

Washington State

BarNews

The Official Publication of the Washington State Bar • SEPTEMBER 2004



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Hangartner
Decision:
The Supreme Court
Limits Access to
Public Records**

IN

OUT

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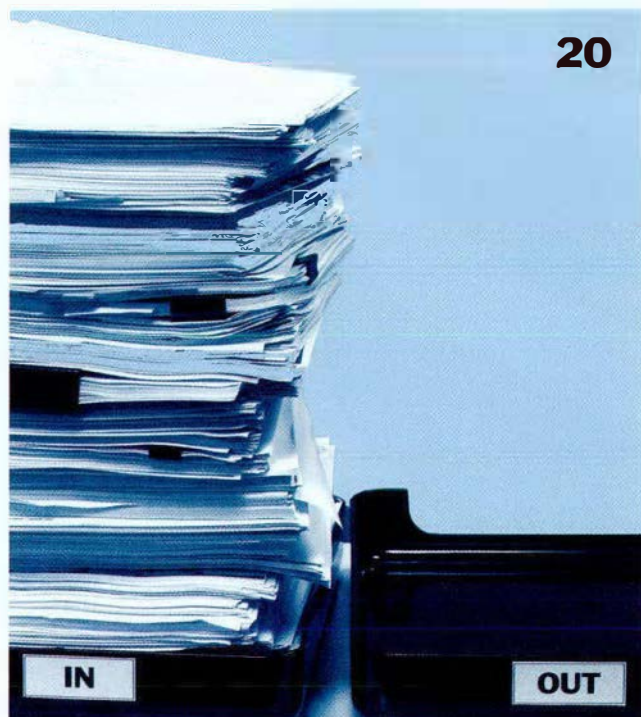
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Washington State

BarNews

The Official Publication of the Washington State Bar

September 2004



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



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Letters to the Editor

Our modes of speech should keep up with the times

I thoroughly enjoyed Judge Nichols' article in the June issue (p. 23). I read it just as I was getting ready to head into a jury trial, and so I especially appreciated the reminders of things I sometimes forget in the heat of battle. But allow me one quibble. Judge Nichols encourages use of the phrase "May it please the court" at the start of each argument. To my mind (and ear) that phrase is more timeworn than time-honored. It reminds me of other best-forgotten legalese terms such as hereinbefore, thereby, and party-of-the-first-part. Certainly, an attorney should acknowledge the fact that a justice or judge has just granted the attorney the opportunity to speak. The most direct way to do this that I have been able to come up with is to say, "Thank you your honor" at the outset. This simple, polite phrase has the added benefit of being completely understandable by one's clients and by anyone else in the courtroom.

Rosemary Daszkiewicz, Seattle

Our disciplinary notices surprise us

Having just read the unusually long "Disciplinary Notices" in the July *Bar News*, I've come up with a new name for the section: "WHAT were they thinking?!" Variations might include: "What? Were they *thinking*?" or "What were they THINKING?!"

Eventually, the section could spin off into a game show similar to "What's My Line?" where contestants would guess the bone-headed thing(s) the attorney had done.

Perhaps, instead of the bar, potential attorneys should be tested on time and financial management.

Merry A. Kogut, Herron Island

Our editor is a bonehead some days

I am writing to correct a statement in the "In Memoriam" section of *Bar News* (July, p. 48) regarding Judge Bill Lewis. He was a colorful character, both on and off the bench. Your article states that he was a founding member of our law firm, which is also misnamed in the article. Bill Lewis was a long-time friend of Fred Smart, who retired from Lee Smart in the mid-

80s. However, Bill Lewis was never associated with Lee Smart and was not a founding member of our firm. Your writer obviously cribbed his or her notes from *The Seattle Times*' article on Judge Lewis and did a subpar job of interpret-

ing *The Times*' article. It stated that Fred Smart was a founding member of the Lee Smart firm, not Judge Lewis.

Thanks for your attention to this matter.

Dave Martin, Seattle

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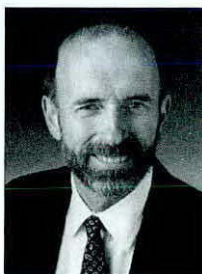
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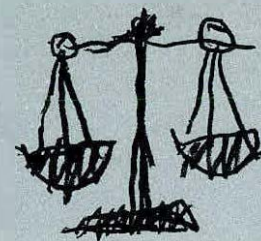
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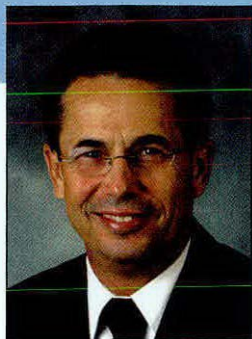


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The State of the Bar

by David Savage, WSBA President

It is time to take account of a year which has passed more quickly than I could have imagined. In my first column, I promised to make diversity and inclusivity the centerpieces of my term. I also told you I would make a conscientious effort to enhance member benefits, all with a view to enhancing the Bar's relevance to its members and the public it serves. Below I report our work on these commitments and the state of the Bar.

Diversity

Together with this Board of Governors and President-elect Ron Ward, we have moved forward to bring diversity to the leadership of the WSBA, its membership, committees, sections, and activities. Notable achievements include:

- **Annual WSBA Diversity Listening Session.** In February of this year, the Board of Governors met with bar leaders from the minority, ethnic, and specialty bar associations to learn by listening how we might better serve these important voluntary bar associations and their diverse memberships. Their advice will help chart our future course. We remain mindful of the challenge issued by Judge Richard Jones, who closed the event, saying:

Please don't rest upon the mere fact that you listened. The challenge is to act upon what you heard.

The WSBA has to be committed to diversity to make it work. The mission of the WSBA must be to build a legal community where the interests of all are included. This includes the Bar serving as the role model of diversity and inclusivity at all levels.

And last, have you as the leaders of the WSBA put yourselves on the line, risked your reputation, risked comment and criticism because you have stood up for making diversity and the interests of the minority members of the Bar a priority in the decisions of the Bar?

President-elect Ron Ward has scheduled the next Diversity Listening Session for March of 2005, and incoming President-elect Brooke Taylor is already looking forward to scheduling the 2006 session.

- **Diversity Advocate.** The Board of Governors has authorized adding a new staff position, diversity advocate, which I have championed. We are securing advice from the diversity and specialty bar associations as to

how this position might best serve the needs of their leadership and their members, and assist in achieving WSBA Strategic Goal No. 9, which calls upon the WSBA to "promote diversity, equality and cultural competence in the courts, legal profession and the bar." I am pleased that this high-level position will become a reality in the near future.

- **WSBA Leadership Institute.** President-elect Ron Ward is the originator and passion behind this new undertaking. The program is designed to annually provide a nurtured leadership experience for five to eight Institute "Fellows," who will be selected for their recognized leadership potential, accomplishments, and/or interests. Though intended for the benefit of all, this program will have a special place in encouraging the growth of leaders of diverse backgrounds.

- **Initiative for Diversity.** The WSBA has endorsed this ambitious initiative brought to life by an independent consortium of lawyers and judges who seek to emphasize diversity and retention in the workplace. We know that women and persons of diverse backgrounds are not moving into the ranks of firm ownership and management at a pace consistent with their numbers.

The WSBA's endorsement of the Initiative for Diversity is responsive to Judge Jones's challenge: "I'm asking — no, let me rephrase that — I'm challenging the WSBA and its leadership to be the moral conscience of the private firms and corporations for whom *you* work."

While these are significant and positive first steps in our effort to achieve diversity, it will take a determined resolve over time to truly make this a bar that reflects the public it serves. This Board is committed to this goal.

Member Benefits

Now, on to member benefits. I promised to enhance member benefits, and I believe this Board and I have added significantly to them as described below.

- **Casemaker.** At its July meeting, the Board of Governors approved the recommendation of a task force led by Charlie Wiggins to make Casemaker, an electronic legal-research service, available to all Bar members at no charge.

Casemaker is a consortium of 17 state bar associations, soon to grow to 22 and more, that contract for electronic

legal research services with Lawriter LLC. Our neighbor states of Oregon and Idaho are already members. The service will provide access to all Washington appellate decisions, the appellate decisions of the 16 other member states (and any future state subscribers), U.S. Supreme Court decisions from 1935 forward, and Ninth Circuit decisions from 1990 to date. It will also include some other federal circuit court and district court decisions, as well as the RCW and the United States Code.

This electronic research service will bring a modern and useful tool to our

entire membership. Importantly, it will level the playing field a bit for solo and small-firm practitioners, who compose the majority of this Bar. The WSBA hopes to have this service up and running in six to nine months. In addition to Chair Charlie Wiggins, Governor Katie O'Sullivan and attorneys Robert Rembert, Gail Gorud, Deborah Kelly, and Doug Ende served on the task force.

• **Health, Life, Long-term Disability, and Automobile Insurance.** The WSBA continues to offer sponsored healthcare insurance with Group Health and continues its work to improve this

offering. Importantly, this plan permits a "group" to consist of a solo practitioner. You can review this insurance, as well as secure a rate quote, at www.wsba.org (click on "For Lawyers"; then scroll down the right to "Health Insurance"). Incidentally, the new group-medical-insurance program includes a dental-insurance option.

The WSBA now sponsors a long-term care insurance program for members, and this year added long-term disability and automobile insurance to the array.

Professionalism

We have also worked hard to better the profession of which we are all so proud. Consistent with Strategic Goal No. 3, with which the WSBA has committed itself to "promote civility and professionalism in the practice of law and the professional development of new lawyers," we have taken the following important steps:

• **Professional Development.** At its July meeting, the Board received the report and recommendation of the Professional Development Implementation Task Force chaired by Past-president J. Richard Manning, author of the initiative. It calls for four hours of pre-admission CLE skills training for new lawyers, the commencement of the 15-hour CLE requirement in the first year of practice with an emphasis on skills training, and the creation of a task force to increase the opportunities for new lawyers to experience mentored client representation.

• **Character and Fitness Standards.** I chartered a task force chaired by Governor Mark Johnson, a past chair of the WSBA Character and Fitness Committee, to create clear written standards for the committee to follow in resolving the issues arising from the applications of new attorney applicants and attorneys seeking readmission who are the subject of character and/or fitness concerns. This task force will deliver its proposed standards to the Board at its September 2004 meeting, which is expected to recommend them to the Supreme Court.

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8, which call for the WSBA to "be a leader in assuring civil equal access to justice" and an "advocate for effective criminal and juvenile access to justice," this Bar has been a major contributor to the following critical civic missions:

- **Civil Access to Justice.** Together with many others committed to the same goal, the WSBA played an important role this year in securing \$1.9 million in legislative funding for the civil justice providers in Washington. While this is a significant accomplishment, it should be remembered that this money simply stems a bit the tide of red ink that

has prevented us as a state and a nation from making a reality of our pledge of equal "justice for all."

That there is a crisis cannot be denied; the magnitude of it is startling. It was revealed by the Civil Equal Justice Task Force chartered by the Washington State Supreme Court and co-chaired by Justice Charles W. Johnson and Judge Mary Kay Becker. The task force found that Washington's low-income and vulnerable residents, principally women and children, face over one million significant civil legal problems annually and that less than 15 per-

cent of those persons receive any legal assistance.

The WSBA will continue to play an important role in seeking the restoration of adequate civil funding, measured at an annual shortfall of \$26 million, in order to ensure that "justice for all" is more than just a proud phrase.

- **Blue Ribbon Panel on Criminal Defense.** Led by retired Justice Robert F. Utter and Marc A. Boman, this panel reported to the Board at its May meeting, recommending that:

1. A WSBA standing Committee on Criminal Defense be established.
2. The WSBA should actively support an expanded role for the Washington State Office of Public Defense in providing meaningful oversight, monitoring, reporting, and training to ensure that legislatively mandated defense standards are adopted and implemented, and, if state funding is available, to disburse such funding contingent on adherence to statutorily mandated defense standards.
3. The WSBA should support efforts by other organizations and associations, including the Court Funding Task Force and the Washington State Office of Public Defense, to obtain adequate state funding for indigent criminal-defense services and parents' representation in dependency cases.

Embracing these recommendations, the Board authorized the creation of an implementation committee to be led by Governor Jon Ostlund, whose term, like mine, comes to a close in September. This is fitting, as Governor Ostlund was the driving force behind this initiative, and, as the Whatcom County public defender, knows well the hardships and shortcomings of the indigent criminal-defense system.

- **Court Funding Task Force.** The WSBA has distinguished itself by providing much of the leadership for the Supreme Court's Court Funding Task Force. The task force is led by Past-president Wayne Blair. President-elect Ron Ward and Executive Director Jan Michels, among other Bar leaders, have been key contributors to the work of the task force, which seeks to secure stable and adequate long-term funding for our

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courts, a goal intimately related to the civil and criminal justice initiatives described above.

Among the task force's findings is the embarrassing fact that Washington ranks dead last in the 50 states of the Union in support of its trial courts, with less than 0.3 percent of the state's general fund going to support the courts. The report of the task force is expected shortly, and I expect it to reveal that our courts are in need of \$54 million annually in additional funding, indigent criminal defense requires an additional \$118 million annually in order to provide constitutionally adequate representation, and an additional \$12 million annually is required to properly provide for indigent parental representation in dependency cases.

The WSBA is committed to continuing to serve in a leadership role in this effort. It is a critical and unavoidable commitment, as our courts, the "third branch," are little able to advocate their cause, a cause which is also ours and that of the public we serve.

Practice of Law

Though busy with all of the critical and lofty matters described above, we have not neglected the conventional side of the practice of law.

• **Ethics 2003.** At its July meeting, the Board of Governors accepted the final component of the two-volume, 850-page report of the WSBA Ethics 2003 Committee, led by Ellen Conedera Dial. The committee consisted of a diverse group of 21 attorneys. It was ably "reported" by Doug Ende, WSBA professional responsibility counsel.

With the modifications to the Washington Rules of Professional Conduct recommended by the committee and adopted by the Board, Washington joins the nine states that have conformed their rules to the Model Rules of Professional Conduct adopted by the ABA House of Delegates in 2000. Idaho has already adopted most parts of the Model Rules, and changes to Oregon's rules are before the Oregon Supreme Court.

• **Court Rules and Procedures Committee.** The 24-person Court Rules and Procedures Committee, led by David Swartling, not only responded to a variety of "hot-topic rules issues" at the Board's request over the last year, but completed its scheduled review of the civil rules, recommending changes to CR 1, 5, 11, 15, 26, 27, 28, 30, 35, 50, 52, 59, and 62; CrI.J 1, 5, 11, 15, 50, and 59; CrR 4.7; and CrRI.J 4.7. The Board will recommend many of the suggested changes to

the Supreme Court.

the Supreme Court.

We also broke significant new ground in a number of areas:

• **LRAP.** In July 2002, the Board established the Student Loan Crisis Task Force, which was charged with developing recommendations to lessen the adverse impact of student-loan burdens on

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new lawyers, a burden which also adversely impacts *pro bono* services, professional development, and the ability of civil-equal-justice providers to attract lawyer employees. The task force reported its findings to the Board in July 2003.

One year later, I am pleased to advise that the Board has authorized the creation of a Loan Repayment Assistance Program (LRAP), due in no small part to the vision and energy of Dwight Williams, who chaired not only the implementation phase of this work but the original task force as well. The program will make "forgivable" loans to participants, who must be active WSBA members employed at least 32 hours a week in qualifying public-service employment.

• **Legislative Strategy Task Force.** The WSBA is charged with promoting an effective legal system (General Rule (GR) 12(a)(2)) and is specifically authorized to maintain a legislative presence (GR 12(b)(17)).

While the WSBA's Legislative Committee and staff have done an admirable job of advancing the legislative proposals of this organization and reacting to legislative measures authored by others which impact the practice of law or the administration of justice, I am convinced that we need to develop an overall strategy for our legislative affairs in order to benefit our legislative interests and those of

the public we serve.

The mission of this task force will be to enhance the WSBA's role as a resource to the Legislature and to strengthen the WSBA's work as an advocate for its members and the public on legislation that comes within the scope of the WSBA's purposes and responsibilities as described in GR 12.

While this task force is in the process of defining its work and will begin it by securing a "report card" on our past efforts, its actions may include developing a networking system that will enable members of the Bar to interact with legislators; developing and/or enhancing an ongoing educational enterprise which aids legislators in achieving a comprehensive understanding of the Washington and American system of jurisprudence; supporting and enhancing the WSBA's legislative lobbying effort to the end that the interests of the public and the WSBA's members are clearly identified and well represented in the legislative process; and ensuring that the WSBA's legislative lobbying effort reflects as nearly as practicable the majority position of its membership.

Fiscal Management

Finally, no "State of the Bar" report would be complete without an assessment of the Bar's economic circumstance. While our membership has grown to more than 28,000, we have remained mindful that dues monies are a

precious commodity. To that end, we have:

- Limited dues increases to two percent.
- Maintained a budget reserve of eight percent of our general fund.
- Conducted the first-ever comprehensive salary and benefits study in order to ensure that our staff are fairly compensated in accord with market conditions.
- Secured new quarters for the Bar. When the WSBA moves into its new offices in January 2007 at the Puget Sound Plaza, 1325 Fourth Avenue, Seattle, the Bar's rent will be less than presently paid, and it will average no more than the current rate over the 10-year term of this renewable lease.

I am proud of this Board's conscientious commitment to sound fiscal management; it is a keystone to a good fiduciary relationship with members.

Thank You!


In closing, it is my firm conviction that the Washington State Bar Association is in very good condition. It is sound fiscally, forward-looking, a good civic "citizen," and committed to its members and the public it serves. It may become one of the nation's great bar associations. Whether it does so will depend largely upon whether it meets the challenge of the 21st century to fully reflect the diversity of its membership and the public it serves.

It has been a great deal of fun (and work) to lead the WSBA. It has been my privilege to do so and one for which I thank each of you.

While I have said it before, I say again that each of you should consider some experience in Bar leadership, whether it be as a WSBA officer, with the Board of Governors, with a WSBA committee or section, or with one of the other local or voluntary bar associations. Having done so, you will, I am confident, concur with my assessment that the contribution repays more than it costs.

Thanks again.

Dave Savage can be reached at savage2@imsblaw.com or 509-332-3502.



M. Wayne Blair
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Financial Highlights for Fiscal 2003

Strategic Financial Goal

The WSBA's strategic financial goal is to be fiscally responsible — to operate a well-managed and financially sound association, to be accountable to our members and the public, and to use our resources wisely in ways that accomplish our mission. We account for our revenues and expenses in four categories:

- The general fund consists of our regulatory functions and most services to members and the public. It is funded by member license fees and revenues from services.
- CLE programs and products are entirely self-funded by seminar registration fees and sales of deskbooks and other publications.
- The WSBA's 24 sections are a voluntary activity for WSBA members and are fully self-supporting through section dues and fees for section products and services. No member license fees were used for section activities, and all net income from sections is carried forward in each section's net assets for use by that section in future years.
- The Lawyers' Fund for Client Protection (LFCP) may be used for relieving a loss sustained by a person due to the dishonesty of, or failure to account for money entrusted to, a member of the WSBA in connection with the member's practice of law. It is funded by an annual assessment on all active WSBA members.

The accumulation over time of revenues in excess of expenses is called net assets, commonly referred to as reserves. Each category of activities has accumulated net assets for use in future years.

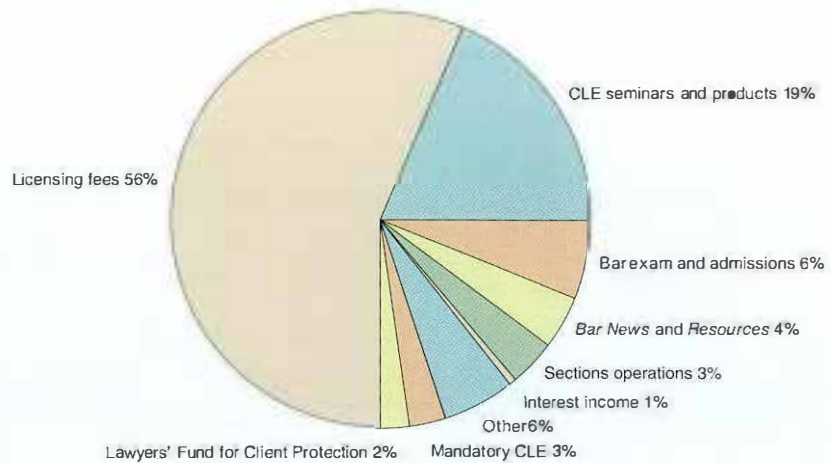
Financial Results for Fiscal 2003

All four categories had revenues in excess of expenses, thereby contributing to their individual net assets.

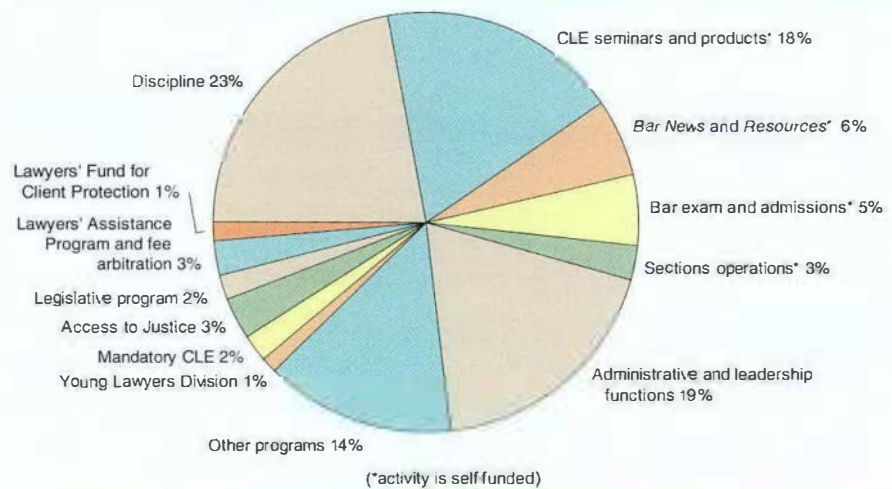
• The general fund budgeted for revenues over expenses of \$325,776, and actual results were \$1,081,453. These results achieve the Board-targeted eight percent operating reserve of \$838,469 for 2004 and, by contributing \$242,984 from 2003, further implement a Board directive to build a parallel eight percent contingency reserve to fund space planning associated with the WSBA's planned move to Puget Sound Plaza at the end of calendar year 2006.

• The CLE fund budgeted for revenues over expenses of \$142,906, and actual results were \$391,224.

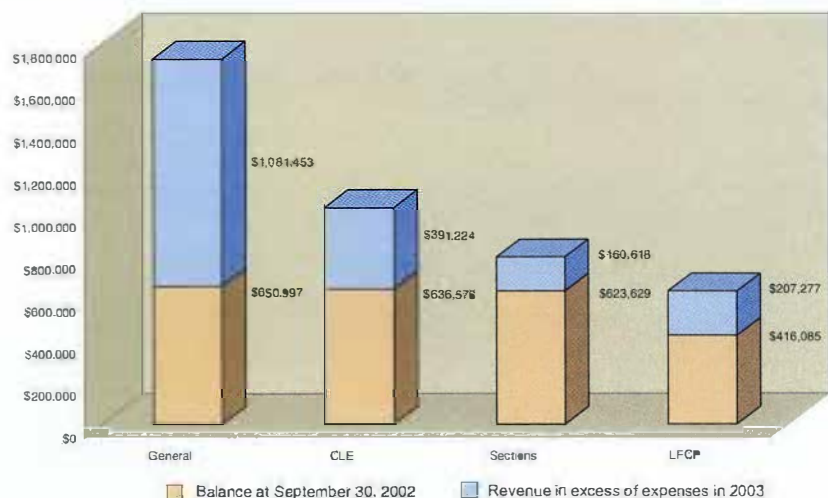
Percentage of 2003 Revenues Collected from Various Sources



Percentage of 2003 Expenses Used by Activity



WSBA Net Assets at September 30, 2003, by Category



• The sections budgeted for \$175,206 expenses over revenues (in order to use past accumulated reserves to benefit their members), and actual results were

revenues over expenses of \$160,618.

• The LFCP fund budgeted for revenues over expenses of \$119,108, and actual results were \$207,277.

Statements of Activities

	Year ended September 30, 2003			Year ended September 30, 2002		
	2003 Actual Revenue	2003 Actual Dir. Exp.	2003 Actual Net	2002 Actual Revenue	2002 Actual Dir. exp.	2002 Actual Net
Access to Justice	78,978	457,671	(378,693)	78,293	487,610	(409,317)
Administration	92,122	843,096	(750,974)	71,740	833,201	(761,461)
Admissions/Bar Exam	929,687	725,097	204,590	1,021,522	766,984	254,538
Alternate Dispute Resolution	5,325	67,366	(62,041)	5,150	64,142	(58,992)
Attorney License Fees	8,633,151	0	8,633,151	7,681,392	0	7,681,392
Audits	2,498	96,404	(93,906)	0	111,164	(111,164)
Bar Leaders Support	16,671	247,199	(230,528)	2,014	235,086	(233,072)
Bar News	518,329	741,871	(223,542)	502,172	693,237	(191,065)
Communications	29,689	278,705	(249,016)	53,921	286,831	(232,910)
Discipline	184,163	2,999,764	(2,815,601)	102,532	2,934,357	(2,831,825)
Human Resources	0	172,383	(172,383)	0	160,224	(160,224)
Information Technology	14,925	886,866	(871,941)	0	845,627	(845,627)
Law Office Management						
Assistance Program	48,327	200,855	(152,528)	36,509	177,213	(140,704)
Lawyers' Assistance Program	39,491	300,581	(261,090)	35,802	282,958	(247,156)
Leadership (Board of Governors)	415	435,315	(434,900)	8,731	406,247	(397,516)
Legislative	0	214,285	(214,285)	0	208,359	(208,359)
Limited Practice Officers	159,319	69,984	89,335	23,722	19,776	3,946
Loss Prevention	0	0	0	23,515	26,112	(2,597)
Mandatory CLE	392,380	301,017	91,363	293,523	244,431	49,092
Membership Benefits			0	0	10,137	(10,137)
Membership Records and Licensing	70,379	431,870	(361,491)	43,803	414,431	(370,628)
Office of General Counsel	15,787	352,520	(336,733)	21,250	317,760	(296,510)
Practice of Law Board	0	37,778	(37,778)	0	0	0
Professional Responsibility Program	0	129,629	(129,629)	0	122,928	(122,928)
Public Legal Education	26,961	116,936	(89,975)	21,569	102,898	(81,329)
Resources Directory	120,616	54,563	66,053	129,660	51,629	78,031
Sections Administration	103,755	104,889	(1,134)	113,230	92,441	20,789
Technology Bill of Rights	60,035	60,124	(89)	77,224	77,224	0
Website	0	0	0	24,963	62,309	(37,346)
Young Lawyers Division	19,308	142,814	(123,506)	43,736	164,513	(120,777)
Other	0	11,276	(11,276)	0	16,000	(16,000)
Unrestricted — General	11,562,311	10,480,858	1,081,453	10,415,973	10,215,829	200,144
Unrestricted — Continuing Legal Education						
CLE Products	754,705	584,772	169,933	631,540	539,314	92,226
CLE Seminars	2,090,760	1,869,469	221,291	2,121,622	2,027,643	93,979
Total Unrestricted CLE	2,845,465	2,454,241	391,224	2,753,162	2,566,957	186,205
Unrestricted — Sections Operations	526,902	366,284	160,618	471,421	379,210	92,211
Restricted — Lawyers' Fund for Client Protection	357,274	149,997	207,277	333,561	269,571	63,990
Total	15,291,952	13,451,380	1,840,572	13,974,117	13,431,567	542,550

REMEMBERING A DEAR FRIEND



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1926 - 2004**

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Washington State Assistant Attorney General - 1956-1957
Appellate Judge, Washington State Court of Appeals, Division I - 1984-2002
Chief Judge, Washington State Court of Appeals
Counsel to Lybeck Murphy, LLP - 2002-2004

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The *Hangartner* Decision:

The Supreme Court Limits Access to Public Records

This article presents several views of the Washington State Supreme Court's recent decision on the Public Disclosure Act. The opinion of the Supreme Court of the State of Washington filed on May 13, 2004, became final in the *Hangartner*¹ case on July 30, 2004. The case was remanded to the Superior Court from which the appeal was taken for further proceedings in accordance with the Supreme Court's opinion. A motion for reconsideration was denied on August 2.

Opinions expressed by the authors are their own and not necessarily those of their respective public- or private-sector employers or the WSBA Administrative Law Section.

A large stack of papers is shown in a black filing cabinet. The stack is very thick, with many pages visible. The papers are slightly yellowed and have some text on them, though it's not legible. The stack is placed in the 'IN' compartment of the cabinet. The 'OUT' compartment is empty. The cabinet has two compartments, one labeled 'IN' and one labeled 'OUT'. The background is a light blue gradient.

IN

OUT

Hangartner: Both Sides of the Story — An Overview

GREG OVERSTREET AND KRISTAL WITTALA KNOTSON

Introduction

The Washington State Supreme Court rendered a momentous decision on access to public records, in its May *Hangartner* decision, that has led to strong reactions. This article neutrally analyzes the decision and includes opinions from different sides of these hotly debated issues.

What is all the controversy about? The Public Disclosure Act (PDA), chapter 42.17 RCW, requires state and local agencies to provide public records to requesters.² The media, watchdog groups from all political persuasions, litigants (or soon-to-be litigants) against agencies, and average citizens use the PDA to keep informed about their government. Agencies spend a significant amount of time and resources responding to PDA requests. The Court in *Hangartner* changed the public's access to government information in two ways. First, the opinion excused agencies from responding to an "overbroad" request. Second, *Hangartner* held that records covered by attorney-client privilege are exempt from disclosure under the PDA.

Brief Background on the Public Disclosure Act

The PDA provides that, upon the request of any person, a government body — state or local — must provide "all public records" within certain timeframes, unless records fit within a specific exemption from disclosure.³ The PDA proclaims repeatedly that it is designed to allow the public to stay informed about its agencies. The PDA further mandates that it be broadly construed in favor of disclosure.⁴ Realizing that record requests will cause burdens for agencies, but deciding that access to public records is more important, the PDA also directs that courts "take into account the policy ... that free and open examination of public records is in the public inter-

est, even though such examination may cause inconvenience or embarrassment to public officials or others."⁵

The PDA lists approximately 80 specific exemptions from disclosure.⁶ One exemption allows an agency to withhold records "relevant to a controversy to which the agency is a party but which records would not be available to another party" through discovery in a civil case.⁷ This provision is known as the "controversy" exemption.

Several non-PDA statutes exempt other records from disclosure. A good example is RCW 68.50.105, which prohibits disclosure of autopsy reports. In what is called the "other statute" exemption, the PDA incorporates these non-PDA statutes by deferring to any "other statute which exempts or prohibits disclosure of specific information or records."⁸

Facts of the Cases

Hangartner is actually two cases consolidated by the Court. In the first named case, Rick Hangartner requested public records from the city of Seattle in 2000 regarding the monorail project. The city provided most of the records but claimed a few were protected by the controversy exemption — and the "other statute" of RCW 5.60.060(2). This law provides: "An attorney or counselor shall not, without the consent of his or her client, be examined as to any communications made by the client to him

or her, or his or her advice given thereon in the course of professional employment." The trial court ruled for the requester.


The second case involved a request to the Seattle monorail agency⁹ by a group called Citizens Against the Monorail (Citizens). The request was made shortly before a vote on whether to increase taxes to fund an expansion of the monorail. Citizens asked to review "all books, records, documents of every kind and the physical properties" of that agency. It is important to keep in mind that the monorail agency was tiny: it occupied about 600 square feet of office space and had only one employee. The agency claimed that several documents were protected by the controversy exemption, the "other statute" exemption, and/or RCW 5.60.060(2). The trial court ruled for the requester.

Holding¹⁰


"Overbroad" Request

In an opinion by Chief Justice Gerry Alexander, the Court first addressed whether Citizens' request for "all" records of the monorail agency was overbroad. The PDA provides that "all public records" must be available to the public but also requires a requester to ask for "identifiable public records," which has been interpreted to mean a request that gives the agency a reasonable description allowing an agency

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employee to locate the records.¹¹ An agency may ask a requester for clarification of the records sought, and the agency may refuse to respond if the requester fails to do so.¹² However, the PDA does not specifically address “overbroad” requests. The Court held that a request for “all” agency records was not for “identifiable” public records, concluding that such a request would render identification meaningless and lead to an “absurd result.”¹³ The Court held: “a proper request under the PDA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy

this requirement by simply requesting *all* of an agency’s documents.”¹⁴

Attorney-Client Privilege

Assuming that a public attorney’s advice can be privileged, the Court focused on whether the “controversy” or “other statute” would exempt these records from disclosure.¹⁵ The court decided that both laws could be applied and were complementary. The controversy exemption protects records unavailable in discovery and not just those subject to the attorney-client privilege. Similarly, attorney-client privilege is not limited to records involved

in actual or potential litigation.

The Court cautioned, however, that this exception must be narrowly construed and that agencies may claim it only to protect advice and documents created to communicate with an attorney, or they risk being fined under the PDA for acting in bad faith.¹⁶ As additional support, the Court observed that the Legislature could have excluded attorney-client privilege from the “other statute” exemption. The Court said that RCW 5.60.060(2)(a) “unquestionably” applies as an “other statute” to exempt records from the PDA.¹⁷

... a proper request under the PDA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency’s documents.

The (Strongly Worded) Dissent
“Overbroad” Exemption

Justice Charles Johnson began by describing the “overbroad” portion of the majority’s opinion as one that “judicially creates a new broad exemption to disclosure which has no statutory or case support.”¹⁸ Justice Johnson acknowledged that a request must be for “identifiable public records” but that “all” nonexempt public records must be disclosed. “Therefore, the only relevant inquiry is whether the party seeking public documents made a clear request for ‘identifiable public records’ — the request’s breadth is irrelevant.” Observing that Citizens requested “all” agency records, he remarked: “What better way to ‘identify’ all of [the agency’s] public documents than simply to request all of [its] documents?” Justice Johnson noted that the PDA provides that inconvenience is not a reason to restrict disclosure of public records.¹⁹

Attorney-Client Privilege

Justice Johnson found equally damaging to the PDA the Court’s holding incorporating attorney-client privilege through the “other statute” exemption, comment-

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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,

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ing that it contradicted a "plain reading" of the statute.²⁰ The dissent contended that this privilege applies to attorneys, not client agencies. Further, the statute does not "exempt or prohibit" disclosure, because it allows disclosure with a client's consent. He also observed that the statute does not protect "specific" records as required by the exemption. Because the PDA requires that exemptions be narrowly construed, Justice Johnson mourned that application of a broad attorney-client privilege exemption would effectively "swallow[] the PDA's purpose of allowing citizens a right to public

record," making the majority holding "absurd." He further criticized the majority opinion's interpretation as ignoring legislative history.²¹

Conclusion

These cases inspired numerous *amicus* briefs from a wide range of very interested parties. Based on the media coverage of this decision and continued debate within the legal community, public-interest groups, government agencies, and citizenry, it is anticipated that this decision may stimulate legislative action or further litigation.

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Hangartner: A Public-Sector Perspective on Attorney-Client Privilege

BERNIE FRIEDMAN

Both the majority and the dissent in *Hangartner* began with the proposition that the requested documents came under the attorney-client

privilege. The disagreement between the majority and the dissent centered on the question of whether the Public Disclosure Act (PDA) trumped the attorney-client privilege. The majority held, in effect, that it might, but invoked the "other statute" language of RCW 42.17.260(1) to incorporate the testimonial privilege set forth in RCW 5.60.060(2)(a) and exempt attorney-client privileged documents from the PDA. The dissent disagreed, noting the statute speaks only to attorneys, not to agency clients who may possess the sought documents. Presumably, in the

absence of the "other statute" language, all nine justices would have held that the PDA defeats the attorney-client privilege.

Lawyers reading this exchange may have been puzzled, as I was, at this spare description of the attorney-client privilege. I feel sure it is the universal belief among attorneys and judges alike that the attorney-client privilege applies to clients as well as attorneys. If you are defending a deposition, and your client is asked to relate a communication you had with him or her, you will object on the grounds of privilege and instruct your client not to answer, confident any judge would sustain your objection. That being true, the limited reach of RCW 5.60.060(2)(a) cannot be a complete statement of the attorney-client privilege. In fact, it is not.

The truly interesting question . . . is the scope of the attorney-client privilege in the public sector . . . I doubt many would argue that a confidential memo from a municipal attorney to a city council containing legal advice about a potential but not actual controversy should be subject to disclosure.

In 1899, speaking of the predecessor of RCW 5.60.060(2)(a), which contained nearly identical language, the Supreme Court said: "We think the statute merely declares and confirms the existing rule at common law relating to professional communications between attorney and client." *Hartness v. Brown*, 21 Wash. 655, 662, 59 P.491 (1899). In *Pappas v. Holloway*, 114 Wn.2d 198, 203, 787 P.2d 30 (1990), the Court said: "This same privilege afforded the attorney is also extended to the client under the common law rule." Thus, the common law is the source of the attorney-client privilege in Washington, not RCW 5.60.060(2)(a). Pursuant to the common law, our courts would sustain the attorney-client privilege even without that statute. Having established the com-

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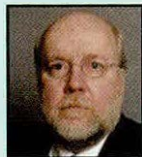
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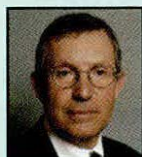
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mon-law roots of the attorney-client privilege and its application to both attorneys and their clients, we can look at the *Hangartner* case and the interplay of the privilege with the PDA.

The PDA is a statute. Statutes in derogation of the common law are strictly construed. See *Hays v. Miller*, 1 Wash. Terr. 143, 146 (1861). Thus, to the extent the PDA purports to impinge upon the common-law attorney-client privilege, it must be strictly construed against such intrusion. See Sutherland Stat. Const. § 61.01 (5th ed. 1992) (discussing strict construction of statutes in derogation of the common law).

But the PDA is entirely silent on the attorney-client privilege. While RCW 42.17.310(1)(j) exempts records "relevant to a controversy to which the agency is a party," this statute does not speak of the attorney-client privilege, and, in fact, extends to records that are not privileged communications between attorneys and clients at all. For example, the reports of consulting experts are not an attorney-client communication but are certainly relevant to a controversy. They are exempt from public disclosure because they are generally not discoverable. See CR 26(b)(4) and (5). Thus, to begin with the assumption that the PDA *by implication* may obviate the attorney-client privilege between a government agency and its lawyers seems wrong. "A fundamental and time-honored principle of the common law is not to be deemed uprooted by implication." *Poling v. Poling*, 116 W. Va. 187, 190, 179 S.E. 604 (1935). Obviously, the Legislature has the authority to declare the existence or nonexistence as well as the boundaries of the common-law attorney-client privilege in the public sector, but it has not done so in the PDA. If it is the will of the Legislature to make available for public inspection otherwise privileged documents, it could enact such a statute. In the absence of any explicit statutory declaration, however, the common law ought to govern, and attorney-client privilege should prevail over the assertion that the PDA supplants it. The Court should have decided *Hangartner* in that light.

The truly interesting question, and one the Court might have discussed, is

the scope of the attorney-client privilege in the public sector. For instance, I doubt many would argue that a confidential memo from a municipal attorney to a city council containing legal advice about a potential but not actual controversy should be subject to disclosure. The PDA ought not be a suicide pact. But what about after the controversy is concluded? Why shouldn't elected public lawyers like the attorney general and county prosecutors be held accountable for the legal advice they render their public clients by allowing the public to see what that legal advice

was after the fact? Likewise, in the case of municipalities and special-purpose districts that hire attorneys to advise them, should not the elected officials be held accountable for the quality of the legal advice they purchase for their constituents, just as they are accountable for the quality of the police and fire protection they oversee, or water and sewer service they provide? Moreover, shouldn't the electorate be entitled to know, for instance, that their elected officials may have ignored good legal advice, leading to disastrous results for a community? If that legal advice is with-

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held from the public because of the attorney-client privilege, the electorate will be deprived of knowledge that could very well inform their vote in the next election. And exactly who owns the privilege in the first place? Is it the elected officials, high-ranking municipal employees, or the public at large?

I pose these questions, but make no attempt here to answer them. Many similar questions arise when one begins to think about the multilayered policy implications of the attorney-client privilege in the public sector. I leave these questions and answers to interested readers.

The Overbroad Issue in *Hangartner*

MELODIE BANKERS

The *Hangartner* opinion stated clearly: "... a proper request under the PDA must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting all of an agency's documents." Clear and narrow identification is the heart of the matter. A request for "any and all" records is a practical nightmare, because: (1) it is not possible to certify that "all" records have been located and even a thorough search may not reach "all" of the agency's records, particularly if the requester is in a hurry; and (2) it is difficult to be certain that the requester has asked for what he or she really wants when a request is very broadly stated. Nonetheless, it is unlikely that any public agency will refuse to comply with a request for public documents that it determines are overbroad even though *Hangartner* held that "a government agency need not comply with an overbroad or 'invalid' request."

When is a request overbroad or vague? In practice, the answer varies by situation. A "vague" request is one that is not sufficiently tailored to clearly define what the requester seeks. An "overbroad" request is often vague but is usually stated in a way that captures documents that are not germane to the requester's objective. A request for "any and all" documents is often both vague and overbroad.

The tension between the public's right to know and protection of the privacy rights of others is not new. Agencies recognize the strong statutory mandate requiring disclosure of public documents. This policy, of course, must be balanced by the equally strong statutory mandate requiring agencies to check all documents for exemptions and apply other laws and rules limiting disclosure, including federal and state privacy protections.

The dissent in *Hangartner* suggests that the request made by Citizens was clear — produce all books, records, and



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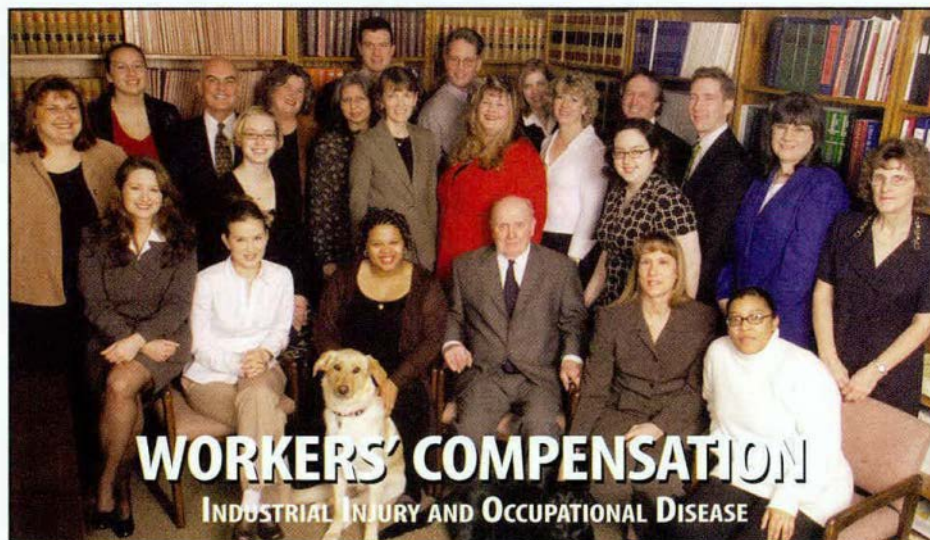
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documents of every kind *pertinent to the purpose for which they were sought*. This last phrase creates some issues for agencies. Responding agencies are interested in clarity — it is often helpful to know the use for the documents in order to identify and prepare the precise documents that will be most helpful. RCW 42.17.270 requires agencies to “not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose of the request.” For agencies, this section means that they must give each requester the same level of service — and we know that the reason behind the request cannot be used to stonewall or limit the response. Without some details, however, it is often difficult, if not impossible, to determine that a search for “all” records was conducted and all unprotected documents were provided. Thus, in the interest of full and proper disclosure of the responsive documents, each request for clarification must be balanced against the right of the requester to refuse to answer.

While the court makes a distinction, in practice, overbroad requests are usually vague, creating logistical and practical problems for compliance. When a vague or overbroad request is received, it is difficult to know whether the way in which the request is interpreted will unearth the “right” documents. The requester may not be sure what he or she seeks. If the request is vague or overbroad, and the requester does not clarify or narrow the request, the agency will disclose documents based on its interpretation of the request — and that may not exactly match the vision of the requester. (Requesters object to paying for copies of documents they really don’t want.)

Often, vague or overbroad requests come from members of the public, many of whom have difficulty phrasing their requests, or from lawyers and public-interest groups, where it is logical to presume that the records are for legal proceedings. In both cases, it is prudent to be sure that the documents handed over will provide the most useful assistance to the requester as quickly as possible and that materials do not include information that is protected from disclosure.

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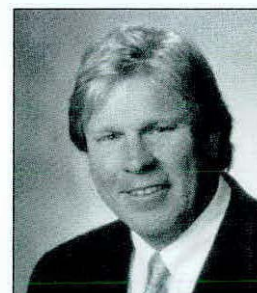
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Hangartner: The Requester's Perspective

MICHELE L. EARL-HUBBARD

In 1992, the state Legislature enacted a series of amendments designed to increase public access to records and to ensure governmental accountability. Among other things, it took the unusual step of adding a strong statutory

construction provision to the Public Disclosure Act (PDA):

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. The public records subdivision of this chapter shall be liberally

construed and its exemptions narrowly construed to promote this public policy. (RCW 42.17.251.)

One would think that, in the face of such a strongly worded mandate for broad disclosure, any attempt to liberally construe exemptions and narrowly construe the PDA would be easily dismissed by our courts. But the majority opinion in *Hangartner* came out the other way and turned the foundation of public-records law on its head.

The Newly Created Overbroad Exemption


As we know, public records are not agency private property. They are the public's property. Liberal access assists us in monitoring and scrutinizing the actions of the government entities we (the public) have created. However, according to the majority opinion, asking for too many records means you are entitled to nothing, not even a response, and an agency need not even engage you in an interactive process to clarify the request. This ignores all of the principles of the PDA.

However, according to the majority opinion, asking for too many records means you are entitled to nothing, not even a response, and an agency need not even engage you in an interactive process to clarify the request.

The PDA makes clear that agencies do not get to decide what requesters need or ought to see. Responding to public-records requests is part of the job of the agency. Requesters, for the most part, attempt to make specific requests. They do not want to wait months for their records, and they do not want to wade through lots of extraneous materials. But it is difficult for them to make an informed request, because agencies typically do not maintain an index — even though local agencies are required to do so for at least for some of their records — and they publish little information about their records. And, sadly,

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agency behavior sometimes discourages narrow requests. I have seen requesters state exactly what they wanted and be told there was no "precise record" containing all of the information sought. Since requesters must ask for "records" and not information, and because agencies are not required to create "new" records, those requesters were told no responsive record existed. The requesters were then forced to ask for "all" records containing information on a given subject, only to be told that agencies do not know what the requester wants. I fear this gamesmanship in the wake of the *Hangartner* decision will only increase. I know of at least one requester being told that the requester had asked for "too much" and that such an "overly broad" request would not be addressed. This completely ignores the agency's duty to provide "the fullest assistance to inquirers and the most timely possible action on requests for information." RCW 42.17.290. When an agency does not understand what a person wants to see, the agency should ask the requester for clarification — not to learn the purpose of the request but simply to make the records identifiable to the agency so it can fulfill the request. RCW 42.17.320. In fact, the agency should provide examples of types of records that might be responsive, descriptive language regarding such records, or both. The PDA requires merely that requests be for "identifiable" public records. In the *Citizens* case included in *Hangartner*, there was no dispute that the agency *knew* what records the requester wanted. All of the responsive records were reduced to a handful of CDs, and the agency prepared a privilege log of specific records it deemed responsive to the request. Thus, the records were identifiable. The majority's holding that the agency could nevertheless ignore the request because it asked for "all" the records is inconsistent with the mandate in RCW 42.17.251.

Attorney-Client Privilege

The PDA clearly states that all records owned, used, retained, or prepared by a state or local agency containing information relating to the conduct of government or the performance of a governmental or proprietary function are public records and that all such

records are available to the public unless declared specifically exempt. When the statute was enacted in 1972, there was a specific controversy exemption dealing with attorney-client privilege issues. The exemption restricted access only to records "relevant to a controversy to which the agency is a party" but not available to another party in the litigation under civil discovery rules. Controversy means completed, existing, or reasonably anticipated litigation, and not just a litigation-charged environment when the documents were created or speculation that litigation might ensue at

some future time. *Hangartner*, 90 P.3d at 31. The majority opinion in *Hangartner* created a much broader attorney-client privilege than that recognized in RCW 42.17.310(1)(j). The court recognized a general privilege for all communications between government lawyer and government employee for the purpose of seeking legal advice. This is the same privilege afforded private clients and their private lawyers. But the court assumed, without explaining, that the same general privilege must also exist in the government arena.

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client privilege, attorney work-product privilege, and other privileges. It is narrower than the attorney-client privilege that is afforded private clients, because the records must relate to a controversy. The "other statute" amendment stated that records could only be exempt based on statutes that clearly mandated withholding of records. The PDA set forth the

boundaries of the privilege through (1)(j). A common-law privilege did not survive the PDA and has no place in the PDA.

So why does this matter? In the *Hangartner* case, the City of Seattle acknowledged that three of the withheld records — memos of a city attorney to the city council regarding the City's designation of Seattle neighborhood as an

alcohol impact area — did not relate to a controversy and so would not be exempt under (1)(j). Numerous other communications are created between government lawyers and government agencies about matters that will never end up in court. Agencies ask government lawyers whether certain measures are legal or prudent, and lawyers respond. Agencies then follow or reject that advice.

We recently learned that our federal government asked federal lawyers to analyze the legality of proposed methods to torture Iraqi prisoners around the Geneva Convention. If there is a broad privilege that only the agency can waive, an agency could choose to release attorney communications when those communications support agency actions, but withhold those communications that show the agency is disregarding legal advice, being untruthful about the content of such legal advice, or controlling the legal opinions to support the actions the officials wish to take.

The public deserves to know, when there is no controversy, what questions our government is asking, what answers they are getting, and how agencies respond. The "client" of the government

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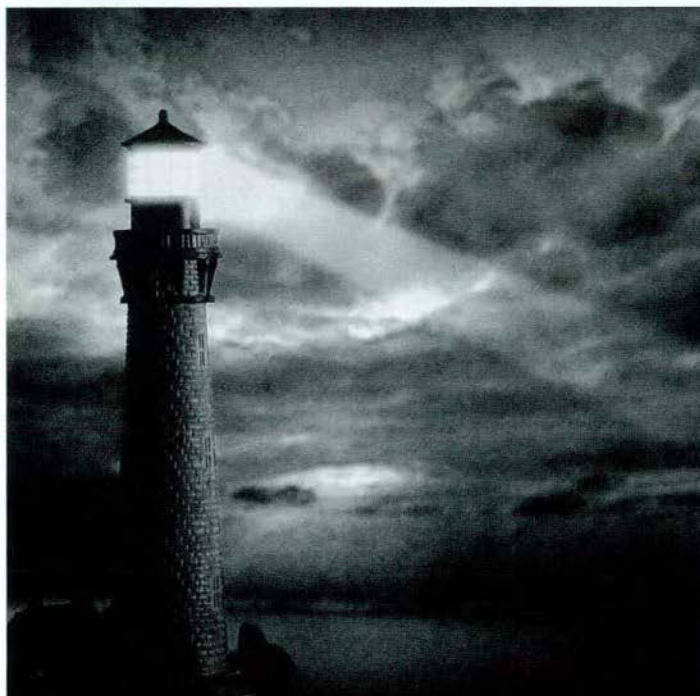
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lawyer is the public agency, and not the official or employee with whom the lawyer converses. The lawyer and agency employee know or should know when they converse that their communication is governed by the PDA — which has only the narrowly defined controversy-based privilege available, so communications absent a controversy have no reasonable expectation of privilege. Public-client lawyers are paid for by the people. The public and Legislature have weighed the pros and cons of compelled disclosure when there is no controversy. They struck the balance in favor of openness. The public will not get to learn the legal advice given during litigation, as litigation-related communications are covered by exemption (1)(j). But communications for which there is not a lawsuit, and for which there is no reasonable anticipation of a lawsuit, should be disclosed. ✍

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NOTES

¹ Hangartner v. City of Seattle, __ Wn.2d __, 90 P.3d 26 (2004).

² Initiative Measure No. 276, approved by voters on November 7, 1972.

³ RCW 42.17.260(1).

⁴ RCW 42.17.010; .251; .920. See generally Progressive Animal Welfare Soc'y v. Univ. of Wash., 125 Wn.2d 243, 250-52, 884 P.2d 592

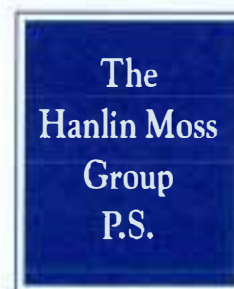
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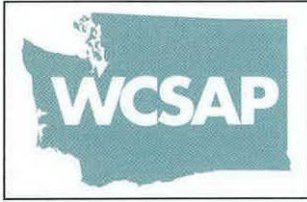
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⁵ RCW 42.17.340(3).

⁶ RCW 42.17.310(1)(a)-(ggg); 42.17.31901-31921.

⁷ RCW 42.17.310(1)(j).

⁸ RCW 42.17.260(1).

⁹ The monorail entity changed names during the case; therefore, the term "monorail agency" is used in this article.

¹⁰ Hangartner was a 5-4 decision. The five justices ruling against disclosure were Chief Justice Gerry Alexander and Justices Ireland, Bridge, Owens, and Fairhurst. The four justices dissenting were Justices Johnson, Sanders, Madsen, and Chambers.

¹¹ RCW 42.17.270; *Bonamy v. City of Seattle*, 92 Wn. App. 403, 410, 960 P.2d 447 (1998), review denied, 137 Wn.2d 1012, 978 P.2d 1099 (1999) (emphasis added).

¹² RCW 42.17.320. The monorail agency asked Citizens for a clarification of its request; Citizens repeated that it sought "all" agency records.

¹³ Hangartner, 90 P.3d at 30.

¹⁴ Id. at 30-31 (emphasis in original).

¹⁵ Id. at 32 - 33.

¹⁶ RCW 42.17.340(4).

¹⁷ Hangartner, 90 P.3d at 33.

¹⁸ Hangartner, 90 P.3d at 33-34.

¹⁹ Id. (citing RCW 42.17.340(3)).

²⁰ Id. at 35-36.

²¹ Id.

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- ❖ Largest arbitration award for the death of a retired senior citizen (\$1.5 million—Pearson vs. Farmers Insurance)
- ❖ One of the largest awards nationally for a shoulder dystocia/brachial plexus injury case (\$2.6 million—Hansen vs. Group Health).

Todd is a member of the American College of Trial Lawyers, American Board of Trial Advocates, The Washington State Bar, the Washington Trial Lawyers Association, and elected annually as one of “Washington’s Superlawyers” by Law & Politics Magazine.

“I want to thank my partners, Art Swanson and Katy Garvin, and our outstanding paralegals for making this “2004 TRIAL LAWYER OF THE YEAR AWARD” possible. The results we have obtained would not be possible without the extraordinary talent, incredible effort and devotion to our clients demonstrated by my office’s outstanding paralegals.” —TODD GARDNER

Pictured from left to right:

Shirley Mattioda, Misty Reynolds, Jennifer Holcomb, Todd Gardner, Arthur Swanson, Kathleen Garvin, Connie Grenley, Denise Cotton, Theresa Quinn, Marily Roper.

Not pictured: Shannon Toppen.

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The Board's Work

BY LINDSAY THOMPSON

Coeur d'Alene, Idaho, July 30-31, 2004

So I flew to Spokane Thursday afternoon and booked a car. Exit airport, stage east, I-90.

Rolled into C d'A about 7 p.m. Walked around the business district, which seems to be a popular activity on summer evenings.

The governors were out doing something gubernatorial, but I don't know what. They had a retreat all day Thursday.

Friday morning the BOG did the executive session drill. I had some breakfast and read the local paper. Page one had the cops nabbing the local church-burglary suspect. A boat and a bluegrass field caught fire. In Post Falls residents raised money for the local man on the U.S. Olympic Team. Senator Kerry was on page 11. You don't see many really local papers anymore.

When the BOG ended their executive session I took a seat on the perimeter of the big BOG table and set up shop. Three

of the newly elected governors attended, in addition to most of the incumbents.

I felt badly for them. Since before time learned to count, the July agenda has always been a case of trying to stuff 50 pounds of mud in a 10-pound sack. People come and give long reports. All the stuff that went into the BOG's "Too Hard" file earlier gets pulled out for disposition. Budgets and committee appointments have to be approved.

The ground was thick with presidents, too: President **Dave Savage**, chairing his next-to-last meeting; President-elect **Ron Ward**, getting ready to move up; **Brooke Taylor**, who will be the next president-elect; former presidents **Dale Carlisle**, **Wayne Blair**, and **Dick Manning**.

Manning was first at bat, with the report of the Professional Development Implementation Committee. Created to rationalize some initial training for new WSBA members, the committee made recommendations that included the following requirements for new lawyers:

- complete a four-credit orientation and

skills-training course before admission, to include a variety of practical stuff; then

- complete 15 hours of approved CLE course in further skills training during the first year after admission; then
- complete 15 more in the second year.

The committee also recommended a task force to increase opportunities for mentored client representation. The BOG accepted the report and will move to implement the recommendations in the coming year.

Charles Wiggins and Gov. **Katie O'Sullivan** (she by phone from maternity leave, congratulations, btw) presented a report from the Electronic Legal Research Evaluation Team. After extended and melodramatic negotiations with various providers of legal-research services, Team ELRET recommended a \$48,000-a-year deal with Casemaker, a consortium of state bars. Net result — WSBA members would be able to use it for no additional charge.

A few members thought WSBA should aim higher, and get a service with more bells and whistles, like Lexis. Legal research services are a binary lot, however. You either get a modest range of add-ons for a reasonable price, or you get the Cadillac service package and a price to match. The BOG went with Casemaker, and we'll have more details on that as the contract gets negotiated.

An aside: 15 or so years ago WSBA member **Ed Hiskes** came to the BOG with an idea that case and statute law ought to be freely available to members on discs. Pretty much everyone said, "Huh?" Hiskes was way ahead of the curve on that one, and deserves a round of applause for setting the initial wheels in motion that have led to this deal for WSBA members.

Long-suffering **Ellen Dial** and **Doug Ende**, dragged to meeting after meeting as the BOG digested the proposed amendments to the Rules of Professional Conduct in chunks, were with the BOG again to shepherd the last bits over the finish line. The very large package of the complete revision will go the Supreme Court for publication and comment, and can be read on the WSBA website at www.wsba.org/lawyers/

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Next up was Governor/Treasurer **Bryce Dille**, who brought the BOG the 2004-05 budget comfortably in surplus, with an eight percent reserve in hand and another eight percent laid in to cover planning for WSBA's big office move in 2007. New money is included for a diversity advocate position on staff as well as staffing the WSBA Leadership Institute, which is all about training members to move into leadership sooner, and more efficiently, than natural selection seems to allow for now.

The next big report was from **Dwight Williams**, who chaired a taskforce on the student-loan crisis. It was created to look at how the enormous law-school loan debt of new members prevents them going into public-service-type work. Williams unveiled a proposal to create a loan-repayment assistance fund for lawyers who do take on public-service jobs. It will have to start small, because when you're talking about helping pay off big debts it takes big money to do it. There'll be a new committee set up to implement the plan, and it looks like Williams will chair that one, too.

After that came **Wayne Blair** with the Board of Judicial Administration's gloss on the Court Funding Task Force's work. They have various ideas for realizing appropriate court and legal-services funding in Washington, which presently ranks about 50th among the states. More on that to come as well.

Nominations: **Clementine Hollingsworth**, Seattle; and **Joni Montez**, Pullman, as nonlawyer members of the WSBA Disciplinary Board. **Debi Robson**, Seattle, as a nonlawyer member of the WSBA Character and Fitness Committee. **Catherine O'Connell**, Spokane, as a non-lawyer member of the Washington State Board of Continuing Legal Education. **Brian Dano**, **Nancy Ivarinen**, **Jane Smith**, **Scott Smith**, **Steve Crossland** (chair), and Judge **Paul Bastine** (vice chair) to the Practice of Law Board.

Appointments: **Kathleen Hopkins**, **David Tang**, and **Ron Ward**, Seattle, as ABA delegates.

Approvals: The BOG determined that a resolution proposed for the WSBA annual meeting calling for Indian Law to be

added to the bar exam is within the scope of GR 12. The Resolutions Committee will hold a hearing on the matter before the annual meeting in September. The BOG also approved recommendations to amend APR 8(f) to change how foreign attorneys may become in-house counsel. The BOG also approved correcting and operating changes in WSBA Bylaws Article III, Section M, and various sections of the bylaws of the WSBA Animal Law Section.

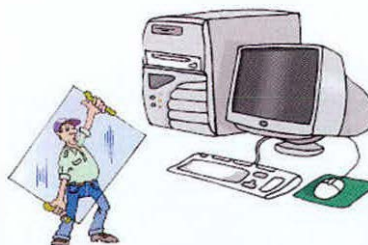
Things droned on till around 2 p.m. on Saturday, when I had to bail to get a flight

home. Took the grip upstairs at a little after 5 p.m. Saturday. Time away: 51 hours. Next meeting, Seattle, September. I'm outta here. ☹

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.

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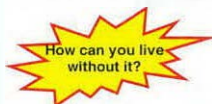
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Legal Foundation of Washington Board of Trustees

Application deadline: October 1, 2004

The WSBA Board of Governors is accepting letters of interest from members interested in serving a two-year term on the Legal Foundation of Washington Board of Trustees (one position). Incumbents are eligible for reappointment (up to two consecutive terms) and must also apply if seeking reappointment.

The Legal Foundation of Washington is a private, not-for-profit organization that promotes equal justice for low-income people through the administration of IOLTA and other funds. Trustees should have a demonstrated commitment to and knowledge of the need for legal services and how these services are provided in Washington. Further information about trustee responsibilities is available upon request by e-mailing bcclark@legalfoundation.org.

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

Northwest Justice Project Board of Directors

Application deadline: November 19, 2004

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

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

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

Bench-Bar-Press Committee of Washington

Application deadline: December 17, 2004

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

mence in February 2005.

The Bench-Bar-Press Committee was formed in 1963 to foster better understanding and working relationships among judges, lawyers, and journalists. Its mission is to seek to accommodate, as much as possible, the tension between the constitutional values of free press and fair trial through educational events and relationship building. The committee is chaired by the Chief Justice of the Washington State Supreme Court and includes representatives from the legal profession, judiciary, law enforcement, and news media. The committee meets as a whole once or twice each year. Subcommittees of volunteers are organized on an *ad hoc* basis to plan and execute events. Further information regarding the committee can be found online at www.courts.wa.gov/programs_orgs/pos_bbp.

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

Limited Practice Officer Board — Two Positions

Application deadline: November 12, 2004

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

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

Judicial Recommendation Committee

Application deadline: September 24, 2004

The WSBA Judicial Recommendation Committee is currently accepting applications from attorneys and judges seeking consideration for appointment to fill potential Appellate and Supreme Court vacancies. Interested candidates will be interviewed by the committee at its October 29, 2004, meeting.

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

If you are interested in scheduling an interview, please write to Bar Leaders Division, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330; call 206-727-8239; or e-mail barleaders@wsba.org, to obtain a questionnaire. Please specify whether you need the questionnaire designed for a judge or an attorney.

Family Law CASA of King County Call for Training-class Volunteers

The Family Law CASA Program is recruiting volunteers from the minority community for its next free four-day training class, which will be held September 23, 24, and 30, and October 1.

CASA volunteers represent the best interests of children involved in contested family-law cases in King County Superior Court. These cases typically involve allegations of substance abuse, domestic violence, mental health, and physical or sexual abuse.

Volunteers do not have to be attorneys, but need to have a strong interest in doing investigations, making home visits, writing reports, and testifying in court. The program provides ongoing supervision and support following the initial training period. For more information or to request an application, call 206-748-9700 or visit www.familylawcasa.com.

Civil Legal Aid Providers Host Open Houses across the State

The Alliance for Equal Justice of Washington State is launching its first-ever statewide Open House Project as part of the Washington State Supreme Court's Access to Justice Board's effort to raise public awareness and political support for indigent civil legal services. Nineteen open houses will be hosted in Washington on Wednesday, October 27, 2004.

The Open House Project will showcase Washington's efficient and well-coordinated network of legal-aid providers while emphasizing that access to justice is still out of reach for an overwhelming majority of low-income people. Recently, the Washington State Supreme Court's Civil Legal Needs Study concluded that, due to inadequate funding, over 85 percent of low-income people are unable to secure necessary legal assistance.

The Open House Project is an excellent opportunity to raise awareness about these critical problems and the significance of being assisted by a lawyer. Legal aid promotes fairness and justice; helps families in crisis return to safe, productive lives; saves dollars for taxpayers by preempting a spiral of costly social problems; and helps ensure a well-ordered society.

The theme of the Open House Project is "Pro Bono," and the Access to Justice Board looks forward to recognizing the contributions of attorneys who give volunteer legal aid worth over \$11 million each year to help meet the civil legal needs of our state's poor. Community and state leaders will be speaking at each of the 19 locations.

The success of this project depends upon the support of the most important participants in the justice system: lawyers. For more information about the time and location of the Open House in your community or to get involved, please contact the Equal Justice Coalition at 206-447-8168 or equalj@ejc.org. Please save the date — October 27 — in your calendar to attend an open house in any of the fol-

lowing cities: Bellevue, Bellingham, Bremerton, Chehalis, Ellensburg, Everett, Kennewick, Kent, Mount Vernon, Oak Harbor, Olympia, Port Angeles, Seattle, Spokane, Tacoma, Vancouver, Walla Walla, Wenatchee, or Yakima.

Law Firm Serves Meals to the Homeless

Stafford Frey Cooper (www.staffordfrey.com) is sending approximately 32 attorneys and staff to serve all the meals at Seattle's Union Gospel Mission Men's Shelter (www.ugm.org) on Thursday, September 23. Stafford Frey Cooper already gives generously to the Mission's legal clinic, but this Seattle-based law firm wanted to do more to support the community by helping those in need. The first group of Stafford Frey Cooper volunteers will arrive at the Men's Shelter at 6 a.m., and the last volunteers will leave at 9:30 p.m. They will serve approximately 1,000 meals throughout the day. Also on September 23, the Mission will be having a regularly scheduled Thursday legal clinic from 3:30 to 5:30 p.m. where volunteer attorneys and law students provide free legal services to the homeless. The Mission relies on the partnership of volunteers like these who donate time, energy, skills, and resources to help serve Seattle's homeless.

Letter to the Equal Justice Community about CLS Restructuring and Transition

from Ada Shen-Jaffe

As you may know, in 2003, Columbia Legal Services (CLS) and its equal justice network partners embarked on a difficult restructuring process to address looming fiscal and client service delivery-related challenges facing our state's civil-equal-justice delivery system. Our goal was to restructure in a way that would be consistent with our State Plan and "Hallmarks of an Effective Statewide Civil Legal Services System" (our statement of core values). (The Hallmarks, which were recently revised as part of an inclusive statewide equal justice leadership effort, can be found at www.wsba.org/atj/publications/hallmarks2004web.doc.) As part of the resulting plan for reconfiguration, on July 1, 2004, CLS stepped aside from the role it has had as the principal contractor and network-wide fiscal agent since 1992 for state civil legal aid funding. These roles were taken on by our federally funded partner organization, the Northwest Justice Project (NJP).

The result of this restructuring will be significant for CLS, NJP, and our state's equal-justice community. As state funding represented nearly 50 percent of the annual CLS operating budget, the loss of these funds will result in CLS becoming a smaller statewide provider that will focus its resources on meeting the needs of low-income populations who need legal assistance in areas that other legal-aid providers are unable to address. CLS will place primary emphasis on serving highly vulnerable populations who are disparately denied access to justice, who have critical civil legal needs, and for whom no alternative legal-aid services are available. CLS will also maintain the capacity to represent individual clients and client groups in class actions and before local, regional, and statewide regulatory and legislative bodies. NJP will, with the addition of state funds,

be able to expand its footprint and assume a greater client-service-delivery presence throughout the state.

The restructuring plan has been endorsed by the Access to Justice Board (our state's civil-legal-aid planning entity, established in 1994 by the Washington State Supreme Court). While disruptive, we believe that this restructuring will result in greater role clarity between the two statewide providers, help limit the potential for unproductive political controversy over civil legal aid funding efforts, and ensure fidelity of our statewide delivery system to deliver services consistent with the core vision and values that guide our statewide ATJ network, from the Supreme Court to all of our locally based and regional providers.

In accordance with the restructuring plan, after over 18 years as director of Columbia Legal Services and Evergreen Legal Services, I handed over leadership of CLS, effective July 1, 2004, to a new team. This transition is part of a leadership development and succession plan initiated by the CLS statewide Board of Directors and implemented by the CLS leadership team over the course of the past two years. I am proud and excited to be able to step aside and place the future of CLS into the hands of such a gifted team.

CLS' new leaders are: director, John Midgley; deputy director, Aurora Martin; statewide advocacy coordinator, Dan Ford; controller, Liz Stonehill; and information technology manager, Sandra Victoria. All can be reached at 206-464-1122.

I would like to express special thanks to the members of the CLS staff who lost their jobs, and those whose offices were closed as a result of the changes. I am grateful for their commitment, along with the efforts of their CLS co-workers, to put our clients first, in spite of wrenching professional and personal disruption and dislocation. Our partners have extended as much assistance and cooperation as they can, consistent with their own independent responsibilities and legal obligations, to minimize the amount of disruption in client service delivery, and for this, I am grateful.

I will continue to serve as a senior advisor at CLS available to assist with the transition for a few months until CLS has completed its shift to its new roles and functions under the restructuring plan. Joining me as senior advisors available to assist with the transition and to provide short-term continuing support for the community of providers now known as Washington State's Alliance for Equal Justice will be Debbie Juntunen, also known as "DJ" (former CLS chief financial officer); Jim Bamberger (former statewide coordinator in charge of government and public relations); and Gail Jackson (former human resources/operations manager).

I am grateful for the support that my statewide board, staff members, partner organizations, and colleagues throughout the justice community have so generously given to me throughout my tenure as a statewide leader, and particularly as we have been making this important transition into the future.

Together, we have accomplished so much, and yet still

too little, in the struggle to ensure that equal justice is a reality for the poorest and most vulnerable people in our state. It has been gratifying to participate in the growth of our state's overall justice community and the intensified focus and commitment of its leaders to ensuring that we "walk the talk" of equal justice for the people who need it most. I feel privileged to have shared nearly three decades in the service of justice with so many of you, and I thank you for all you have done and shared with me over the years.

Welcome to the WYLD's Newest Officers

The new Washington Young Lawyers Division (WYLD) officers will officially take their seats at the WYLD Board of Trustees meeting in Seattle October 2, 2004.

Noah C. Davis, of the Seattle firm In Pacta PLLC, was elected 2004-2005 WYLD president-elect. **Todd W. Wyatt**, of the Seattle firm Salter Joyce Ziker, PLLC, was elected to represent the King County District. **Christopher D. Bell**, of the Everett firm Bell & Ingram PS, was unanimously appointed to represent the Snohomish County District. **Rachelle Anderson**, of the Spokane firm Smith Hemingway & Anderson PS, was unanimously appointed to represent the Greater Spokane County District.

For a full WYLD Board of Trustees roster and more information about the WYLD, please visit www.wsba.org/lawyers/groups/wyld.

Legal Foundation of Washington Notice of Public Meeting

The trustees of the Legal Foundation of Washington (LFW) will meet September 16, 2004, at the LFW offices in Seattle. The public may appear between 9 and 9:30 a.m. in order to comment on the LFW's activities. This opportunity is made pursuant to Article I, Section 1.7, of the LFW Bylaws.

Senior Attorneys Discussion Group

We meet one Thursday a month to talk about issues important to senior attorneys who continue to be involved, creative, healthy, and active. September 23, the topic will be "Professional and Personal Insurance Q/As," with speaker Pam Blake of Marsh Affinity Group Services. October 21, Pete Roberts, WSBA LOMAP practice management advisor, will teach a hands-on class on PowerPoint. November 11, author Bonnie Genevay will discuss loss, resilience, grief, and aging. December 16, we will share our volunteer activities. Please join us at no cost in the WSBA 4th-floor conference room. For more information, call Jennifer Favell, Ph.D., at 206-727-8267.

Therapy Group for Attorneys Struggling with Depression

Research reports indicate that at least 20 percent of lawyers suffer from clinically significant levels of depression. If you or a colleague are among this group, you might consider the services of the Lawyers' Assistance Program. We will offer a small, confidential therapy group for active members of the WSBA, meeting Wednesdays, 4-5:30 p.m., beginning as soon as the group has formed. Cost will be on

a sliding-scale basis. If you have questions or would like further information, please call Jennifer Favell, Ph.D., at 206-727-8267.

WSBA Court Rules and Procedures Committee 2004-2005 Agenda

When it reconvenes in October 2004, the WSBA Court Rules and Procedures Committee is scheduled to review the Rules of Appellate Procedure (RAPs) and the Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RAIJs). The committee will also be reviewing the Mandatory Arbitration Rules (MARs). Please send any suggestions for adoption, amendment, or repeal of a court rule to the Supreme Court of Washington, Temple of Justice, PO Box 40929, Olympia, WA 98504-9029; or e-mail Lisa Bausch at Lisa.Bausch@courts.wa.gov. Questions about the work of the committee should be directed to Douglas Ende at 206-733-5917 or WSBACourtRules@wsba.org.

APR 11 Regulation 110 Changes Approved by Supreme Court

On July 8, 2004, amendments to Regulation 110 of APR 11 were approved by the Washington State Supreme Court. The amendments to this regulation clarify the basis for the granting of exemptions, waivers, or modifications of the CLE requirements by the MCLE Board that have been requested by members. They also include a new section that specifically addresses such requests from active members of the Bar who are called up to active military duty. These changes went into effect August 3, 2004, the date of publication of the changes.

The revised Regulation 110 disallows exemption from CLE credit for active members on the basis of restricted practice. Active members with restricted practice will now have the option of complying with the CLE requirements or changing to inactive status. If members switch to inactive status and at some point in the future want to return to active status, they will need to satisfy the CLE requirements for the period in which they were inactive. This is required by the WSBA Bylaws of all members who change to inactive status on or after September 1, 2003.

The amendments to Regulation 110 are also much more specific about the criteria that must be met in order for an exemption, waiver, or modification of the CLE requirements to be granted by the Board. The member must be experiencing a condition of undue hardship, age, or disability warranting approval of such a request. Regulation 110 also now requires that a sworn affidavit be submitted with the request in order for the Board to consider it. The member must establish in his affidavit to the Board's satisfaction that the member's condition warrants the exemption, waiver, or modification, and that the member has not been and will not be engaged in the active practice of law during the relevant period.

A new section was added at the end of Regulation 110 that addresses members who have been called up to active military duty. Members on active military duty may request an exemption, waiver, or modification of the CLE require-

ments if they can prove undue hardship because of their military assignment. This amendment takes the place of the MCLE Board policy on military service that allowed members called up for military service to request a temporary waiver until 60 days after discharge from the military. All members who have already received this temporary waiver will be able to retain it. All new applications from members called up for military duty will be considered under the provisions of the new Regulation 110 amendment.

For the text of the amendments to Regulation 110, visit www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=APR (click "Regulations of the Washington State Board of Continuing Legal Education").

MCLE Certification for Active Members — General Information

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

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

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

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

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

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

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

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

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

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

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

Newly Admitted Members. If you are a newly admitted member, you are exempt from reporting CLE credits for the year of your admission and the following calendar year.

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

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

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

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

If you have any questions about using the MCLE system or about the MCLE compliance requirements, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or questions@wsba.org.

Address Update Reminder

Now is the ideal time to check that the WSBA has your correct contact information in its database for the 2005 license-fee renewal packets scheduled to be mailed in early December. You can check your listing by going to the online lawyer directory at <http://pro.wsba.org>. If any of your contact information (name, address, phone number, or e-mail address) has changed, please update the information by e-mailing questions@wsba.org, faxing the change to 206-727-8319, or calling the WSBA Service Center at 800-945-WSBA or 206-443-WSBA.

Northwest Indian Legal Scholarship Program Receives ABA Project Award

On August 5 in Atlanta, the General Practice, Solo and Small Firm Section of the ABA presented the WSBA Indian Law Section and the Northwest Indian Bar Association (NIBA) with the prestigious "Solo and Small Firm Project Award," acknowledging the success of the Indian Law Section and NIBA's Indian Legal Scholarship Program, which over the past year raised and donated over \$30,000 in scholarships to aspiring Indian lawyers from Washington, Oregon, Idaho, and Alaska. According to Gabriel Galanda, past NIBA president and current chair of the Indian Law Section, the program's goal of nurturing future Indian lawyers is of particular importance when considered against statewide and national research findings, which indicate that Indians are the most under-represented ethnic demographic in the legal profession. Since fall 2003, the Indian Law Section and NIBA have

awarded scholarships, in amounts ranging from \$500 to \$10,000, to 11 Indian law students. The scholarship monies come from membership dues, a benefit auction, and cash grants from Indian tribes around the state. For more information about the Indian Law Section and NIBA, visit wsba.org/lawyers/groups/indianlaw and www.nwiba.org.

Asian Bar Association of Washington 16th Annual Banquet

The Asian Bar Association of Washington's 16th Annual Banquet will be held October 21, 2004. The keynote speaker will be Dale Minam, best known for his work as lead counsel in the three landmark U.S. Supreme Court cases that overturned the convictions of Japanese-American men who refused to be interned during World War II. The theme for this year's event is "Expanding Horizons," as the ABAW honors its commitment to serving the legal needs of its community. In the past 17 years, the ABAW has forged deep bonds with local and national minority bar associations, specialty bar associations, and local Asian-Pacific American organizations throughout Washington. Details about the banquet can be found at www.abaw.org. Contact abawrsvp@yahoo.com for more information.

2004 WSBA Annual Awards Dinner and Business Meeting

The WSBA Annual Awards Dinner and Business Meeting will be held Thursday, September 16, from 5:30-8:30 p.m. at the Seattle Marriott Waterfront Hotel, 2100 Alaskan Way, Seattle. All members of the legal community are invited to attend. To make your reservation, please use the form on page 44 or online at www.wsba.org/aaregform.pdf.

2004 50-Year Member Tribute Luncheon

The 50-Year Member Tribute Luncheon will be held Wednesday, September 29, from 11 a.m. to 2 p.m. at the Sheraton Seattle Hotel and Towers, 1400 Sixth Ave., Seattle. All members of the legal community are invited to attend. To make your reservation, please use the form on page 54 or online at www.wsba.org/50yrregform04.pdf.

Memorial Service for Judge Walter E. Webster

Division I of the State Court of Appeals will conduct a memorial service in honor of Judge Walter E. Webster on September 30, 2004, at 3 p.m. in the (new) United States Courthouse, 700 Stewart Street. Reception will follow at One Union Square (600 University St.) in the boardroom.

Upcoming Board of Governors Meetings

September 16-17 — Seattle
October 22-23 — Richland
December 10-11 — Everett

With the exception of a one-hour executive session the morning of the first day, Board of Governors meetings are open, and all WSBA members are welcome to attend. RSVPs are appreciated but not required. Please contact Donna Sato at 206-727-8244 or donnas@wsba.org. The

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

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in August 2004 was 1.774 percent. The maximum allowable interest rate for September is therefore 12 percent. Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills and past maximum interest rates for June 1988 to June 1999 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.

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 and Local Tax Section. For additional information, please contact John Piper at 206-224-8045.

Access to Justice Board Thanks Conference Sponsors

The Access to Justice Board would like to thank the generous sponsors of its extremely successful Ninth Annual Access to Justice Conference, which took place June 11-13 in Yakima: Alston, Courtnage & Bassetti; Cable Langenbach Kinerk & Bauer; Columbia Legal Services; Davidson, Czeisler & Kilpatrick; Davis Wright Tremaine; Douglas Drachler & McKee; Gottlieb, Fisher & Andrews; Judicial Dispute Resolution; Littler Mendelson; MacDonald Hoague & Bayless; Peterson, Young, Putra, Fletcher, Massong, Knopp & Wampold; Short Cressman & Burgess; Skellenger Bender; Stafford Frey Cooper; Summit Law Group; Washington State Bar Association; and Wechsler Becker.

The conference ran the gamut from comical to inspirational to poignant — all in the name of ensuring equal access to the justice system. If you are interested in participating in the planning process for the 2005 ATJ Conference or in getting on the conference mailing list, please contact Sharlene Steele at 206-727-8262 or sharlene@wsba.org. The 2005 conference will be held at the Bellevue Doubletree and promises to be a great 10-year celebratory event.

1. Conference opening night performance, "Survivor: The Justice Challenge," presented by the Moderately Talented (Yet Plucky) Repertory Theatre of Justice, musical accompaniment provided by Func Pro Tunc.

2. Keynote Speaker Pramila Jayapal, executive director, Hate Free Zone Campaign of Washington.

3. Washington State Supreme Court Justice Susan Owens and Governor Gary Locke pay tribute, via satellite, to Columbia Legal Services' Ada Shen-Jaffe (outgoing director) and Jim Bamberger (former statewide coordinator in charge of government and public relations).

4. Judith Billings (r) presents Council on Public Legal Education Flame of Democracy Award to Danielle Rebar, who accepted the award for Northwest Justice Project.





**Thursday,
September 16,
2004**

**Seattle Marriott
Waterfront Hotel
2100 Alaskan Way
Seattle**

**Reception
5:30 p.m.
(no-host bar)**

**Dinner/program
6:30 p.m.**



WSBA office use only:

Date _____

Check No. _____

Amount _____

No. AAD904

You are cordially invited to attend

The Washington State Bar Association's Annual Awards Dinner *and* Business Meeting

Please join us for an evening of inspiration as we celebrate the accomplishments of the 2004 WSBA Annual Awards recipients. All members of the legal community are invited to attend.

Name _____ WSBA No. _____

Address _____

Phone _____ E-mail _____

Affiliation/organization _____

Registration is \$65 per person (table of 10 = \$650). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received by September 10, 2004. (Refunds cannot be made after September 10.)

MasterCard Visa No. _____ Exp. date _____

Name as it appears on card _____

Signature _____

_____ (no. of persons) X \$ _____ (price per person) = \$ _____ TOTAL

Please list the names of all attendees and indicate meal choices. Be sure to include yourself.

_____	<input type="checkbox"/> beef	<input type="checkbox"/> salmon	<input type="checkbox"/> vegetarian
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_____	<input type="checkbox"/> beef	<input type="checkbox"/> salmon	<input type="checkbox"/> vegetarian

Please note that this event will not have assigned seating. However, if your organization would like to purchase a table (10 people), you may do so by listing the name of your organization here.

Table organization name _____

Send to: Washington State Bar Association
Annual Awards Dinner
2101 Fourth Avenue, Suite 400
Seattle, WA 98121-2330
Phone: 800-945-WSBA or 206-443-WSBA • Fax: 206-727-8320

If you need special accommodations, please check here and explain below.



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

Island County Report

by Tom Pacher

Greetings from the sunny shores of Oak Harbor. Yes, as much as I enjoyed Penn Cove, I finally found the perfect office space up the road.

Seems if you're anywhere around here but the McPherson office these days, you're quietly working hard or enjoying the sleepy days of summer. While most of us have been plugging away at our usual cases and jobs, **Molly McPherson** of McPherson & McPherson and her husband, **Derek Wolfe**, celebrated the birth of their child, born May 19, at Whidbey General Hospital. The baby's name is **Hawthorne Joseph Lane Wolfe**. Rumor has it the application to start the lad in an APR 6 Law Clerk Program has already been filed.

Meanwhile, back at the ranch . . . the McPhersons welcomed a new associate to their office as well, **Edward C. Chung**. Edward is a graduate of Villanova Law School and will practice in the firm's areas of family law, personal injury, and general law practice. I've already had a chance to meet him, and I'd have to say he seems like a nice guy.

In case this section is starting to look like the McPherson Report, we'll toss in a gratuitous, barely related law matter.

I'm not going to mention names here in case it might cause me some professional grief. However, if you're out and about in Island County and happen to spot a new dazzling-red Yamaha R1 motorcycle, be sure to be kind and courteous to the operator. There's a good chance the pilot of that gorgeous machine is a certain judicial-type person. We're starting a support group for jealous biker-lawyers.

Washington Association of Criminal Defense Lawyers News

Seattle's **Scott Engelhard** is WACDL's new president. He took office at the 800-member group's annual conference at Lake Chelan in June. The rest of the new leadership team includes **Barry Flegenheimer**, Seattle, president-elect; **Dan Fessler**, Yakima, vice president-east; **Bill Bowman**, Bellevue, vice president-west; **Amanda Lee**, Seattle, treasurer; and **Kevin Curtis**, Spokane, secretary. Past-president **Roger Hunko** of Port Orchard remains a board member. Joining the board are **David Donnan**, Seattle; **Doug Hyldahl**, Bellingham; **Robert Quillian**, Olympia; **Gregory Scott**, Yakima; **Mary Logan**, Spokane; **Jeff Ellis**, Seattle; **Kim Hunter**, Bellevue; **John Clark**, Spokane; **Todd Maybrown**, Seattle; and **Kim Gordon**, Seattle. **Tom Campbell** of Auburn and **Mary Kay High** of Tacoma have been appointed to fill other board vacancies.

WACDL also presents awards at its annual meeting. **Jeffery Robinson** of Seattle won the William O. Douglas Award, the association's highest. Three WACDL President's Awards were given to **Eileen Farley**, Seattle; **Carol Huneke**, Spokane; and **John Strait**, Seattle. **Jennifer Davis**, Seattle, won the Champion of Justice Award.

Certificates of Appreciation went to **Geoffrey Burg**, **David Donnan**, **Jeffery Fisher**, **Barry Flegenheimer**, **Alison Holcomb**, **Amanda Lee**, **Francisco Rodriguez**, **Michele Shaw**, and **David Trieweler**.

Honors

King County Prosecuting Attorney **Norm Maleng** was conferred an honorary doctoral degree by Northwest Graduate School of the Ministry at its June 5, 2004, commencement ceremony. Maleng is also a member of the school's board of directors.

The Judiciary

by Lindsay Thompson

Governor Locke has appointed **Michael Downes** to the Snohomish County Superior Court bench. The 20-year veteran of the county prosecutor's office succeeds Judge **Charles French**, who died July 6, 2004 (see In Memoriam).

Kitsap County Superior Court Judge **Leonard Costello** has been elected president of the Superior Court Judges' Association.

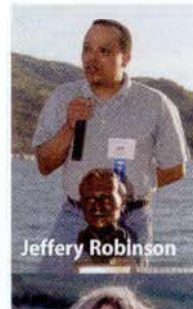
In Memoriam

Hon. Charles French

Stricken by lung cancer in 2002, Judge Charles French treated his illness as an inconvenience and kept working until shortly before his death in June.

A Spokane native, French grew up in Everett and, after completing Willamette Law School, joined his father, Stuart French, in the latter's Everett law firm. In 1979, the elder French became a Superior Court judge. French continued to practice in Everett, serving as Snohomish County Bar Association president in 1990-91.

Governor Locke appointed French to a new judicial position in 1997; French's by-then-retired father swore in his son.



Jeffery Robinson



Eileen Farley



Carol Huneke



John Strait



Jennifer Davis

Disciplinary Notices

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

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

Disbarred

Lee Edward Karavitis (WSBA No. 5688, admitted 1974), of Casper, WY, was disbarred by order of the Washington State Supreme Court imposing reciprocal discipline based on an order for similar discipline from the state of Wyoming. This discipline was based on his criminal convictions.

In July 1995, Mr. Karavitis was convicted of one count of conspiracy to violate 18 U.S.C. § 287 and three counts of violating 18 U.S.C. § 287, submitting false claims to the United States.

Mr. Karavitis's conduct violated RPC 8.4(b), prohibiting committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; and (c), prohibiting conduct involving dishonesty, deceit, fraud, or misrepresentation.

Marsha Matsumoto represented the Bar Association. Mr. Karavitis represented himself.

Disbarred

Peter A. Slowiaczek (WSBA No. 23649, admitted 1994), of Lakewood, was disbarred, effective May 11, 2004, by order of the Washington State Supreme Court, following a hearing. This discipline was based on his conduct in 2000 and 2001 involving theft of client funds and making false statements to the federal government.

In September 2001, Mr. Slowiaczek's payroll check to his administrative assistant was not honored by his bank. In October 2001, Mr. Slowiaczek paid his assistant from client funds in his pooled client trust account. At this time, Mr. Slowiaczek had negative balances in his office account, his personal bank ac-

Survivors include his wife, two sons, his father, and three siblings.

Judge Charles French died July 6, 2004, aged 53.

R.R. Greive

Bob Greive seemed to pack several lifetimes into one. After service in the Coast Guard, he worked as a commercial artist and then entered UWLaw School, finishing at the University of Miami. He won election to the Washington State Senate in 1946 and served until 1974. In 1975, he ran for the King County Council and served there until 1987. During his political career he also practiced full time as a personal-injury lawyer, sometimes keeping three assistants busy with his projects. He worked nearly 50 years in the same West Seattle office.

Survivors include a sister, six children, and eight grandchildren.

Raymond Robert Greive was born in Seattle October 6, 1919, and died there July 1, 2004, aged 84.

Hon. Albert Morrison

A longtime pilot, Albert Morrison was a

Tacoma native who served as an Air Force commander and pilot, a judge advocate general staff member, an assistant attorney general, and a South Tacoma lawyer before becoming a Pierce County Superior Court judge in 1974.

He was a graduate of Whitman College and the University of Washington, and became known as an independent-minded jurist. Active in community affairs, Morrison served 17 years on the school board and was a founder of the Tacoma Youth Symphony.

Survivors include his wife, four children, eight grandchildren, and one great-grandchild.


Judge E. Albert Morrison was born in Tacoma September 13, 1921, and died there June 25, 2004, aged 83.

Bar News has also been advised of the deaths of the following members: **Wallace Bartholomew**, Seattle, admitted July 1, 1932, died October 19, 1999; **John Neff**, Spokane, admitted March 30, 1959, died May 19, 2003; and **Richard Staeheli**, Spokane, admitted February 25, 1969, died July 9, 2004.

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count, and his own funds in his pooled client trust account. Mr. Slowiaczek provided inconsistent testimony to explain his use of his client trust account that the hearing officer found not credible. Mr. Slowiaczek replaced the trust funds with a back-dated check.

In November 2001, Mr. Slowiaczek issued advance fee deposit refund checks to two clients. He issued these checks from his pooled client trust account even though he deposited the clients' funds into his office checking account. Neither of these clients had any funds in Mr. Slowiaczek's trust account. Mr. Slowiaczek replaced these funds in February 2002.

In March 2002, Mr. Slowiaczek used more than \$7,000 in client funds from his pooled client trust account to pay his mortgage. Mr. Slowiaczek offered inconsistent and noncredible testimony on this issue during the hearing.

In May 2002, Mr. Slowiaczek received an advance fee deposit check. He failed to deposit this check into any bank account. Later in May, Mr. Slowiaczek wrote a check transferring this amount from his pooled client trust account to his office account. Mr. Slowiaczek offered inconsistent and noncredible testimony about this transaction during the hearing.

On May 6, 2002, Mr. Slowiaczek wrote a \$1,700 check to himself from his pooled client trust account. Mr. Slowiaczek knew that he did not have funds in this account and that he was exerting unauthorized control over client funds. Mr. Slowiaczek's intentional acts depriving clients of their funds in his pooled client trust account constitute theft.

Mr. Slowiaczek commingled his client trust account funds and his personal funds. During the time period of the audit, Mr. Slowiaczek placed more than \$50,000 of his own money in his client trust account, and paid more than \$40,000 of business or personal expenses from the client trust account.

Mr. Slowiaczek deposited some client advance fee deposits into his office account rather than his client trust account. He treated these funds as his own prior to performing any work. Mr. Slowiaczek did not enter written fee agreements with clients, and refunded money from his client trust account to conceal this conduct.

Beginning in 1996, Mr. Slowiaczek represented a client in an offer and compromise process with the Internal Revenue Service (IRS). In November 2000, the client received more than \$57,000 from a lawsuit settlement. Mr. Slowiaczek did not represent the client in this lawsuit, but allowed the client to use his trust account to hide the funds from the IRS. Mr. Slowiaczek sent several payments to the client and the client's family members from his trust account. Mr. Slowiaczek also failed to disclose the settlement funds to the IRS and provided false explanations for funds in at least two letters written during this time. Mr. Slowiaczek's conduct constituted two federal felonies.

Mr. Slowiaczek's conduct violated RPCs 8.4(b), prohibiting committing a criminal act [RCW 9A.56.030-.040, First and Second Degree Theft; 18 U.S.C. § 1001, knowingly and willfully making a materially false or fraudulent statement or representation to the Federal Government; and 26 U.S.C. § 7206, knowingly and willfully make a false statement or conceal property in connection with a tax matter]; 8.4(c), prohibiting conduct involving dishonesty, deceit, fraud, or misrepresentation; 8.4(i), prohibiting committing an act involving moral turpitude reflecting disregard for the rule of law; and 1.14(a), requiring lawyers to deposit all client funds in a client trust account that does not contain the lawyer's funds, maintain complete records of these accounts, and promptly deliver client funds to clients upon request.

Christine Gray represented the Bar Association. Kurt Bulmer represented Mr. Slowiaczek. Gregory A. Dahl was the hearing officer.

Suspended

John Grahame Bell (WSBA No. 4209, admitted 1968), of Seattle, was suspended for 60 days effective May 11, 2004, by order of the Washington State Supreme Court following a default hearing. This discipline was based on his conduct in 2000 and 2001, involving lack of diligence in a family law matter. (*Mr. Bell is to be distinguished from John E. Bell of Olympia and John H. Bell of Tacoma.*)

In October 2000, Mr. Bell agreed to represent a client in a child-support-

modification proceeding. The court granted Mr. Bell a continuance to respond to a pending motion. On November 3, Mr. Bell asked for another continuance because he was not prepared. The court continued the hearing to December 8 and awarded attorney's fees to the opposing party. The court continued the hearing to January 5, 2001, because it had not received Mr. Bell's response. Mr. Bell did not appear for the hearing or file a response. The client did not appear, because Mr. Bell told her the hearing was on January 12. The court conducted the hearing, raised Mr. Bell's client's child support approximately \$700 per month, and awarded the opposing party attorney's fees. Mr. Bell's client file contained a supplemental declaration from his client explaining a sharp decrease in her income, which Mr. Bell did not file.

Mr. Bell's conduct violated RPCs 1.3, requiring lawyers to diligently represent their clients; and 3.2, requiring lawyers to expedite a client's litigation.

Kevin Bank represented the Bar Association. Mr. Bell represented himself. James M. Danielson was the hearing officer.

Suspended

David E. Fennell (WSBA No. 15274, admitted 1985), of Bellevue, was suspended for one year, effective May 11, 2004, by order of the Washington State Supreme Court following a hearing. This discipline was based on his conduct between 1996 and 1998 involving marking up costs in nonjudicial foreclosure actions.

Mr. Fennell supervised and conducted nonjudicial foreclosures for his firm's Washington and Oregon clients. Mr. Fennell, through his firm, contracted with outside vendors for posting of notices required in real property nonjudicial foreclosure actions. In February 1996, Mr. Fennell and the other firm partner incorporated Posters, Inc. (Posters). Posters contracted with other outside vendors to provide posting services to the law firm's foreclosure clients. The law firm employees coordinated the posting services before and during Posters' existence.

Posters marked up the cost of the posting service between 50 and 100 percent (\$10 to \$20). The costs for the posting services, even after the 100 percent

markup, were within the range of charges for these services in the geographical area. Firm employees created invoices with these marked-up costs and placed them in the client files, but did not send them to the clients. Mr. Fennell and his firm disclosed a financial interest in vendors to some, but not all, clients. In May 1998, the firm disclosed the cost markup for the first time. The disclosure stated "Posters marks up the amount charged by its subcontractors to cover overhead allocated to Posters by the law firm, risk undertaken by Posters and profit." The firm did not allocate overhead to Posters, although it intended to do so.

Mr. Fennell's conduct violated RPCs 1.8(a), prohibiting knowingly obtaining a pecuniary interest adverse to the client, unless the transaction terms are fair and reasonable to the client and are fully disclosed in writing to the client and the client consents, after a reasonable opportunity to seek the advice of independent counsel; 1.5(b), requiring lawyers who have not regularly represented a client or if the fee agreement is substantially different from previous agreements, to communicate the basis of the fee and factors in its determination to the client, preferably in writing; and 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation.

John R. Ruhl and Jean K. McElroy represented the Bar Association. William E. Fitzharris represented Mr. Fennell. Geoffrey G. Revelle was the hearing officer.

Suspended

John M. Haggerty (WSBA No. 9179, admitted 1979), of Arlington, was suspended for three years by order of the Washington State Supreme Court approving a stipulation, effective June 13, 2003. Mr. Haggerty agreed to submit his resignation to the WSBA on the day his suspension is completed, to take effect immediately. He agreed to the stipulation without admitting all of the facts or misconduct. This discipline was based on his conduct in 2000 while acting as escrow agent for a real estate and stock sale transaction.

In March 2000, the parties to a real

estate transaction and stock purchase retained Mr. Haggerty to act as escrow agent. On March 30, 2000, Mr. Haggerty deposited the buyer's \$9,000 earnest money check into his trust account. In June 2000, the buyer asked that Mr. Haggerty loan him back the \$9,000. Mr. Haggerty returned the buyer's money without notice to the seller. In July 2000, Mr. Haggerty re-deposited the buyer's \$9,000.

In April 2000, the buyer sent Mr. Haggerty a \$10,000 check. Mr. Haggerty faxed a copy of the check to the buyer's agent. Mr. Haggerty did not deposit the buyer's check into his trust account, because the buyer or an agent told him not to do so. When the seller asked Mr. Haggerty about this deposit, Mr. Haggerty stated falsely that he had never received this check.

Mr. Haggerty's conduct violated RPCs 1.14(a), requiring lawyers to deposit client funds [RPC 1.14(d) provides that escrow and other funds held by a lawyer incident to closing of a real estate transaction are client funds subject to this rule] in an IOITA account; 1.14 (b)(3), requiring lawyers to maintain complete records of client funds in the lawyer's possession and render appropriate accountings; 1.14(d), requiring lawyers to promptly pay or deliver client funds upon request; 1.7(a), prohibiting lawyers from representing a client if the representation will be directly adverse to another client, unless the lawyer reasonably believes the representation will not be adversely affected and the clients consent in writing after full disclosure; 1.7(b), prohibiting lawyers from representing a client if the representation may be materially limited by the lawyer's responsibilities to another client; 4.1(a), prohibiting lawyers from knowingly making false statements of material fact or law to third persons; and 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; and E.I.C 5.3(e)(1), requiring lawyers to promptly respond to inquiries made for information relevant to disciplinary grievances.

Kevin Bank represented the Bar Association. Kurt Bulmer represented Mr. Haggerty. Bert Markovich was the hearing officer.

Suspended

Allen C. Jorgensen (WSBA No. 23671, admitted 1994), of Redlands, CA, was suspended for 75 days and reprimanded, effective May 4, 2004, by order of the Washington State Supreme Court imposing reciprocal discipline based on an order from the state of California. This discipline was based on his conduct in 2000, involving acts of misconduct in bankruptcy and real property matters.

Matter 1: In August 2000, a client paid Mr. Jorgensen \$1,000 to file a lawsuit regarding delivery of a motor home. Between August 25 and October 18, 2000, Mr. Jorgensen failed to return the client's calls for information on the status of his lawsuit. On October 18, 2000, the client sent Mr. Jorgensen a letter requesting a full refund and return of all documents. Mr. Jorgensen did not respond to the client's letter.

Matter 2: This matter includes eight client matters and an allegation that Mr. Jorgensen failed to comply with a prior disciplinary order. In seven matters, Mr. Jorgensen represented the clients in bankruptcy petitions. In five of these matters, Mr. Jorgensen accepted the clients' money, did no work, and failed to refund unearned fees or return the clients' files. Mr. Jorgensen did not notify these clients that he was withdrawing from the representation. In two other bankruptcy matters, Mr. Jorgensen filed incomplete bankruptcy petitions, which the court dismissed.

In one client matter, Mr. Jorgensen agreed to assist a client in obtaining clear title to a real property she inherited. The client delivered the original will, death certificate, and property deed to Mr. Jorgensen. Mr. Jorgensen failed to do any work on the client's case. He did not return the client's original documents or unearned fees.

A prior disciplinary order required Mr. Jorgensen to attend ethics school. Although the Probation Unit sent Mr. Jorgensen a letter reminding him of this obligation, he failed to provide proof of attendance.

Mr. Jorgensen's conduct violated California Business and Professions Code §§ 6068(m), requiring lawyers to respond promptly to reasonable status inquiries

from clients; 6068(i), requiring lawyers to cooperate with the disciplinary investigation; and 6103, requiring lawyers to comply with the terms of disciplinary orders; and California Rules of Professional Conduct 3-700(D)(1), requiring lawyers to promptly release, upon termination of representation, all client papers and property upon request; 3-700(D)(2), requiring lawyers to promptly return unearned advance-fee deposits; 3-700(A)(2), requiring lawyers to take reasonable steps to protect a client's interests upon withdrawal from the representation; and 3-110(a), prohibiting lawyers from intentionally, recklessly, or repeatedly failing to perform legal services with competence.

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

Suspended

Timothy F. Perry (WSBA No. 15623, admitted 1986), of San Francisco, CA, was suspended for 23 months and for 30 days, effective June 1, 2004, by order of the Washington State Supreme Court imposing reciprocal discipline based on two orders for similar discipline from the state of California. This discipline was based on his lack of diligence in a litigation matter between 1995 and 1997, and willful failure to comply with a court order in 2002.

Matter 1: In July 1995, Mr. Perry agreed to represent a client in a claim against various security brokers. Mr. Perry filed the client's complaint and arbitration was scheduled for December 1996. Mr. Perry then notified the client that the arbitration had been continued, and indicated he would inform the client of the new date. Mr. Perry had no further contact with his client. The arbitration was continued twice due to Mr. Perry's failure to comply with discovery. In June 1997, opposing counsel scheduled a motion to dismiss based on Mr. Perry's repeated failure to comply with discovery deadlines. Mr. Perry did not notify his client of the discovery dispute or the arbitration date. Neither Mr. Perry nor his client appeared for the arbitration. The arbitrator dismissed the client's claims. The client learned of the dismissal during the disciplinary investigation.

Matter 2: On April 5, 2002, the Supreme Court of California ordered Mr. Perry to comply with California Rule of Court 955, the rule regarding duties upon suspension. On May 1, 2002, the State Bar of California sent Mr. Perry a copy of the order, but it was returned "moved, left no address." The court ordered Mr. Perry to comply with the Rule by June 15, 2002. Mr. Perry did not comply until August 30, 2002.

Mr. Perry's conduct violated California Rules of Professional Conduct 3-110(A), prohibiting lawyers from intentionally, recklessly, or repeatedly failing to perform legal services with competence; and 3-700(D)(2), requiring lawyers to promptly refund unearned advance fee payments; and California Business and Professions Code §§ 6068(m), requiring lawyers to promptly respond to client-status inquiries and keep clients reasonably informed of significant developments in their matters; 6103, prohibiting willful violation of court orders; and 6068(i), requiring lawyers to cooperate and participate in disciplinary investigations.

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

Suspended

Gregory Scott Wilson (WSBA No. 12012, admitted 1981), of Tacoma, was suspended for nine months, effective May 13, 2004, by order of the Washington State Supreme Court following a hearing. This discipline was based on his failure to comply with the terms of a prior disciplinary order. (*Mr. Wilson is to be distinguished from Gregory M. Wilson of Greenacres.*)

In May 2000, the Washington State Supreme Court approved Mr. Wilson's stipulation to a 30-day suspension. The stipulation required Mr. Wilson to obtain malpractice insurance, or provide written notification of rejection by three companies. Mr. Wilson was also required to make monthly payments to the client involved in that matter.

In April 2003, the Washington State Supreme Court approved Mr. Wilson's stipulation to a three-month suspension for failing to comply with the conditions in the May 2000 order. Mr. Wilson re-

turned to practice on July 1, 2003. Although he paid the required restitution, the payments were not timely and not paid pursuant to electronic transfer as ordered. Mr. Wilson did not provide written notification of rejection by three malpractice insurers by the date required. The hearing officer found Mr. Wilson's conduct to be a continuation of the type of conduct in the May 2000 suspension.

Mr. Wilson's conduct violated Rules for Enforcement of Lawyer Conduct (E.L.C) 12.8(b), stating that failure to comply with a condition of probation may be grounds for discipline.

Anne I. Seidel represented the Bar Association. Brett A. Purtzer represented Mr. Wilson. James M. Danielson was the hearing officer.

Reprimanded

Robert E. Brandt (WSBA No. 23058 admitted 1993), of Kirkland, received a reprimand effective February 17, 2004, following a stipulation approved by the hearing officer. This discipline is based on his conduct in 2001 involving lack of diligence in a personal-injury matter.

In September 1998, Mr. Brandt entered a contingent-fee agreement with a client, for representation in a personal-injury matter. After signing the agreement, Mr. Brandt learned that the client had a history of back problems. After this discovery, Mr. Brandt did not diligently represent the client or withdraw from the case. The client began calling Mr. Brandt in February 1999, but was not able to reach him. In February 2000, Mr. Brandt met with the client and drafted a settlement demand, assuring the client that he would file a lawsuit if the insurance company did not agree to the settlement. Mr. Brandt did not communicate with the insurance company. In 2001, in response to the client's concern about the statute of limitations, Mr. Brandt drafted a complaint, but did not file the complaint prior to the expiration of the statute of limitations. Mr. Brandt also failed to respond to the Bar Association's investigation of this matter.

Mr. Brandt's conduct violated RPCs 1.3, requiring lawyers to diligently represent their clients; 1.4, requiring lawyers to keep clients reasonably informed of the

status of their matters; 1.15(d), requiring lawyers to take reasonable steps to protect a client's interests upon withdrawal; and 8.4(f) [E.L.C. 5.3], requiring lawyers to cooperate with reasonable requests for information during disciplinary investigations.

Anthony L. Butler represented the Bar Association. Mr. Brandt represented himself. Teena Killian was the hearing officer.

Reprimanded

Roger A. Castelda (WSBA No. 5571, admitted 1974), of Tonasket, received a reprimand effective March 1, 2004, following a stipulation approved by the hearing officer. This discipline is based on his conduct in 2000 involving conflict of interest in a family-law matter.

In 2000, Mr. Castelda represented both parties in a marital-dissolution matter. Earlier, Mr. Castelda had drafted estate-planning documents and handled a bankruptcy for the clients. An associate in Mr. Castelda's office asked the husband to waive any conflicts of interest, so the firm could represent the wife. Neither client waived the conflict or consented to the representation in writing. The clients were divorced in April 2001. Mr. Castelda, or his office, sent the wife the Qualified Domestic Relations Order required by the terms of the decree approximately two years after the dissolution was final. After the decree was final, the parties had questions about tax liability for returns they did not file during their marriage. Mr. Castelda assisted the husband with a tax appeal but did not advise the wife about her potential liability.

Mr. Castelda's conduct violated RPCs 1.7, prohibiting lawyers from representing a client in a matter if the representation will be directly adverse to another client, unless the lawyer reasonably believes that the representation will not be adversely affected and the clients consent in writing after a full disclosure; 1.10, prohibiting lawyers associated in a firm from knowingly representing a client when any of the lawyers in the firm would be prohibited from the representation if practicing alone; 1.3, requiring lawyers to provide diligent representation to clients; and 1.4, requiring lawyers to explain matters to the extent reasonably necessary to

permit the client to make informed decisions regarding the representation.

Nancy Bickford Miller represented the Bar Association. Mr. Castelda represented himself. Erik S. Bakke Sr. was the hearing officer.

Reprimanded

Michael Danko (WSBA No. 14312, admitted 1984), of Seattle, received a reprimand effective June 30, 2004, following a stipulation approved by the hearing officer. This discipline is based on his conduct in 2000 and 2001 involving conflict of interest and loaning money to a client in a litigation matter.

In January 2000, Mr. Danko agreed to represent two clients in personal-injury claims against a trucking company (Company). In January 2001, Mr. Danko loaned client B money to pay his union dues. Mr. Danko prepared a waiver-of-conflict-of-interest form stating that if a conflict developed, he would withdraw from representing both clients. In November 2001, client A's claim settled. She did not sign the conflict-waiver form until July 2002. In May 2001, client B discharged Mr. Danko and retained new counsel. In December 2001, client A told Mr. Danko that client B overstated his injuries. Mr. Danko advised the client that she could contact the Company. At client A's request, Mr. Danko arranged a meeting between client A and the Company's lawyer. Client A gave deposition testimony adverse to client B's interests. Mr. Danko represented client A at this deposition.

Mr. Danko's conduct violated RPCs 1.8(e), prohibiting loaning money to a client while representing the client in contemplated or pending litigation, except costs of litigation; 1.7(b), prohibiting representing a client if the representation may be materially limited by the lawyer's responsibilities to another client, unless the lawyer reasonably believes the representation will not be adversely affected and the clients consent in writing after a full disclosure; 1.9(a), prohibiting a lawyer who has formerly represented a client from representing another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client, unless the former client consents

in writing after consultation and a full disclosure of the material facts.

Scott G. Busby represented the Bar Association. John T. Dalton represented Mr. Danko. Gregory A. Dahl was the hearing officer.

Reprimanded

Robert M. Leen (WSBA No. 14208, admitted 1984), of Seattle, received a reprimand effective June 4, 2004, following a stipulation approved by the hearing officer. This discipline is based on his conduct in 1995 involving conflict of interest in a criminal matter and in 2002 involving negligent misrepresentation during the disciplinary investigation.

In 1995, Mr. Leen agreed to represent two criminal defendants, clients A and B. Client A was charged with conspiracy to distribute cocaine and client B with possession of a firearm following a felony conviction. In December 1995, the prosecutor offered client A a plea agreement that required the client to "provide truthful testimony if needed." Client B was listed as a potential witness against client A, although the prosecutor told Mr. Leen that he did not actually intend to call client B. Because Mr. Leen represented both defendants, he could have been precluded from calling one to testify in defense of the other. A jury found client A guilty. Client A then filed a motion to vacate his sentence, claiming that Mr. Leen's simultaneous representation caused an actual conflict of interest. In July 2002, Mr. Leen gave deposition testimony on this matter. Mr. Leen testified that he did not discuss the potential conflict with client A, and that he did not disclose the conflict to the judge. In letters to the Bar Association, Mr. Leen made conflicting statements. Mr. Leen's client file was destroyed prior to his letter and his memory could have faded. Mr. Leen's letter also referred the Association to the deposition transcript.

Mr. Leen's conduct violated RPCs 1.7(b), prohibiting lawyers from representing a client if the representation may be materially limited by the lawyer's responsibilities to another client; and 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; and E.L.C. 5.3(e), requiring lawyers to promptly

respond to requests for information relevant to grievances or matters under investigation.

Sachia Stonefeld Powell represented the Bar Association. David Allen and Cassandra L. Stamm represented Mr. Leen. Carolyn A. Lake was the hearing officer.

Reprimanded

Mary E. Reeves (WSBA No. 17721, admitted 1988), of Vashon, received a reprimand effective June 29, 2004, following a hearing. This discipline is based on her conduct in 2001, involving making a statement that could have been misleading in a public-defense matter.

In January 2001, Ms. Reeves was assigned to represent a criminal defendant. In March 2001, the client entered guilty pleas to two charges. Ms. Reeves believed her client might have mental problems, and she wanted to obtain a mental evaluation for him. While the case was set for sentencing, an assistant prepared the necessary paperwork for appointment of the expert at public expense. Ms. Reeves signed the paperwork and wrote in that the case was set for trial. Ms. Reeves knew this statement was not true. The paperwork was forwarded to the administrator of the Office of the Public Defender. Prior to any decision, and for other reasons, the paperwork was withdrawn. At a later time, substitute counsel re-submitted the request with the correct status and the request was granted.

Ms. Reeves' conduct violated RPCs 8.4(c), prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation; and 8.4(d), prohibiting conduct prejudicial to the administration of justice.

Leslie Ching Allen represented the Bar Association. Kurt Bulmer represented Ms. Reeves. Geoffrey G. Revelle was the hearing officer.

Reprimanded

Daniel A. Suchman (WSBA No. 30832, admitted 2000), of Bainbridge Island, received a reprimand effective June 17, 2004, following a stipulation approved by the hearing officer. This discipline is based on his conduct in 2002 involving discovery violations and practicing law

beyond the authority of his limited license.

In November 2000, Mr. Suchman was admitted to the limited practice of law in Washington as in-house counsel for a Florida corporation. Mr. Suchman received a full license to practice law in the state of Washington on March 28, 2003.

In March 2002, Mr. Suchman, through counsel, filed a defamation lawsuit. In June 2002, Mr. Suchman filed a "Notice of Appearance as Pro Se Attorney." In August 2002, opposing counsel deposed Ms. W, a witness in the defamation case. At the deposition, Mr. Suchman's counsel introduced himself as counsel for Mr. Suchman and the witness, and then left the deposition. Mr. Suchman then introduced himself as "attorney pro se and as attorney-general counsel for Ms. W, the deponent today." The defamation lawsuit was unrelated to the Florida corporation, and Mr. Suchman was not admitted in Washington *pro hac vice*. During the deposition, Mr. Suchman made many objections and advised the witness that she did not need to answer many questions. Opposing counsel filed a motion to strike the deposition based on Mr. Suchman's obstructive behavior. Mr. Suchman voluntarily dismissed his complaint prior to a ruling on the motion.

Mr. Suchman's conduct violated RPC 5.5(a), prohibiting a lawyer from practicing in a jurisdiction where doing so violates the regulations of the legal profession in that jurisdiction; and 3.4(d), requiring lawyers to make reasonably diligent efforts to comply with legally proper discovery requests by opposing parties.

Linda B. Eide represented the Bar Association. Kurt Bulmer represented Mr. Suchman. Peter A. Matty was the hearing officer.

Reprimanded

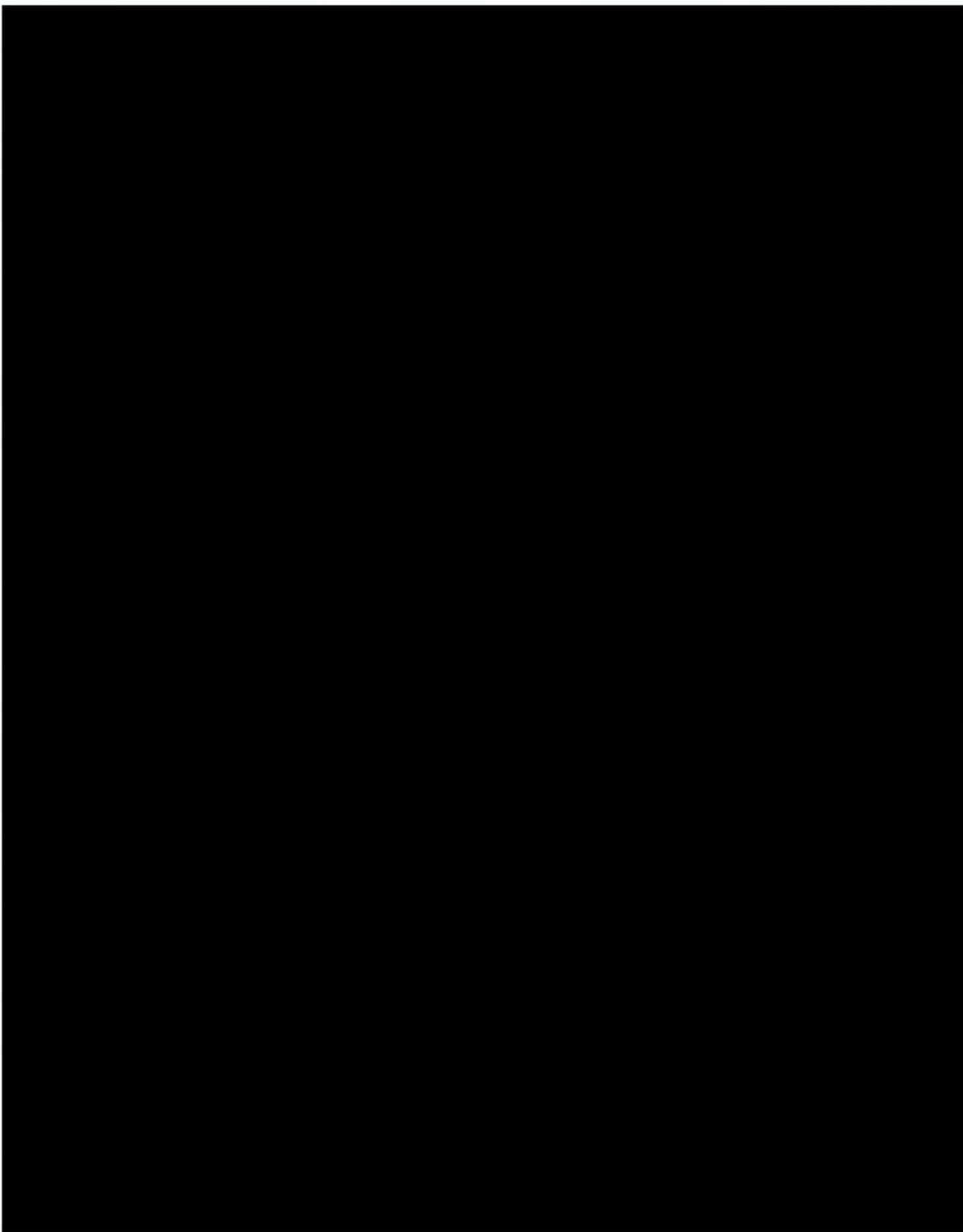
Jeffrey L. Willis (WSBA No. 27750, admitted 1998), of Thousand Oaks, CA, was reprimanded, effective May 24, 2004, by order of the Washington State Supreme Court imposing reciprocal discipline based on an order for similar discipline from the state of California. This discipline was based on his conduct between 1996 and 1998, involving lack of competence in two personal-injury matters.

Matter 1: In May 1997, Mr. Willis filed a lawsuit for a client in a personal-injury matter. On April 3, 1998, the court sent Mr. Willis an Order to Show Cause why the case should not be dismissed for lack of prosecution. As of this date, Mr. Willis had not served the lawsuit. Mr. Willis did not attend the show cause hearing, oppose the motion to dismiss, or notify his client of the dismissal. Mr. Willis took prompt and appropriate steps to reinstate the lawsuit.

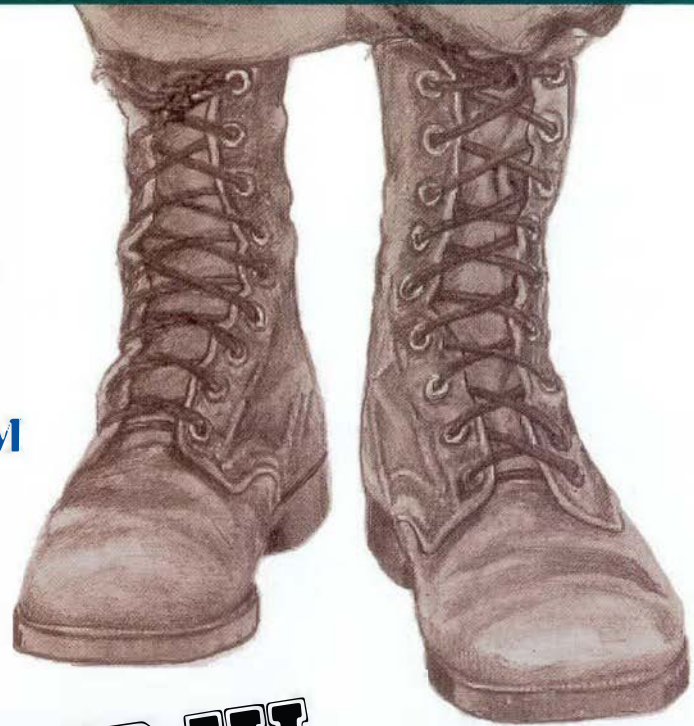
Matter 2: In February 1996, Mr. Willis filed a lawsuit for a client in a personal-injury matter. The defendant answered the lawsuit in April 1996. After this date, Mr. Willis did not actively prosecute the client's case. In August 1996, the court sent Mr. Willis an Order to Show Cause why the case should not be dismissed for lack of prosecution. Mr. Willis did not attend the show cause hearing, oppose the motion, or notify his client of the dismissal. Mr. Willis did not take steps to protect his client's interests after the dismissal.

Mr. Willis's conduct violated California Rule of Professional Conduct 3-110(A), requiring lawyers to competently represent their clients; and California Business and Professions Code § 6068(m), requiring lawyers to keep clients reasonably informed of significant developments in clients' cases.

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



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September 29,
2004**

**Sheraton Seattle
Hotel and Towers
1400 Sixth Avenue
Seattle**

**Registration and
Reception
11:00 a.m.
(no-host bar)**

**Luncheon/program
12:00 noon**

WSBA office use only:

Date _____

Check No. _____

Amount _____

No. MTL40929

You are cordially invited to attend

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Please join us as we celebrate the accomplishments of the 2004 WSBA 50-year members. All members of the legal community are invited to attend.

Name _____ WSBA No. _____

Address _____

Phone _____ E-mail _____

Affiliation/organization _____

Registration is \$45 per person (table of 10 = \$450). To make your reservation, please return this form (or a photocopy) with your credit-card information or check payable to WSBA. Space is limited, so please make your reservations early. Reservations and payment must be received by September 22, 2004. (Refunds cannot be made after September 22.)

MasterCard Visa No. _____ Exp. date _____

Name as it appears on card _____

Signature _____

_____ (no. of persons) X \$ _____ (price per person) = \$ _____ TOTAL

Please list the names of all attendees and indicate meal choices. Be sure to include yourself.


- | | | | |
|-------|----------------------------------|---------------------------------|-------------------------------------|
| _____ | <input type="checkbox"/> chicken | <input type="checkbox"/> salmon | <input type="checkbox"/> vegetarian |
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| _____ | <input type="checkbox"/> chicken | <input type="checkbox"/> salmon | <input type="checkbox"/> vegetarian |

Please note that this event will not have assigned seating. However, if your organization would like to purchase a table (10 people), you may do so by listing the name of your organization here:

Organization name _____

Send to: Washington State Bar Association
50-Year Member Tribute Luncheon
2101 Fourth Avenue, Suite 400
Seattle, WA 98121-2330
Phone: 800-945-WSBA or 206-443-WSBA • Fax: 206-727-8320

If you need special accommodations, please check here and explain below.



Calendar

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

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

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

ADR

Professional Mediation Skills Training Program
 October 1-3 and 16-17 — Seattle. 24 CLE credits, including 2 ethics credits pending. By UW-CLE; 800-CLE-UNIV.

Business Law

2004 Corporate Accountability Conference
 October 29 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Construction Law

11th Annual Washington Construction Law and Dispute Resolution Conference
 September 23-24 — Seattle. 10.5 CLE credits, including 1 ethics. By The Seminar Group; 800-574-4852.

Creditor/Debtor

Bankruptcy Fundamentals
 September 1 — Seattle. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA. September 21 — Vancouver. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.



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Criminal Law

11th Annual Washington Criminal Justice Institute (featuring Prof. Charles H. Whitebread)
September 9-10 — Seattle. 13.5 CLE credits, up to 2.75 ethics credits available. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Elder Law

Elder Law Section Meeting and CLE
September 10 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Environmental Law

Navigating the Maze: A Checklist Approach to Land Use and Environmental Law
October 7 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Estate Planning

Federal and Washington Estate Tax Returns: Updates on Planning and Practical Tips
September 28 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Estate and Gift Taxes
September 30 — Mt. Vernon. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics

Ethics, Professionalism and Civility: The Hard Questions
September 10 — Seattle. 3 ethics credits. By WSBA Professionalism Committee; 800-945-WSBA or 206-443-WSBA.

Eliminating Bias and Promoting Diversity in the Legal Profession
October 5 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Family Law

Family Law Fall Conference
October 22 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

General

Win at All Costs? Integrity and Ethics in Sports, Law and Film (with Prof. Robert Aronson)
September 21 — Seattle. 1 ethics credit. By UW-CLE; 800-CLE-UNIV.

Secrets of Winning in News Media Interviews
September 21 — Seattle. 3 CLE credits. By The Seminar Group; 800-574-4852.

Timber, Trees and Real Estate
September 21-22 — Olympia. 15 CLE credits. By Hodges Commercial Real Estate; 360-943-5079.

Indian Law

17th Annual Indian Law Symposium
September 9-10 — Seattle. 11 CLE credits, including 1 ethics pending. By UW-CLE; 800-CLE-UNIV.

Intellectual Property

Licensing Essentials for Business and Technology Lawyers
September 21 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

2nd Annual Pacific Northwest Arts Symposium
October 28 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Labor and Employment Law

National Labor Relations Act Basic Law and Procedures
October 1 — Seattle. 7 CLE credits pending. By ABA Section of Labor and Employment; 312-988-5533.

4th Annual Washington State Labor and Employment CLE

October 8 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Law Office Management

Winning Strategies
September 22 — Seattle, Spokane, and Vancouver. 6.75 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Litigation

Insurance Law Basics
September 22 — Seattle. CLE credits pending. By WSTLA; 206-464-1011.

Video Replay: David Ball on Damages
September 23 — Spokane. CLE credits pending. By WSTLA; 206-464-1011.

Anatomy of a Motor Vehicle Accident Case — From Investigation to the Courthouse Steps
September 23 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Advanced Negotiation Strategies (with Martin E. Latz) September 30 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Civil Rules and Procedure
October 15 — Seattle. CLE credits pending. By WSTLA; 206-464-1011.

Revisiting the Ten Commandments: A Contemporary Update of Irving Younger's Classic Credibility and Cross Examination
October 26 — Spokane; October 27 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Tort Law Update
October 29 — Seattle. CLE credits pending. By WSTLA; 206-464-1011.

Real Property

Rural Resources (Real Property, Probate & Trust Section)
September 8 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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jim@johansonlaw.com

**SHORT CRESSMAN & BURGESS
PLLC**

is pleased to announce that

Matthew B. Hanna

has joined the firm as an associate in the Real Estate Practice Group.

Mr. Hanna's practice focuses on real estate transactions. He returns to his native Seattle after having practiced real estate law in Boston, where he received his J.D. *cum laude* from Boston University School of Law.

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Interpretations and technical advice manager, WA State Department of Revenue. Visit www.dor.wa.gov/careers.

Request for proposal — patient advocate. Submission deadline: September 30, 2004. The Legal Foundation of Washington (LFW) is administering a fund created for the purpose of assisting incarcerated women in addressing their complaints about healthcare services provided at the Washington Corrections Center for Women at Purdy, WA. LFW seeks proposals from individuals interested in the position of patient advocate. The qualifications and criteria for the position are: the patient advocate should be an attorney who has extensive experience representing prisoners incarcerated in prisons comparable to those operated by the Washington Department of Corrections, with specific experience in addressing healthcare claims of prisoners; and the patient advocate will be responsible for investigating health care complaints received from prisoners at Purdy. Activities may include: obtaining and reviewing appropriate health records, and consulting with appropriate health experts and conducting necessary interviews to determine the merits of the prisoners' complaints. The patient advocate may also provide advocacy on behalf of women incarcerated at Purdy who have meritorious complaints about their healthcare. Advocacy provided by the patient advocate may include advice and assistance to prisoners about how to exhaust the prison's grievance system, referrals of prisoners who want to pursue damages claims to private counsel, and negotiations with prison officials to obtain needed health services and litigation necessary to ensure that health services at Purdy are constitutionally adequate. The patient advocate will be responsible for identifying any systemic problems with health services at Purdy and making appropriate referrals to address these claims. The patient advocate will be expected to maintain malpractice insurance to cover all work performed with funds managed by LFW and will be required to indemnify the Legal Foundation of Washington with respect to any

malpractice claims. The additional cost of such insurance, if any, should be factored into the proposal made by the patient advocate. The patient advocate may retain such doctors, nurses, dentists, or other healthcare professionals to serve as consultants as the patient advocate deems reasonable and necessary to assist with the evaluation of healthcare claims of prisoners; such consultants shall be paid by the Fund. The patient advocate may utilize and invoice for paralegal services to assist in the efficient management of his or her responsibilities. The patient advocate shall maintain time and expense records, which may be reviewed by LFW to ensure the appropriateness of all expenditures, will be accountable to LFW. The patient advocate will be required to make quarterly reports to LFW concerning activities supported with funds administered by LFW. Applicants should submit applications by September 30, 2004, to John W. Phillips, Phillips Law Group, PLLC, 315 5th Ave. S., Seattle, WA 98104-2682. Applications should identify your interest and qualifications and the billing rates for any attorney(s) or professional staff who will fulfill the responsibilities of the position.

Position announcement — dean, Gonzaga School of Law: Gonzaga University invites applications for the position of dean of the school of law. Founded in 1912, the school of law has 31 full-time faculty members, a budget of \$12.8 million, and a student body of approximately 630. The school is housed in a new, architecturally spectacular four-floor building, which includes state-of-the-art technology throughout its classrooms, offices, and library. Located in Spokane, WA, Gonzaga is a private, Catholic, humanistic, Jesuit university dedicated to academic and professional excellence, with five major mission-related areas; faith, service, justice, ethics, and leadership. We seek candidates who will actively contribute to the University's distinctive mission; who will foster Jesuit ideals within the law school; and enhance its prestige, profile, and recognition. Gonzaga is an AA/EEO university committed to diversity. Preliminary screening of candidates will begin in September 2004. Applicants should submit a curriculum vitae, publication and public presentations lists, a letter of

application, and three references. Initial and confidential inquiries can be made to the search committee chair. All inquiries and applications will be completely confidential. Current employers and references will not be contacted without prior approval of the candidate. Communication and submission of materials by e-mail as Word attachments is encouraged. A complete position description is available at www.law.gonzaga.edu. J. Donald Curran, attorney, and search committee chair, 601 W. Main, Ste. 1212, Spokane, WA 99201-0684; 509-455-9500, fax 509-623-1446; jclvcl2@msn.com.

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Seattle: 10-attorney firm, AV-rated, with general civil practice and areas of emphasis within firm, seeks associate attorney with at least two years' litigation and trial experience. Potential long-term opportu-

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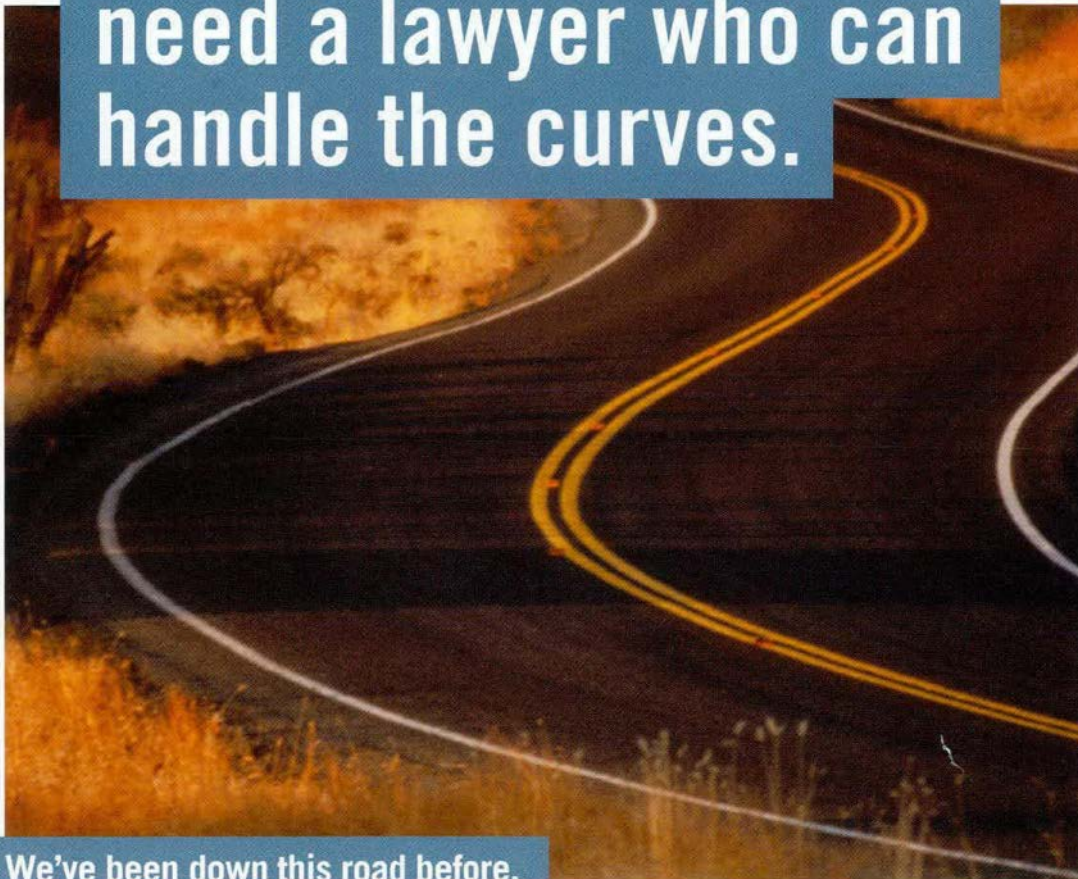


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At Fox Bowman Duarte, we do only one thing, but we do it exceptionally well: We defend DUI cases. Now, with recent legislation in effect, the laws are even tougher. We've published extensively and taught other attorneys about the complex nature of these laws. All of which is to say, we can successfully negotiate the unpredictable turns and switchbacks that every client's case involves.

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