memorably detailed reports in years past, the president, president-elect, and executive director now put a written report in the briefing book on their activities since the last meeting.

Then the BOG takes up the consent calendar, where things that are thought not to need any debate go. Members who differ can remove items for discussion; the rest get signed off on and take effect. It's an efficient if underutilized element of agenda management.

This meeting's batch of consent calendar items included Governor Mike Pontarolo's appointment of Laura Spradley of Spokane to the Committee of Law Examiners; the appointment of Linda Olson of Tacoma to a special, one-year term on the Character and Fitness Committee (a move intended to stagger the lay-member terms better); some committee policy revisions; removal of a nonparticipating member of the Civil Rights Committee; and approval of a change to CLE rules to give some credit for *pro bono* work.

The BOG then reappointed Richard Roberts of Seattle, and appointed Sarah Spierling Mack of Everett, to the Bench-Bar-Press Committee (if you find yourself wondering, from time to time, *what do all these committees do?*, a good place to get some quick answers is at [www.wsba.org](http://www.wsba.org), which has the lowdown on all the Bar's many subordinate bodies.

President Savage and Director of Member and Community Relations Judy Berrett told the BOG about the results of the BOG's review committee's survey of member attitudes toward *Bar News*. Overall, it's quite good, and there's more information on the results in this issue.

Ellen Dial and WSBA lawyer Doug Ende gave a sneak preview of the sorts of changes to be brought to the BOG later this spring from the Ethics 2003 Committee, which Dial chairs. It has been looking at whether our rules of professional conduct need revising in light of the big 2000 rewrite of the ABA Model Rules of Professional Conduct.

I wish I could have transcribed Dial's report. She knows her stuff and presented it with admirable clarity. When the full report comes out, we will give it big coverage in these pages, because it's important stuff.

Treasurer/Governor Bryce Dille presented the WSBA's 2002-2003 Auditor's Report. Clean bill of fiscal health. There was a suggestion that for the few really, really big checks WSBA writes there be two signatures, so the BOG voted to require two signatures for any check over \$10,000. They approved the auditor's report, and voted not to allow the sale of member phone and fax numbers (in December 2003 the Board voted not to allow the sale of e-mail addresses except to CLE vendors). Dille's recommendations went so smoothly and

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**Tom D'Amore** is licensed to practice in Washington, Oregon and California, and is certified as a civil attorney by the National Board of Trial Advocacy. Tom is a WSTLA Eagle member, a member of the OTLA

Board of Governors, a member of the OTLA President's Circle, a sustaining member of ATLA, and serves as an ATLA delegate for Oregon.

The attorneys at **D'Amore & Associates, P.C.** are available for association and referral on cases involving motor vehicle accidents, serious personal injury and wrongful death. **D'Amore & Associates** also represents consumers and policyholders in individual bad-faith claims as well as national and state class-actions against insurance companies that wrongfully deny policyholder benefits.



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**(503) 222-6333**

unanimously that Governor Randy Gordon quipped, "I move we adopt the very next thing you say," to general laughter.

Next the BOG approved a contribution to help the Washington Defender Association update its standards for public-defense services, last updated in 1992. The standards are baselines for staffing and funding defense services, so it's a needed undertaking.

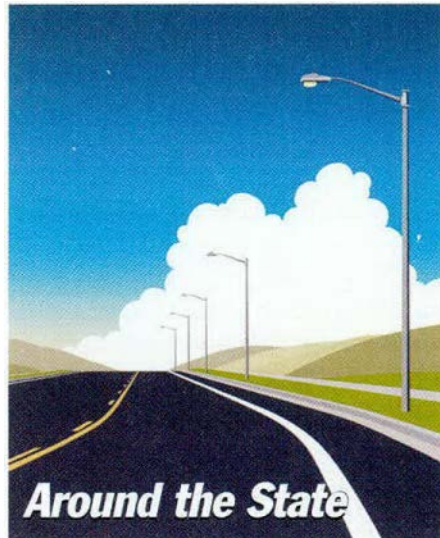
Finishing ahead of schedule, everyone removed to the Westin Hotel for a three-and-a-half-hour "listening session" with minority and specialty bar association leaders and members, on how to make the WSBA more relevant and useful to all WSBA members. There was a reception afterward, attended by luminaries of various sorts. Judge Richard Jones gave a keynote speech that included detailed ideas for lots of *Bar News* articles. We welcome advice from all quarters.

Overall, people seemed to think the exercise worthwhile. The proof of the pudding, of course, will be whether the BOG actually acts on the recommendations the conference generated. So far, historically, the BOG as an institution has tended to take on the comparatively easy issues while leaving the harder ones, well, out of sight, out of mind. One advantage for them this year, however, is that in the same week they met, the President of the United States called for an amendment of the federal constitution to reign in judicial activism. So this time, the hard questions will come to us all — governors, judges, citizens.

So that's my kinder, gentler report on the meeting. Some readers said in our survey that I need to remember the governors are volunteers, although one governor thought maybe I needed to punch up the report a bit because it looked like not many people were running for seats this year. So my new goal is wit without snarkiness, and moral uplift with the occasional admonition, because, like eating broccoli, it's good for us. I'm outta here. ✍

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The Board's Work is an unofficial report on meetings and actions of the WSBA's elected governing body. Official minutes, containing matters not covered here, are kept by the WSBA executive director. WSBA members are welcome to attend and speak at all Board meetings.



### Cowlitz County Report

by Our Local Correspondent

Local attorneys assisted in this year's mock trial competition, organized by **Noelle McLean**. **Dennis Maher** showed up sporting a beard. Apparently, it has something to do with his going to France. **Ed Putka**, **Jim Stonier**, and **Steve Warning** acted as judges during the competition. **Tierra Busby**, **Dennis Maher**, **Michael Evans**, **Dainen Penta**, **Tim South**, **Kevin Blondin**, **Wayne Purcell**, **Dustin Richardson**, **Ann Mottet**, **Lisa Johnston**, **Dennis Ott**, **Ray Hinea**, **Jeff Mahitka**, and **Nichole Mahnke** were performance raters.

**Jamie Imboden** is now working at **Crandall, O'Neill and McReary**. Jamie was formerly with **Pond, Roesch & Rahn**. **Debbie Burchett** landed the **Kelso Municipal Court** public defender contract.

**Ian Northrip** visited **Disneyland** with his family and returned after not getting a callback for the role of **Sneezy**. In other **Hollywood** news, **Legal Aid** is debuting a family law video starring **Noelle McLean** and **Alex Styve**.

Effective **February 1, 2004**, **Kevin Blondin** has been made a partner in the law firm of **Reitsch, Weston & Blondin PLLC**. Kevin will continue his practice of primarily criminal defense, personal injury, and civil litigation. In an effort to keep up with his partners, Kevin will also continue to work on his short game and putting.

**Meredith Graff** is upgrading from a smaller office to a larger suite in the same

office building. If she needs help moving, she should talk to **Elle Couto**, who can now bench-press 185 pounds.

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

### East King County Bar Association Report

The **East King County Bar Association's** 2004 slate of officers took over at the group's December holiday party. **David Seeley** is president; **Katherine Weber**, vice president; **Anneliese Johnson**, secretary; **Gregory Bussell**, treasurer; and **David Johnson**, past president. **Greg Home** and Judge **Peter Nault** were re-elected as trustees. **Kyle Branum** was elected to a new term. **James Clark**, **Henry Farber**, **Ryan McFarland**, **Al Richardson**, and **David Sweeney** continue as trustees.

### International Report

**Lisa M. Lombardi** was accepted onto the **Roll of Solicitors** in **New South Wales, Australia**, in **October 2003** and **Queensland, Australia**, in **December 2003**, and currently holds a **Queensland practicing certificate**. She handles native title, water, and environmental issues at **Golder Associates** in **Brisbane**.

### Island County Report

by Tom Pacher

Greetings from the shores of **Penn Cove**. Amidst your vacation homes and several farms, there are actually a few attorneys on **Camano** and **Whidbey Islands** practicing law. Really. We have courthouses and everything.

**Lynn Hicks**, counsel for **Nichols Brothers Boats** in **Freeland**, was promoted to colonel in the **U.S. Marine Corps Reserves** in **April** last year. A reception was held in **New Orleans** early this year, and **Lynn** finally got to pin on the appropriate hardware **February 1** of this year. Something tells me that with an employer that has some of the biggest boats on **Whidbey**, and the birds on her **Marine uniform**, local attorneys are going to be really nice to **Lynn**. Reeeeeeally nice.

**Coupeville** attorney **Charles Arndt** recently put his **Zen-like demeanor** to the test when his wife, **Georgie**, gave birth to

the couple's first child, a girl, late last December. We're waiting to see how many nights of interrupted sleep and changing diapers Charles can take before he snaps. So far he's made it through several weeks without breaking. (Disclosure: Charles is the Arndt portion of the firm I work for, Platt & Arndt.) Charles, we're still waiting for our shade-grown 100 percent organic fair-wage non-embargoed low-tar celebration cigars.

Island County Bar Secretary/Treasurer **Hans Juhl**, in the "local boy makes good" spirit, recently went to work for the Oak Harbor offices of **Christon Skinner**. Chris, in hiring Hans, filled the firm's opening for an attorney with a "really, really German-sounding name." Prior to that move, Hans had been operating solo out of Oak Harbor, reportedly not too far from where he went to high school. Well, he says he went to high school in Oak Harbor, and claims he has pay records and a dental visit to prove it.

The United States Navy was kind enough to loan us Lt. **Marc Nuzzo** for a recent one-hour seminar. Lt. Nuzzo filled a number of Island County attorneys in on the Servicemembers Civil Relief Act of 2003. Despite having an awkward presentation space, and a number of Navy brass with serious amounts of hardware on their uniforms sitting in on the presentation, the Lt. did a really nice job.

My wife and I moved over here last summer, after I'd been commuting from the mainland for over three years. Aside from dramatically lower home costs and property taxes, I'm finding it is amazingly quiet where we live. I've also become a big fan of practicing in a court where a busy day means having to park more than three blocks away. Surprising what a difference a 15-minute ferry ride can make.

## Judiciary Report

by *Lindsay Thompson*

Washington Supreme Court Justice **Faith Ireland** has announced she will not seek a second term and will retire when her current term ends in January 2005. She told reporters that after 21 years as a judge, she is interested in trying out some new challenges in the private sector. Elected in 1998 after long service in King County Superior Court,

Ireland made history in 2002 as part of the high court's first female majority, and also for her prowess in powerlifting. She took up the sport after an auto accident, and in January the 130-pound justice won her second national title with a 198-pound squat lift, a 253-pound dead lift, and a 133-pound bench press. At press time, King County Superior Court Judge **Robert Alsdorf** had announced he would run for Ireland's seat.

Last summer, Benton-Franklin Superior Court Judge **Carolyn Brown** announced her plans to retire June 30, seven months before the end of her fourth term on the bench. Judge Brown told local media the combination of the daily court grind and increasing caseloads influenced her decision. Brown turns 65 in June.

Governor **Gary Locke** appointed Bainbridge Island lawyer **Ted Spearman** to the Kitsap County Superior Court to succeed retiring Judge **Terry McCluskey**. Spearman assumed his seat March 1 and will seek a full term in the fall. He has also appointed Yakima County Judge **Ruth Reukauf** to the Superior Court bench there. She succeeds Judge **Michael Leavitt**, who left his post to accept appointment as a U.S. magistrate judge in the Eastern District of Washington. Governor Locke has now made 58 judicial appointments in seven years in office.

King County Superior Court Judge **Catherine Shaffer's** article "Therapeutic Domestic Violence Courts: An Efficient Approach to Adjudication?" has been accepted for publication by the Seattle University Law Review and will be published later this year in Volume 27, Issue 4.

## Oregon Report

The Oregon Narcotics Enforcement Association named Umatilla County Deputy District Attorney **Wade McLeod** "Prosecutor of the Year" for 2003. The award recognizes dedicated service in the field of narcotics prosecution.

## South King County Report

by *Tom Campbell*

All the news that's fit to print isn't really news at all. I was recently reminded that recognition should be given to the long and honorable career of **Jack Burgeson**.

Jack hung up his spurs a few months ago and turned the office over to **Alan Singer**. Alan's not exactly wet behind the ears, but when Jack's name was mentioned to me for inclusion in this article, I was reminded of other South King County legends like **George Fiori**, **Duncan Bonjorni**, and (I know that it's going to hurt him to be included with the elder legends) **Ken Fornabai**. At one time each of them had offices in the same building on Auburn Way. There have been a handful of other notables who passed through that building — George's daughter, **Loretta Fiori-Thomas**; **John Rizzardi**; and yours truly. Jack has gone to Palm Springs to enjoy his retirement and the sun. Kudos to Jack.

On a lighter note, earlier I reported that **John Crowley** won the South King County Bar Association Golf Tournament. Oops. **John Curry** is the champ. Given the circumstances, I'm surprised that I didn't report Jack Daniels or Bolivar as the winner.

The South King County Bar Association has a long tradition of meeting in March with the Supreme Court. This year's event was held in Olympia. The Court is always a gracious host and our thanks go out to all the justices in attendance. A number of the members rode a chartered bus to the meeting. **Carlos Sosa** led the group in Motown songs to liven up the ride.

## Spokane County Report

Witherspoon, Kelley, Davenport & Toole has added **Ryan K. Jensen** to the attorney rolls in Spokane. Jensen is a BYU undergrad and UW law alum, and practices in municipal and real estate law and litigation.

## In Memoriam

*Remembering our colleagues and friends*

### Coleman P. Hall

*Seattle Attorney*

Coleman P. Hall graduated from Principia College in Illinois and from the University of Michigan Law School. He began a commercial law practice in 1953 with the law firm now known as Karr Tuttle Campbell, and he was a partner in the firm until his retirement.

He served his community generously in *pro bono* matters. He was active in civic affairs on Mercer Island. His colleagues respected him as thoughtful and professional. He is remembered as gracious and kind by all, and with deep love and affection by Roseann, his wife of 51 years, and his four children.

Coleman P. Hall died November 2, 2003.

### Judge Thomas J. Majhan

*Easterner who made a career on the peninsula*

Thomas Majhan was born and raised in Pittsburgh and served 14 years in the Army before going to law school. He was a Vietnam War veteran and retired a lieutenant colonel. He came west with his wife after graduating from law school in 1977. He practiced briefly in Sequim, and then opened an office in Port Townsend. He was elected a part-time district court judge in 1982, and held the post, which became full-time later, until 1998. In 2000 he was elected to the Superior Court bench. He was diagnosed with cancer in January.

Majhan's wife died before him. The couple had no children.

Thomas J. Majhan died January 18, 2004, aged 66.

### David R. Nevitt

*Former Attorney General of Micronesia*

David Nevitt was a military kid who traveled the world until his father retired and the family settled in Raymond. Nevitt took pride in being a member of the undefeated 1962 Raymond High football team, after which he won decorations for his service as an Army Ranger in Vietnam.

After graduating from UW, Nevitt studied law at UC Berkeley and began his career with Lane Powell in Seattle. After marrying his wife, Linda, they moved to Aberdeen, then to Raymond, to raise their family in a small town. He was then recruited to become principal litigator for the Federated States of Micronesia, and then was appointed attorney general. He resigned when political unrest arose, and joined Carl Smith Ball, a Pacific Rim firm, to set up an office in Saipan. He practiced there for 19 years until he returned to Washington because of illness.

Survivors include his wife, three children, his mother, and three siblings.

David Robert Nevitt was born in Seattle February 9, 1945, and died in Seattle December 2, 2003, aged 58.

### Jacqueline G. Newcomb

*Practiced law in Spokane*

An undergraduate and law alumni of Gonzaga University, Jackie Newcomb practiced in Spokane for a decade. *Calendar Call*, the Spokane County Bar Association newsletter, said, "She had a servant's heart and wanted to see that everyone's needs were met. This included her involvement with the patients at Eastern State Hospital."

Survivors include her husband, Mark; a daughter; her parents; four siblings; and a large extended family.

Jacqueline Newcomb died in Spokane, January 1, 2004, aged 41.

*Bar News has also been advised of the death of these WSBA members:*

**Muriel Mawer**, Seattle, admitted 1935, November 30, 2003.

**Ward Sax**, Seattle, admitted 1949, August 20, 2003.

*Obituaries and remembrances of WSBA members are welcome. Please forward to the editor at the WSBA office or by email at [tradelaw@thompson-law.com](mailto:tradelaw@thompson-law.com).*

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206-443-WSBA

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[questions@wsba.org](mailto:questions@wsba.org)

Representatives are  
available to assist you  
from 8 a.m. to 5 p.m. PST,  
Monday through Friday.

*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

**Bernard A. Clark** (WSBA No. 25031, admitted 1995), of Tacoma, was disbarred effective May 14, 2003, by order of the Washington State Supreme Court following a hearing. This discipline was based on his conduct in 2001 and 2002 involving lack of diligence and communication in five client matters.

**Matter 1:** In early 1999, Mr. Clark agreed to represent a client in a personal injury matter. Mr. Clark filed the complaint, but then failed to timely exchange the required witness and exhibit lists. The court entered an order excluding the client's witnesses, and Mr. Clark filed a motion for reconsideration of this order. At the hearing, the court denied the request for reconsideration and dismissed the client's complaint with prejudice. Mr. Clark did not tell the client about the dismissal. Mr. Clark filed an appeal of the court's decision, but failed to timely file the brief. In November 2000, the court dismissed the appeal. In June 2001, the client retained substitute counsel and learned that her case had been dismissed.

**Matter 2:** In April 2000, Mr. Clark agreed to represent a client in an uncontested marital dissolution. Mr. Clark filed the petition in April 2000 and told the client the final hearing would be in June 2000, but did not set the case for hearing. The client was unable to contact Mr. Clark after June 2000, so he completed the case *pro se* in October 2001. Mr. Clark did not refund the client's advance fees.

**Matter 3:** In February 2001, Mr. Clark agreed to represent a client in an employment discrimination suit filed by the client's prior lawyer. Mr. Clark and the client agreed orally that after a \$1,000 fee, Mr. Clark would be paid on a contingent basis. In March 2001, Mr. Clark received

notice of the defendant's summary judgment motion, but did not file a response. The court granted summary judgment and dismissed the client's case with prejudice. The client learned of the dismissal in June 2001 when he personally checked his court file. Mr. Clark did not refund the client's advance fee payment.

**Matter 4:** In August 2000, Mr. Clark agreed to represent a client in an employment matter. Mr. Clark sent a draft complaint to the client, which the client returned. Mr. Clark took no further action, but told the client that the complaint had been filed. The client was not able to contact Mr. Clark. Mr. Clark did not refund the client's fees.

**Matter 5:** In January 2000, Mr. Clark agreed to represent a client in an employment matter. The client was not able to contact Mr. Clark until June 2000, when he told her that he had filed a complaint on her behalf and that a trial date was pending. After June 2000, the client was not able to contact Mr. Clark. In late 2001, the client retained new counsel and discovered that Mr. Clark had not filed a complaint. Mr. Clark did not refund the client's fees.

Mr. Clark did not cooperate with the disciplinary investigation of matters 1-5.

Mr. Clark's conduct violated RPCs 1.3 and 3.2, requiring lawyers to provide diligent representation and expedite litigation; 1.4, requiring lawyer to keep clients reasonably informed of the status of their matters and explain matters to the extent necessary for clients to make informed decisions; 1.5, requiring lawyers' fees to be reasonable and contingent fee agreements to be in writing; and 1.14(b)(3), requiring lawyers to keep complete records of client funds; and RLD 2.8, requiring lawyers to cooperate with disciplinary investigations.

Kevin Bank represented the Bar Association. Mr. Clark represented himself. Gayle T. McElroy was the hearing officer.

### Disbarred

**Dalwyn T. Dean** (WSBA No. 7332, admitted 1977), of New Jersey, was disbarred effective May 29, 2003, by order of the Washington State Supreme Court, based on an order for discipline from the state of New Jersey. This discipline was based

on her conduct between 1995 and 1998 involving misappropriation of client funds.

The Supreme Court of New Jersey found that Ms. Dean had committed 11 counts of knowing misappropriation. In 1995, Ms. Dean met Mr. S. Mr. S, a convicted felon, was the director of a program providing assistance to individuals recently released from prison. Over the next two years, Ms. Dean allowed Mr. S to become increasingly involved with her law practice. By 1996, Mr. S answered phones, met with clients, and handled trust-account transactions. Mr. S deposited several checks Ms. Dean had written to clients in his own business account. Clients complained, and the trust account did not balance, but Ms. Dean did not properly investigate the cause of these problems. Ms. Dean did not supervise or train Mr. S. Ms. Dean allowed Mr. S to take approximately \$66,000 in client funds. The New Jersey court found that Ms. Dean's "willful blindness" equated to knowing misappropriation.

Ms. Dean's conduct violated New Jersey Rule of Professional Conduct 1.15, requiring lawyers to safeguard client property.

Felice Congalton represented the Bar Association. Ms. Dean represented herself.

### Suspended

**Michael T. Mullen** (WSBA No. 23116, admitted 1993), of Oregon, was suspended for two years, effective June 20, 2003, by order of the Washington State Supreme Court approving a stipulation. This discipline was based on his lack of diligence and misrepresentation in a client matter in 2001.

In January 2001, Mr. Mullen agreed to assist a client with a petition to increase the client's summer child visitation and to modify child support payments. By May 2001, Mr. Mullen had drafted the petition, but had not filed anything with the court. When the client called, Mr. Mullen explained that he had filed the pleadings and attended hearings. These statements were not true. Mr. Mullen also fabricated time entries on the billing statements he mailed to his client. He charged the client \$168 for services he did not perform.

In September 2001, Mr. Mullen obtained two *ex parte* orders of child support without notice to the opposing party. Mr. Mullen had no legal basis for obtaining these orders. Mr. Mullen did not file either of the original orders with the court. In October 2001, the court vacated the second order. Mr. Mullen's lack of diligence prevented the client from increasing his summer visitation. Mr. Mullen did not charge his client, and paid the opposing party \$330.

Mr. Mullen's conduct violated RPCs 1.3 and 3.2, requiring lawyers to diligently represent their clients and expedite litigation; 1.5, requiring lawyers' fees to be reasonable; 3.3, requiring lawyers to inform the court of all relevant facts in an *ex parte* proceeding; 3.5, requiring lawyers to avoid improper *ex parte* contact with the court; 8.4(c), prohibiting lawyers from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and 8.4(d), prohibiting lawyers from engaging in conduct prejudicial to the administration of justice.

Jonathan Burke represented the Bar Association. Mr. Mullen represented himself.

### Reprimanded

**Kevin M. Healy** (WSBA No. 21797, admitted 1992), of California, was reprimanded, effective June 9, 2003, by order of the Washington State Supreme Court, based on an order for identical discipline from the Supreme Court of the State of California. This discipline is based on his conduct in 2001 involving failure to promptly pay client funds to the client upon request. (Mr. Healy is to be distinguished from Kevin G. Healy of Seattle.)


In September 2000, Mr. Healy received a settlement check made payable to both Mr. Healy and the client. He mailed the check to the client, asking that she endorse the check and return it to him for processing in his trust account. The client disputed Mr. Healy's fees and retained new counsel instead of returning the check. The check was deposited into the new counsel's trust account. Mr. Healy refused to endorse the check unless the new counsel agreed to make no disbursements without Mr. Healy's agreement. The new counsel agreed, believing that

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the dispute would be resolved quickly. Mr. Healy never disputed that the client was entitled to at least \$70,000 of the settlement funds. Mr. Healy refused to agree to release the undisputed funds until about January 2002.

Mr. Healy's conduct violated Rule 4-100 (B)(4) of the California Rules of Professional Conduct, requiring lawyers to promptly pay client funds to clients upon request.

Joanne Abelson represented the Bar Association. Mr. Healy represented himself.



**HENDRICKS & LEWIS**

is pleased to announce that

**Alexa L. Shelley**

has joined the firm as an associate.

Ms. Shelley will practice in the areas of civil litigation and intellectual property.

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**SEBRIS BUSTO JAMES**

is pleased to announce that

**Lisa N. W. Dublin**

has joined the firm as an associate

Lisa joins the firm from the Seattle office of Jackson Lewis, LLP, where she represented employers in employment litigation matters for five years. She has been a member of the Washington State Bar since 1997.

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has become a partner in the firm.

Ms. Weselmann practices in the areas of business and corporate law, federal and state tax.

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## MARSTON HEFFERNAN FOREMAN, PLLC

is pleased to announce that

### Adam Collins

and

### Joaquin Hernandez

have joined our firm during the month of March.

Adam Collins has joined our firm as an associate, where he will primarily focus on insurance coverage law. Mr. Collins was most recently with Bonner Kiernan Trebach and Crociata of Washington, D.C. Prior to that, he was employed by Argonaut Insurance Company.

Joaquin Hernandez has joined our firm as an associate, where he will continue his practice as a construction litigator. Mr. Hernandez was formerly with Barokas Martin & Tomlinson in Seattle.

With the addition of these attorneys we are continuing to build our insurance coverage and construction litigation practices.

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## **JOHANNESSEN & ASSOCIATES, P.S.**

is pleased to welcome to the firm

**Joel W. Sonkin**  
and  
**Sharon J. Weinberg**

Mr. Sonkin is a graduate of UC Hastings College of the Law, where he was publications editor of Hastings' environmental law and policy journal. He joins the firm as an associate after interning with the environmental/land use divisions of the California Attorney General's Office and with Waterkeepers Northern California.

Ms. Weinberg received her Advanced Paralegal Certificate from Edmonds Community College and her Bachelor of Arts from WSU with honors. Formerly a paralegal specialist with the Federal Aviation Administration, she joins the firm as a paralegal.

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has become a Member of the LLC  
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Estate Planning, and Probate;

and

**James Louis Wilson**

has joined the firm as an Associate  
practicing General Civil Litigation.

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## **GORDON MURRAY TILDEN LLP**

is pleased to welcome

**Craig K. Weaver**

as an associate of the firm.

Craig joins us from four years at the Tax Division of the U.S. Department of Justice in Washington, D.C., where he litigated numerous bench and jury trials as an Honors Program Trial Attorney. He received his J.D. from Seattle University School of Law. Craig will continue his practice in a broad range of civil litigation.

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## **WALLACE, KLOR & MANN, PC**

is pleased to announce

### **Jeffery H. Capener**

became a shareholder effective January 1, 2004,

and

### **H. Cannon Gerstner**

became an associate attorney effective  
December 18, 2003.

Also during 2003,

### **Sandra K. Haynes**

and

### **Jennifer C. Baker**

became members of the Washington State Bar.

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#### **Attorneys**

Jennifer C. Baker*	Lawrence E. Mann*
Jeffery H. Capener*	Douglas M. Palmer
Brad G. Garber*	Schuyler T. Wallace, Jr.*
H. Cannon Gerstner	Robert E. Babcock, Of Counsel
Sandra K. Haynes*	Daniel L. Meyers, Of Counsel
John Klor*	

*\*Member Oregon and Washington Bars*

---

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Please send correspondence to our Lake Oswego office.

## **MILLER NASH LLP**

is pleased to announce that

### **David Schoolcraft**

has made partner.

David Schoolcraft joined Miller Nash's Seattle office in 2001. He is a member of the business department with a practice focusing on corporate representation, technology, health care, and data privacy.

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Seattle, Washington 98101-2352

Telephone: 206-622-8484

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E-mail: [david.schoolcraft@millernash.com](mailto:david.schoolcraft@millernash.com)

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**Margaret K. Dore**

Counsel for appellant in  
*Marriage of Lawrence*, 105 Wn.  
App. 683, 20 P.3d 972 (2001)

Former law clerk to the  
Washington State Supreme Court  
and the Washington State  
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former adjunct professor of  
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## APPEALS

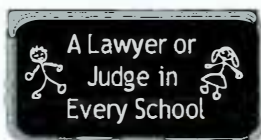
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## Law Week 2004

is April 26-30! Each spring, hundreds of Washington lawyers and judges visit classrooms in their communities to educate students about law, civics, the justice system, and democracy.

For more information about volunteering, visit the Law Week website at [www.lawweek.org](http://www.lawweek.org). The website offers sign-up forms, lesson plans, and other collateral materials to help with your presentation. You can also request more information by e-mailing [lawweek@wsba.org](mailto:lawweek@wsba.org) or by calling 206-239-2117.

**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](mailto:comm@wsba.org)

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

## Business Law

**Business Law Section Midyear in Conjunction with Spring Meeting of ABA Section on Business Law**  
April 1 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

## Corporate Law

**Practical Advice for Corporate In-House Counsel and Outside Counsel**  
May 13 — Seattle. 6 CLE credits, including .75 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

## Dispute Resolution

**12th Annual NW Dispute Resolution Conference**  
May 5, 7-8 — Shoreline. 9.5 CLE credits, including 1.25 ethics. By UW-CLE; 800-CLE-UNIV.

## Employment Law

**Wage and Hour Law Update**  
May 25 — Seattle. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

## Environmental and Land Use Law

**ELUL Midyear**  
May 13-15 — Seattle. 12 CLE credits, including 1 ethics. By WSBA-CLE; 800-

945-WSBA or 206-443-WSBA.

## Estate Planning

**Basic Washington Estate Planning Series**

April 2-June 11 — Seattle. CLE credits pending. By UW-CLE; 800-CLE-UNIV.

**Trust and Estate Litigation: How to Handle the Toughest Cases with Confidence**

April 20 — Seattle. 6 CLE credits, including .5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

## Ethics

**The Second Annual Ethics in Civil Litigation Institute**

April 22 — Seattle. 6.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

## Family Law

**Advanced Family Law: Clash of the Titans**

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

## General

**Senior Lawyers Section Meeting and CLE**

April 16 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

**Science and Pseudoscience in Clinical Psychology and the Courtroom**

April 17 — Seattle. 6.25 CLE credits, including .5 ethics. By UW-CLE; 800-CLE-UNIV.

**Protecting Client Confidences (morning session)**

April 30 — Seattle. 3 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

**Handling Your Trust Accounts (afternoon session)**

April 30 — Seattle. 3 CLE credits. By

WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

#### **Client Confidences/Trust Accounts**

April 30 — Seattle. 3 CLE credits and 3 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

#### **International Law**

#### **International Law Section Meeting**

May 14 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

#### **Indian Law**

#### **Eastern Washington Indian Law Conference**

April 2 — Spokane. 5.75 CLE credits, including 1 ethics. By UW-CLE; 800-CLE-UNIV.

#### **Indian Law Seminar**

May 7 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

#### **Intellectual Property**

#### **9th Annual Intellectual Property Institute**

April 2 — Seattle. 6.75 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

#### **Law Office Management**

#### **Computer Camp I (morning and afternoon sessions)**

May 5 — Seattle. 2.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

#### **Computer Camp II (morning and afternoon sessions)**

May 12 — Seattle. 2.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

#### **Litigation**

#### **Auto Cases: The Road to Success**

April 9 — Seattle. 6.5 CLE credits, including .5 ethics. By WSTLA; 206-464-1011.

#### **Jury Bias — A Seminar for WSTLA Voting Members**


April 23 — Tacoma. 7.75 CLE credits. By WSTLA; 206-464-1011.

#### **Workers' Compensation**

May 14 — Seattle. CLE credits pending. By WSTLA; 206-464-1011.

#### **Early Years of Litigation Practice: Everything You Should Have Learned in Law School**

May 21 — Seattle. CLE credits pending. By WSTLA; 206-464-1011.



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**Price reduced:** Lucrative Oregon City, Oregon, law practice. Martindale-Hubbell rated solo practitioner in prime professional location has substantially reduced price below appraisal. Long-time member of Oregon Bar working full-time with support staff of three. Personal injury, family law, social security disability, probate, and general litigation are areas of practice. Seller willing and

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

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**Ballard space available:** Low-rent, small office with conference room and library in professional one-level building comprising CPA firm and two attorneys. Secretarial, reception, fax, and copier available. Overflow work/referrals. Call 206-783-1161.

**Office space in Pike Place Market district:** Dramatic views of Seattle waterfront and modern office building. Two professional offices and secretarial

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**North Seattle office space:** Two offices available, newly decorated, quiet suite with kitchen, across from Northwest Hospital Outpatient Center. Two-window office, \$645; one-window office, \$600. Call, 206-525-2780.

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**Downtown Bellevue:** Skyline Tower, 22nd fl., awesome view. Office, library and conference room, large secretarial station, copier, phones, other amenities. Call Greg or Patti at 425-646-8680.

**Seattle space available:** Law firm in recently remodeled office has extra space available in the Norton Building for rent by one or more lawyers. Please inquire at [skidmore@aiken.com](mailto:skidmore@aiken.com).

### Positions Available

**The Nisqually Indian Tribe seeks experienced attorneys** to sit as appellate judges for the Nisqually Tribal Court system. Judges will work as contractors as needed handling all civil and criminal matters. Must be familiar with Indian Country and its laws. Specific familiarity with Nisqually law desired. Interested parties should send cover letter, résumé, 10-page relevant writing sample, and references to Nisqually Tribal Court, Attn: Sharr Steetlah, 4820 She-Nah-Num Drive SE, Olympia, WA 98513. Additional questions, call 360-456-5221, x117.

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**Questions?** Please contact Amy O'Donnell at 206-727-8213 or [amy@wsba.org](mailto:amy@wsba.org).

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**Gardner Bond Trabolsi St. Louis & Clement PLLC** seeks a construction-defect litigation attorney. We are a small/medium-sized downtown Seattle firm consisting of 15-attorneys currently. We seek a full-time associate with a minimum of two years' litigation experience, with one year of construction-defect experience or similar background. The firm's practice is primarily insurance defense, including large construction-defect claims. We are looking for a candidate who is energetic and can work well as part of our team. We have a friendly and relaxed work environment, and offer competitive salaries and benefits. For more information regarding our firm, please see our website at [www.gardnerbond.com](http://www.gardnerbond.com). Please e-mail résumés to Ronald Gardner, Managing Partner, at [rgardner@gardnerbond.com](mailto:rgardner@gardnerbond.com).

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**Employment law:** Schwabe Williamson & Wyatt, a Northwest regional law firm, seeks an attorney with an established employment law practice for its expanding Seattle office. The successful candidate will have 10-plus years' experience

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**Established Bellingham firm seeks associate:** At least two years' experience necessary, domestic and general practice. \$60-100K salary DOE plus benefits. Send résumé and cover letter to Lori at Tario & Associates PS, 119 N. Commercial St., Ste. 1000, Bellingham, WA 98225, or e-mail to [tariolawbham@qwest.net](mailto:tariolawbham@qwest.net).

**Herrmann Law Firm is seeking attorney** for downtown Seattle office. A minimum of three years' experience in immigration and family law required. Criminal law a plus. Fax résumé to 206-682-6710.

**Senior litigation attorney:** Riddell Williams PS currently has an opportunity for a litigation associate with a minimum of three years' experience to work in our commercial litigation practice group. Candidates must have outstanding academic credentials and excellent written and oral communication skills. Strong organizational and case-management abilities are a must due to substantial and immediate responsibility and client contact. Send cover letter, résumé with professional references, writing sample, and transcript to Claudia Moshuk, Director of Human Resources, Riddell Williams PS, 1001 4th Ave., Ste. 4500, Seattle, WA, 98154. We are an equal opportunity employer committed to employing a diverse workforce. No phone calls please.

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

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**Small downtown Seattle firm of defense attorneys seeking attorney** with a minimum of two years' litigation experience for immediate assistance in growing healthcare practice. Excellent academic credentials and writing skills required. Send résumé and writing samples to Patrick C. Sheldon, Fain Sheldon Anderson & VanDerhoef PLLC, 701 5th Ave., Ste. 4650, Seattle, WA 98104; or e-mail [patrick@fsav.com](mailto:patrick@fsav.com).

**Washington State Division of Child Support** is seeking attorneys for claims officers I/II positions in our Fife and Tacoma offices. Claims officers represent DSHS/DCS at administrative hearings and handle a variety of other legal issues. To learn more about this satisfying career helping children and families, go to <http://hr.dop.wa.gov/statejobs/bulletins/jobcat2.htm#Adjudications> and apply online, or contact Sarah Neyhart at 253-476-7525.

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**Business and transactions attorney:** We are a 16-lawyer AV-firm in Eugene fortunate to represent several of Oregon's largest privately held companies and enjoy a growing and sophisticated transaction practice. We seek a lawyer for this practice area with at least five years' experience. Applicants should have experience in complex real estate, business-acquisition finance, and other commercial transactions. If you are a highly motivated lawyer with superior technical and interpersonal skills who wants to do interesting and challenging legal work in a friendly, collegial environment, please send your résumé with references in confidence to Rohn Roberts, Arnold Gallagher Saydack Percell Roberts & Potter PC, PO Box 1758, Eugene, OR 97440-1758.

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Knowledge of funding, purchasing, and grants administration of Washington State, the DOT, FTA, and DOI. Please submit résumé and letter of interest to HR, Spokane Transit Authority, 1230 W. Boone Ave., Spokane, WA 99206; or [chawkins@spokanetransit.com](mailto:chawkins@spokanetransit.com). Open until filled.

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**Associate attorney — employee benefits:** Downtown Portland solo practitioner (AV-rated and listed in *The Best Lawyers in America*), with busy, established practice focusing on employee benefits and executive compensation, seeks associate with at least two years' relevant experience. Clients include pub-

lic and private corporations, associations, and tax-exempt organizations. Varied practice covers retirement plans, health plans, fringe-benefit plans, executive agreements, investment-management issues, benefits in mergers and acquisitions, due-diligence examinations, and contract negotiations. Ability to communicate technical issues to clients in plain, everyday language is a must. Competitive salary and benefits. Send résumé and a writing sample demonstrating analytical and communication skills to Vincent P. Cacciottoli, 121 SW Morrison St., Ste. 1010, Portland, OR 97204.

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

**Arrowhead Credit Union** is recruiting for a candidate to develop and administer its federal/state law compliance program. Candidate is required to have in-depth knowledge of compliance laws applicable to financial institutions, a juris doctor degree, and a current license to practice law in California, along with a minimum of five years' compliance experience with a complex bank or thrift. Please visit our website, [www.arrowheadcu.org](http://www.arrowheadcu.org), for a detailed job description. Send résumés to [careers@arrowheadcu.org](mailto:careers@arrowheadcu.org); or Arrowhead Central Credit Union, PO Box 735, 202 E. Airport Drive, San Bernardino, CA 92402.

**Request for qualifications:** The King County Prosecuting Attorney's Office, through its Family Support Division (FSD) seeks qualified attorneys with family law and mediation experience to serve as mediators in paternity cases. Qualified candidates will be included on the list. Candidates interested in receiving a copy of the RFQ are requested

to contact Gib Myers at PCSS, 821 2nd Ave., M/S EXC-FI-0825, by telephone at 206-684-2024, by fax at 206-684-1486, or by e-mail at [gilbert.myers@metrokc.gov](mailto:gilbert.myers@metrokc.gov). Submittal information requested by the RFQ must be submitted to King County by 5:00 pm, April 15, 2004. Accessible information: this information is available in alternate formats for individuals with disabilities upon advance request by calling 206-684-1327, TTY Relay: 711.

**Small Seattle law firm has immediate opening** for an experienced personal injury attorney with some experience in criminal law. Full-time position. Please respond to WSBA *Bar News* Job Code 643, 2101 4th Ave., Ste. 400, Seattle, WA 98121.

#### Will Search

**Ressa Ruth Cole:** Family looking for her last will and testament. Born August 23, 1898, died August 3, 2001, in Seattle, WA. Anyone having information please contact Peter F. Cowles, attorney, 206-789-6655.

#### Services

**Oregon accident?** Unable to settle the case? Associate an experienced Oregon trial attorney to litigate the case and share the fee (proportionate to services). OTLA member; references available; see Martindale, AV-rated. Zach Zabinsky, 503-223-8517.

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

**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.

**Dispute resolution:** Donald G. Ryan Jr., 34 years' experience in Washington.

Available for mediation or arbitration of real estate or personal injury disputes. 253-939-0811; [info@rdsattys.com](mailto:info@rdsattys.com).

**Contract attorney at your service:** Legal research and writing for Washington lawyers; minutes from UWLAW Library. Many satisfied clients. Elizabeth Dash Bottman, 206-526-5777; e-mail [bjelizabeth@qwest.net](mailto:bjelizabeth@qwest.net).

**Lump-sums cash paid** for remaining payments on seller-financed real estate notes and contracts, business notes, structured settlements, annuities, inheritances in probate, lottery winnings. Since 1992. Cascade Funding, 800-476-9644; [www.cascadefunding.com](http://www.cascadefunding.com).

**Fast cash** for seller carry-back real estate or business notes, divorce liens, structured-settlement annuities, and other cash flows. We appraise notes. 31 years' experience. Larry or Lorelei Stevens (father/daughter team). Wall Street Brokers, Inc.; 800-423-2114 or 206-448-1160. [www.wallstreetbrokers.com](http://www.wallstreetbrokers.com).

**Forensic document examiner:** Retired from the Eugene Police Department. Trained by the U.S. Secret Service and U.S. Postal Inspection Service. Court-qualified in state and federal courts. Contact Jim Green at 888-485-0832.

**Certified fraud examiner:** Specializing in fraud, ethics, criminal profiteering, liquor liability, and harassment. 30 years' experience. Licensed investigator. Expert witness. Kenneth Wilson. 360-956-1674. [Ken@wilsonis.com](mailto:Ken@wilsonis.com); [www.wilsonis.com](http://www.wilsonis.com).

**Your paralegal:** I am certified in civil litigation and experienced in handling personal injury cases from demand to trial/arbitration notebook. Judy Auten, CLAS, 253-686-353.

#### Miscellaneous

**Crescent Bar Condo:** Sleeps four. Newly remodeled. Great Columbia River waterskiing. Golf. Heated pool/spa. 425-222-7011, 425-222-7912, or [fawcett@nwlink.com](mailto:fawcett@nwlink.com).



# Not Exactly Sally Field at the Oscars

by Lindsay Thompson, Bar News Editor

*Praise those of your critics for whom nothing is up to standard.*

— Dag Hammarskjöld, *Markings* (1957)

**E**lsewhere this issue (p. 34) I report on the overall results of the WSBA's member survey on *Bar News*. A bunch of you took the extra time to offer comments praising the magazine. All of *BN*'s happy few are humbled and gratified by your generous comments.

Others of you took time to tell us how much you dislike *Bar News*, or things in it. Starting with the lawyer who, in response to the question, "What would you like to see in *Bar News* that's not there now?" responded, "Reality," you pulled dozens of shiny stones out of your pouches and gave us a big, collective slingshot in the forehead. You find *BN* too Seattle-centric, too boring, too esoteric, too liberal, too long, and too often.

*"Recognize there is knowledge and wisdom outside of downtown Seattle." "Bar News is written by and for the large mega firms and has little or nothing to do with the sole practitioner." "You profile the attorneys that advertise with you. Bar News is just advertising for 'Super Lawyers' and their firms." "There is a world outside Seattle." "Eliminate the junior high gossip in Around the State." "More articles about bar associations in eastern Washington and less about western Washington." "Bar News tends to focus too much on King County news and issues. Rest of state is treated superficially."*

*"Usually too boring. Most is useless." "Solicit more interesting articles." "Substantive articles not useful. Some articles are too esoteric and appear to me to be for only special-interest groups." "Articles of little use or interest." "Not much for people in private practice. Very little for the government and in-house attorney." "As house counsel to a nonprofit, the articles rarely relate to my work." "Waste of my bar dues. The only thing I like to read is the discipline section, but only if there's anyone I know." "So boring I wish subscription*

*was optional — then I would choose not to subscribe." "Book reviews? What book reviews?" "Prettier, but not interesting or germane to the sole or small firm practitioner." "Not anywhere as good as WSTLA. Even the Pierce County Bar News has better articles sometimes."*

*"Less, not more." "After the Advance Sheets, who has time for more to read?" "Bar News comes out too often for busy attorneys." "A quarterly magazine would suffice. I barely finish one and get another." "A waste of money to print on nice paper. Should be printed as a newspaper to save money for worthy purposes." "I truly resent having to pay for this publication. I consider bar dues highway robbery anyway, and paying for a slickie I don't read and don't need just makes it worse."*

**"Recognize there is knowledge and wisdom outside of downtown Seattle."  
"Not much for people in private practice."  
"Usually too boring. Most is useless."**

*"Quit being political, and so politically correct." "Far too leftist in content — no conservative viewpoint unless in a letter to the editor." "Too political; too left wing." "Too much social science baloney — pro bono, etc. Get down to what most lawyers do day to day." "Very poor; liberal slant." "Bar News needs the absence of ideology — the bar is almost entirely controlled by WSTLA — also too much Seattle liberal point of view." "Eliminate editorial comment and liberal bias (impossible, but let me dream)." "Too much of a liberal focus."*

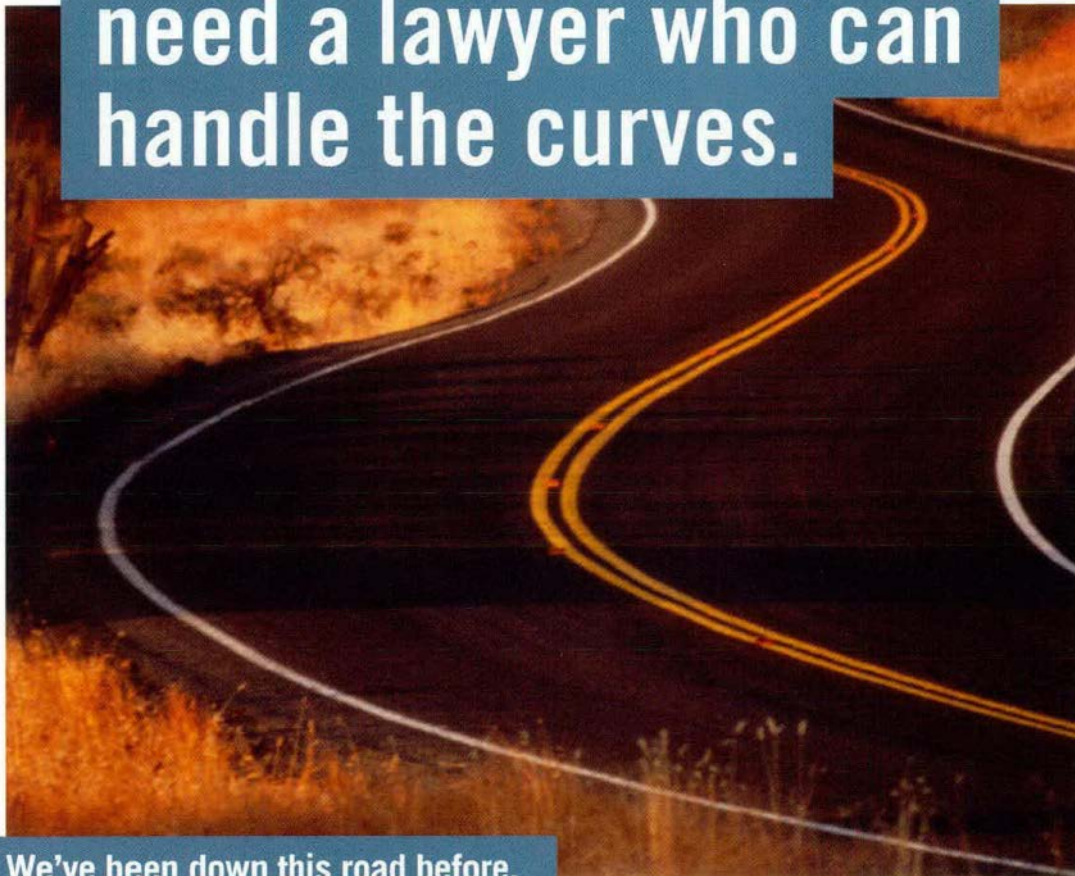
As Jack Benny used to say, "Well."

I take all readers' critiques seriously, and next month, when I have enough room to do them justice, I will take a swing at addressing the things that cause some of you to really, really, not like *Bar News*.

In the meantime, as I wrote in my first column in 1988, I will be consoled by the poet Edward Dahlberg's maxim, "Every decision you make is wrong." ✍

*Lindsay Thompson practices law on Salmon Bay in Seattle and was raised by a family of perfectionists. He has turned out to be a grave disappointment. You can chivvy him by e-mail at [tradelaw@thompson-law.com](mailto:tradelaw@thompson-law.com).*

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