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Washington State

BarNews

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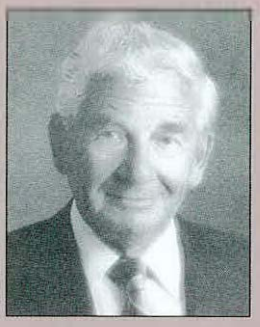

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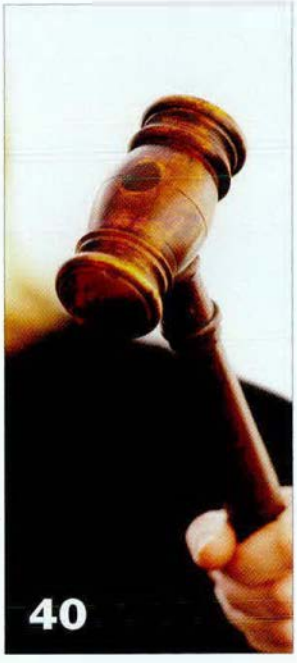

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Letters to the Editor

Bar News welcomes letters from readers. We do not run letters that have been printed in, or are pending before, other legal publications whose readership overlaps ours. Letters should be no more than 250 words in length, and e-mailed to letterstotheeditor@wsba.org or mailed to WSBA, Attn: Letters to the Editor, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330. We reserve the right to edit letters. Bar News *does not print anonymous letters, or more than one submission per month from the same contributor.*

Bizarro courts, indeed

I was very encouraged to read President Ward's piece in the July *Bar News* ("Attacks on the Judiciary — Living in Bizarro World") concerning the unwarranted, unwise and gravely damaging attack on our federal judges at all levels by some of our country's leaders in the highest government positions. I also agree with many of the letters commenting on his piece.

I totally agree with Mr. Ward that it is disturbing to have an almost total silence from the country's leaders, governmental and other, in response to such attacks. This is especially troubling when one of those making an attack is about to lead the Senate committee that will review selection of the next candidate for the U.S. Supreme Court, that is, Senator John Cornyn of Texas, was for a time rumored to be one of the possible candidates.

But, as do many of your readers, I fear that the reasons America has come to this situation rose long ago. For I believe that the U.S. Supreme Court, as well as many of our other federal and state courts, has had very serious breaches of the independent and objective reviews that our Constitution tried to ensure.

For early examples, just start with the *Dred Scott* case in the 1850s and *Plessy v. Ferguson* in the 1890s. *Dred Scott*, flying in the face of the Constitution's language and reason, held that a person of African descent, free or slave, was not even a person under our federal Constitution and so not entitled even to bring an action in our federal courts claiming rights, led to the great Civil War, resulting in hundreds of thousands of deaths, and only of Americans. *Plessy*, flying in the face of the 14th Amendment right to equal protection, Constitutional history and legal precedent, held that equal protection for African Americans meant that anything the government did for them could be done by isolating them from others, even including at public water fountains.

I suggest that we all reread those cases to get a real idea of the gross lack of independent objective judgment displayed by these courts, as shown particularly by the dissents in each of them.

I also believe that the current problems that our court is having started with *Roe v. Wade*. A very strong case can be made that this case was not decided on the law and facts but on the political positions of the judges that ruled. In Europe this matter was left to the legislatures; and Europe has had almost none of the severe public and government dissension over this issue that we have had in this country, no matter what your position on what the law should be. It might be helpful to note that in Washington state, the citizens decided this issue — before *Roe* was decided — by legislation by initiative without any involvement of our courts.

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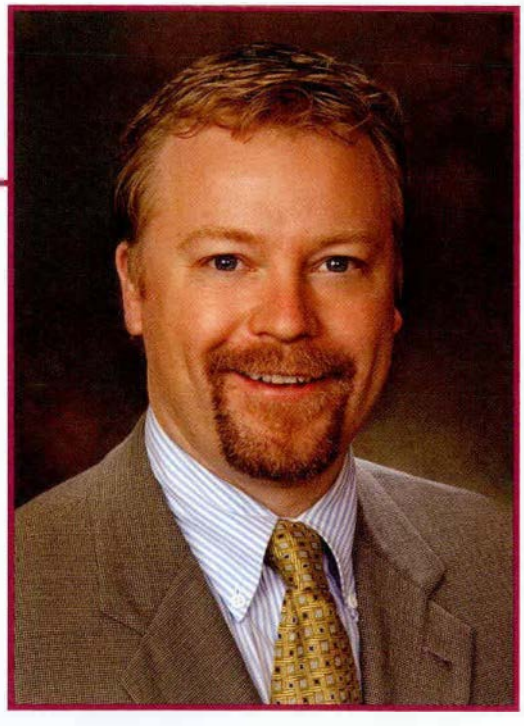

As a partner in the DUI defense firm Veitch, Gaston & Kennedy, Eric teamed with Cowan Smith Kirk partner Bill Kirk in 2005 in challenging recent changes in the implied consent law. Eric and Bill argued the issue in 55 courts throughout Washington resulting in hundreds of breath tests being suppressed.

Eric is a recent graduate of the prestigious National College for DUI Defense, is President of the Northwest Academy for DUI Defense and is current chair of the Criminal Law Section of the Washington Trial Lawyers Association.

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And, as Mr. Ward noted, the independence of our state courts is seriously compromised by the need to be elected and the resulting influence of the use of large sums of money by interest groups and political parties. I have seen numerous instances of the lack of independence shown by some of our state judges, who have clearly worried more about their next election or pleasing their supporters than doing justice based on the law and facts in the case at hand.

And this is not what I experienced years ago. I have been practicing for more that 40 years and I fondly remember the confidence I had in our state judges I went before, judges such as Stanley Soderland, George Revelle, Ed Henry, etc., as well as federal Judge George Boldt.

Tragically, it looks like we are not heading for the best judges in the future if the past election of state judges and the selection of federal judges over the last 25 years is any harbinger.

Bert L. Metzger, Seattle

Humpty Dumpty was right: words mean what we say they do

Marc Bond ("Letters to the Editor," October 2005) demonstrates the moral and judicial intellectual abyss so many conservative, strict constructionists bare for the world to see when they rail against decisions they don't like politically. They want to singularly look at the words used when the Constitution was penned and their pre-Webster's Standard definitions to tell us in lock step clarity the meaning of the Constitution when applied to human conduct that wasn't even fathomed 100, 200, or 300 years ago.

It has always troubled me that the opening phrase of the Declaration of Independence has never found any judicial acceptance in constitutional analysis. What does "inalienable rights" mean, anyway? If it is so basic and fundamental that you can't give it or sell it away and it's legitimate to fight a war of independence under such a mantra, why is there no place in constitutional law to respect it? And where, Mr. Bond, is the rub?

I have a couple of litmus tests for a correct thinking jurist. How would they have voted had he or she been a member of the *Brown v. Board of Education* court? Similarly, how would they have voted on *Griswold v. Connecticut?* Not how they'd vote today on the question, but how they would have voted with a 1950s or 1960s mindset. And if you have a judge with the breadth of writings as new Chief Justice Roberts has before us, I have a hard time believing he would have been with the majority on either at the time. And that is why he wouldn't have had my vote today and, I would also hope, Mr. Bond's.

Here's a perfect example of Mr. Bond's failure to comprehend the role of the judiciary in a civilized society when he rails over *Rover v. Simmons'* establishment of the unconstitutionality of capital punishment for certain minors. The Eighth Amendment speaks of "cruel and *unusual* punishment." Does the word "unusual" have a fixed meaning? Are we to measure "unusual" against the rule of 1790 or 2005? At a time when blacks were 3/5 of a white man for census purposes and Indians weren't even citizens (in the words of today, an enemy combatant) in

the territories in which they were born? Worse, when none of them, not to mention women, could vote in order to help fix the political expressions of the time?

Are we to leave it to politicians, executive or legislative, to protect the rights of American citizens of Japanese descent as they did in 1942? How about Muslims today? Are we to let the politicians and the military define the right of a writ of *habeas corpus* against a military force fighting a war? Why is "public use" so easy for the conservative to define?

Has it crossed your mind yet, Mr. Bond, why we're falling behind so many parts of the rest of the world? I want my judges to judge. A computer could tell me what "unusual" meant in 1790. I think?

Blair F. Paul, Seattle

Child support under the new bankruptcy law

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, which went into effect on October 17, 2005, changes the way child support obligations will be handled in bankruptcy cases.

Practitioners should first know that they can contact the Division of Child Support (DCS) to obtain accurate information about their client's child support case by calling 1-800-457-6202 or 360-664-5000. Because most child support information is confidential, staff may need to see proof of representation, such as a signed pleading or a release form. The release form (DSHS 17-063) is available on the DCS website at www1.dshs.wa.gov/dcs/disclosure1.shtml, or by link from the Western District of Washington bankruptcy court website, under the forms tab. When you call DCS for information, the signed release or pleading should be faxed to 360-586-3274.

The newly amended §362(b) of the Bankruptcy Code excepts the following DCS actions from the automatic stay: the collection of support by wage withholding, license suspension, credit bureau reporting, and the interception of tax refunds. Consequently, DCS now has the ability to continue wage withholding, along with its other usual collection action, after the bankruptcy case is filed.

In light of these amendments, DCS has changed its practice in chapter 13 cases filed on or after October 17, 2005. As a general rule, if DCS has wage withholding in place, DCS will continue its wage withholding and will not file a proof of claim in the bankruptcy. DCS will also intercept future tax refunds unless they are committed to the plan. So, if DCS is withholding your client's wages, the plan should identify the amount being withheld as a payment to be made by the debtor and not by the Chapter 13 Trustee. If DCS is unable to collect support directly from your client, DCS will file a proof of claim and you should schedule all support payments to be made to the Chapter 13 Trustee.

In recognition of DCS's ability to collect outside the plan under the new law, the form Chapter 13 Plan in the Western District of Washington now provides that the support payment amount set forth in the plan for direct payments by the

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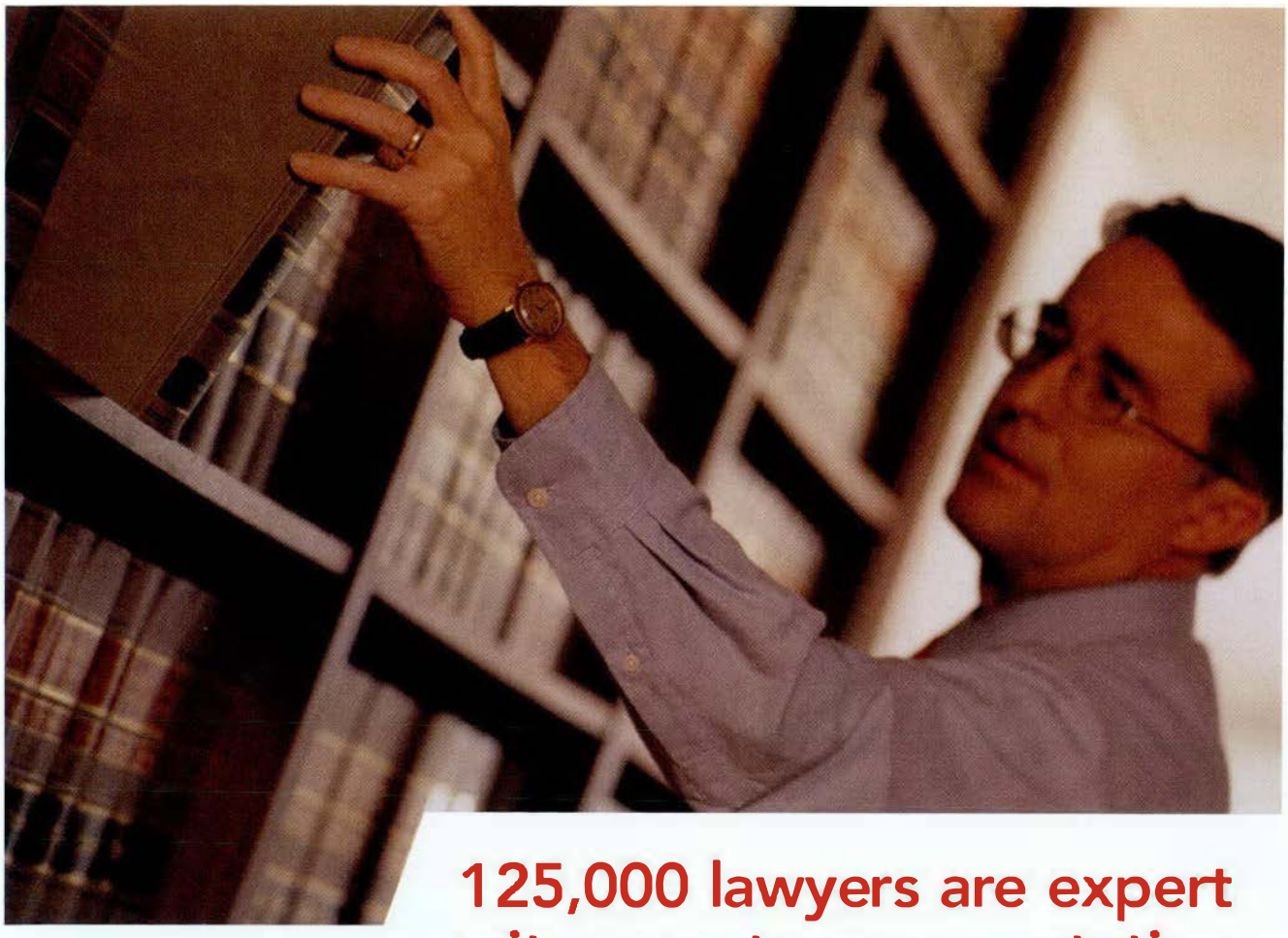

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debtor is not binding on DCS.

The form Chapter 13 Plan in the Eastern District of Washington, however, does not contain similar language, which creates a potential conflict between the new Bankruptcy Code provisions exempting collection of support from the automatic stay and the law regarding the binding effect of a plan. To resolve this issue and avoid an objection by DCS to confirmation of your client's plan in Eastern Washington cases, you should add language to the Special Provisions paragraph of the plan similar to the following: The domestic support obligation payment amount in ¶ III.B.2. is informational only and does not bind any party.

All support debt is now a priority claim under the new law, whether owed to a custodial parent or to the State. However, support owed to the State need not be paid in full during the life of the plan.

Finally, all notices and pleadings for DCS should be sent to the Division of Child Support, P.O. Box 11520, Tacoma, WA 98411.

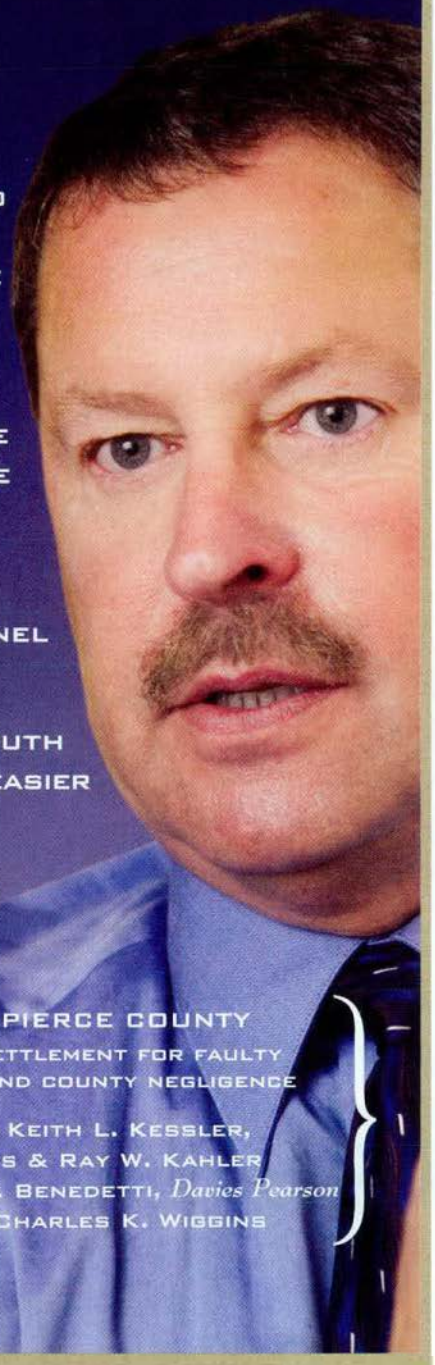
Daniel Radin, Assistant Attorney General, Seattle

Sexist journalism?

As I look at the picture of the smiling faces of the 50-year honorees ("50 Years and Counting: Honoring Washington State Bar Association's 50-Year Members," November *Bar News*, 2005), I think — how neat, what great longevity. And then I notice the obvious. Females make up a growing percentage of the bar, but this is such a recent phenomenon that this year there are no [female] 50-year honorees. But this doesn't bother me because, well, the Bar has made a commitment to diversity. Times have changed! Take for example the *Bar News* — the most heavily circulated legal magazine in the state. It is surely full of articles written by a diverse group of members. And then I open it, turning each page until I reach the last. And I can do nothing but sigh. All the articles are written by males.

Karen Koehler, Seattle

"Denel sometimes forgets to feed her daughter.



"She does her best despite her brain injury. Denel was 19 years old and pregnant when she was in an intersection collision that nearly ended her life. Her sister Shana, 17, was a passenger when their Volkswagen Beetle was hit by a car at a busy Lakewood intersection.

"Their car spun into a utility pole. Injured and in a coma, Denel miraculously delivered a healthy baby. Today, Denel delights in caring for her daughter. Things are tougher for Shana—brain injuries left her able to communicate only through a computer.

"A traffic signal would have prevented this tragedy. The $6.35 million settlement is now in a trust, and Denel and Shana struggle to enjoy 'normal' lives.

"There's one more chapter to the story. We challenged the constitutionality of a federal law that would have kept secret the government records we needed to get justice for Denel and Shana.

"Finding the truth is now a little easier for us all."

—*Keith L. Kessler*

WHITMER V. PIERCE COUNTY
$6.35 million settlement for faulty highway design and county negligence

Plaintiffs' counsel: Keith L. Kessler, Garth L. Jones & Ray W. Kahler
Co-counsel: Richard H. Benedetti, *Davies Pearson*
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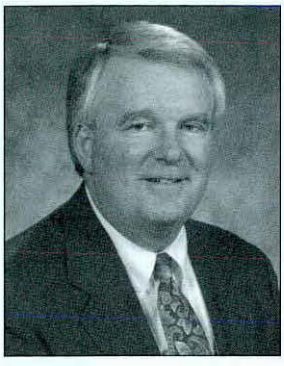

It's Fundamental: Even When East Meets West

S. Brooke Taylor, WSBA President

It was one of several trips to county bar associations around the state, but this one would be different. In my election interview with the Board of Governors, in June of 2004, I had pledged, if elected, to visit every county bar that would have me. Incoming President Ron Ward embraced the idea, and over a period of six months the two of us, accompanied by our superb executive director, Jan Michels, had visited local bars in Snohomish, Spokane, Grant, Stevens, Pend Oreille, Ferry, and Yakima counties, with future trips planned for Clallam and Kitsap. Emphasis on visiting counties in Eastern Washington seemed appropriate, since 12 of 14 members of the Board of Governors were from the West, as were both the president and president-elect. It is no wonder lawyers (and voters) from east of the Cascades often feel disenfranchised. Maybe we could do something about that "East-West Thing."

Participants of the 2005 Chelan-Douglas Dinner and Golf Tournament assemble for a memorable photo.

The annual Chelan-Douglas Dinner and Golf Tournament (on this page is a photo of the participants) is one of the major local bar events in the state each year. The three of us eagerly accepted the invitation to attend the May 20, 2005, event, and, being a glutton for public humiliation, I opted to participate in the afternoon golf outing as well. It's a great way to get acquainted with colleagues around the state, even if your game is high in both score and entertainment value.

My golfing partners included my host, Fourth District Governor Stan Bastian of the Jeffers Danielson firm, Chelan County Prosecutor Gary Riesen, and Steve Woods of the Wenatchee firm of Woods & Brangwin — three very welcoming hosts with varying degrees of golf proficiency. A very enjoyable front nine was interrupted with occasional sprinkles. Stan allowed as how, being from Port Angeles, I would not even recognize this annoyance as rain. But I also failed to recognize the ominous dark clouds which seemed to be circling the valley, looking for an opportunity to strike. On the coast, electrical storms are usually a benign curiosity, and the residents delight in counting "one-one thousand, two-one thousand" between the flash and the rumble to see how far they are from the lightning. It's a pleasant game — on the coast.

In Wenatchee, it's not a game. As our intrepid foursome started the back nine, the sky darkened, the wind picked up, and sprinkles turned to a steady downpour. By the time we had hit our second shots on the 13th fairway, we were forced to seek refuge under a giant birch tree. Two electric golf carts, four golf bags, 50 or so metal golfing implements, and four drenched lawyers huddled under one of nature's most efficient lightning rods.

Noticing that we could not see any other golfers on the course in any direction, the discussion turned to a debate

about the benefits of "sitting it out" versus the risks of golfers in electrical storms. Then out of nowhere came an intense crackle, instant illumination of the entire golf course around us, "one-one thous. . ." BOOM! — a ground-shaking, deafening blast of thunder overhead with electricity filling the air — the debate ended without a word. Two golf carts and four golfers sped cross-country to the pro shop as fast as the pounding rain allowed. At least 20 other golfers awaited us at the pro shop where the lightning strike had fried the TV set.

The storm passed quickly, as I'm told they usually do, and we finished the round, as golfers usually do. I had time before dinner to check into my hotel, change all my clothes, and think about what had happened. A story in the *Wenatchee World* reported that the lightning strike had blasted the Clardy family home just two blocks from the golf course, and that "the lightning bolt that hit the Clardy home was one of about 40 that struck Wenatchee and East Wenatchee during a brief but intense thunderstorm . . . ." True golfers are only concerned about one condition when contemplating a round of golf: "Is it light out?" I took some solace in that, but it didn't explain why my hosts had me out in the middle of the golf course when all other locals had sought safety. Would they really bring me all the way over the Cascades only to see me roast in Apple Country? My ruminations on the subject have led me to one inescapable conclusion: it must be that "East-West Thing."

The dinner at the Wenatchee Golf and Country Club was elegant, cordial, and thoroughly enjoyable. Attendees included more than 100 lawyers, judges, and spouses from the two counties, which share many miles of the mighty Columbia. Of particular note was the collegiality of the lawyers and judges from these two counties, the loss of which we had heard lamented in other venues. There was much talk about the trial of the case challenging the gubernatorial election, set to start that next Monday, pitting candidate against candidate, party against party, East against West. And we were honored by the presence of Chelan County Superior Court Judge John E. Bridges, who, with hundreds of pages of briefs, motions, and exhibits to review and what the AP has called "Washington State's version of the Trial of the Century" only hours away, still found the time to join his colleagues for a few minutes at this annual event. The evening concluded with the thoughtful and inspiring remarks of President Ron, followed by a standing ovation, demonstrating once again his remarkable ability to connect with lawyers from all parts of our state.

But what was going on socially paled by comparison to what was going on in Chelan County Superior Court. The "Trial of the Century" started on schedule the following week with the presentation of evidence of alleged voting and vote counting irregularities. The executive branch had conducted an election, county by county, throughout the state. The election was conducted in compliance (or not) with rules and procedures adopted by the legislative branch at both state and local levels, and the legislative branch had also carved out the standards for judicial review.

When the dust settled, three vote counts had yielded three different results. The case had a definite East vs. West flavor to it, with the East having

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solidly supported the Republican candidate and having been outweighed by a strong west-side vote for the Democratic candidate, particularly from King County. Just as with the presidential election of 2000, it was now up to the judicial branch to decide who would be governor, certainly a daunting task for any man or woman who wears the robe. As with the Terri Schiavo case, it fell upon the shoulders of one state trial court judge to conduct a trial that would be watched nationally, and in this case, would determine the course of political control in our state for the next four years.

And once again, several of our own made us all proud to be lawyers. Judge Bridges conducted a thoughtful, balanced, and controlled trial featuring superb lawyering for both parties, dealing with complex issues of fact and law. Judge Bridges recognized early in his conclusions of law the appropriate role of the judiciary: "Election contests are governed by several general principles. Chief among them is the principle that the judiciary should exercise restraint in interfering with the elective process which is reserved to the people in the State Constitution. Unless an election is clearly invalid, when the people have spoken their verdict should not be disturbed by the courts. In adhering to the principle of judicial restraint, the Court should follow the rule that an informality or irregularity in an election which did not affect the result is not sufficient to invalidate the election." Showing appropriate deference to the legislative branch, Judge Bridges concluded that: "... this election may not be set aside merely because the number of illegal or invalid votes exceed the margin of victory, because the election contest statute requires the contestant to show that the illegal votes or misconduct change the election's result. The Washington State Legislature has, by enacting RCW 29A.68.110 and 29A.68.020, removed any other choice from this Court's discretion."

Judge Bridges ultimately concluded that the election was not "clearly invalid," and therefore "should not be disturbed by the courts." To the considerable credit of the decision maker, the ultimate ruling was accepted without appeal, the true mark of a solid decision. Washington's new governor was legitimatized, and political life in Washington moved ahead, as it needed to do. The rule of law prevailed. Even in a highly charged partisan environment, the clear separation among the three branches of government was maintained. Excellent work by several Washington lawyers had been regularly featured on the nightly news. And the decision had been made that needed to by made, preserving peace, balance, and stability in a very complex world.

And we, as lawyers and judges, are presented with yet another example we can use as teachers, demonstrating the application of the rule of law, maintenance of the separation of powers, and the critical need for judicial independence.

Brooke Taylor may be reached at 360-457-3327 or sbtaylor@plattirwintaylor.com. If you would like to write a letter to the editor on this topic, please e-mail it to letterstotheeditor@wsba.org or mail it to WSBA Bar News, Attn: Letters to the Editor, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

WSBA's Inner Workings

Dedicated to Serving Members

M. Janice Michels, WSBA Executive Director

Let me introduce you to the people you see in this photo. They oversee the WSBA's operations. We are lawyers, accountants, therapists, educators, media experts, and administrators by education, training, and experience. Many of us are expert in more than one of these areas. We come together with the common goal of "elevating the profession," whether through policing conduct, educating, counseling, improving the law, or promoting the good things lawyers do. Each of the WSBA's nine departments has a mission statement in support of serving the profession, and each department director has a commitment to it.

Jan Michels, Executive Director
The executive director works with the Board of Governors and the WSBA staff to elevate the practice of law.

"I'm the touch point between the board, which functions like the WSBA's legislative branch, and the WSBA staff, which more parallels an executive branch. My job is to make sure Board policy is translated into staff action, and to assure staff input and fiscal analysis to policy development," says Jan.

Paula Littlewood, Deputy Executive Director
The deputy executive director coordinates and manages WSBA resources in the implementation of the annual operational plan.

"The WSBA is a dynamic organization with a multitude of functions under its umbrella. Ensuring that the various departments are coordinated in their efforts so we use member dues and volunteer time effectively and efficiently is what keeps me running from 8 to 5. There is never a dull moment keeping the right hand and left hand working together!" Paula says.

Following a productive meeting, WSBA directors gather for a photo: (back row) Robert Levinson, Bob Welden, Mark Sideman; (middle row) Jan Michels, Judy Berrett, Joy McLean, Barbara Harper; (front row) Paula Littlewood, Gail Stone, Jean McElroy, Julie Mass.

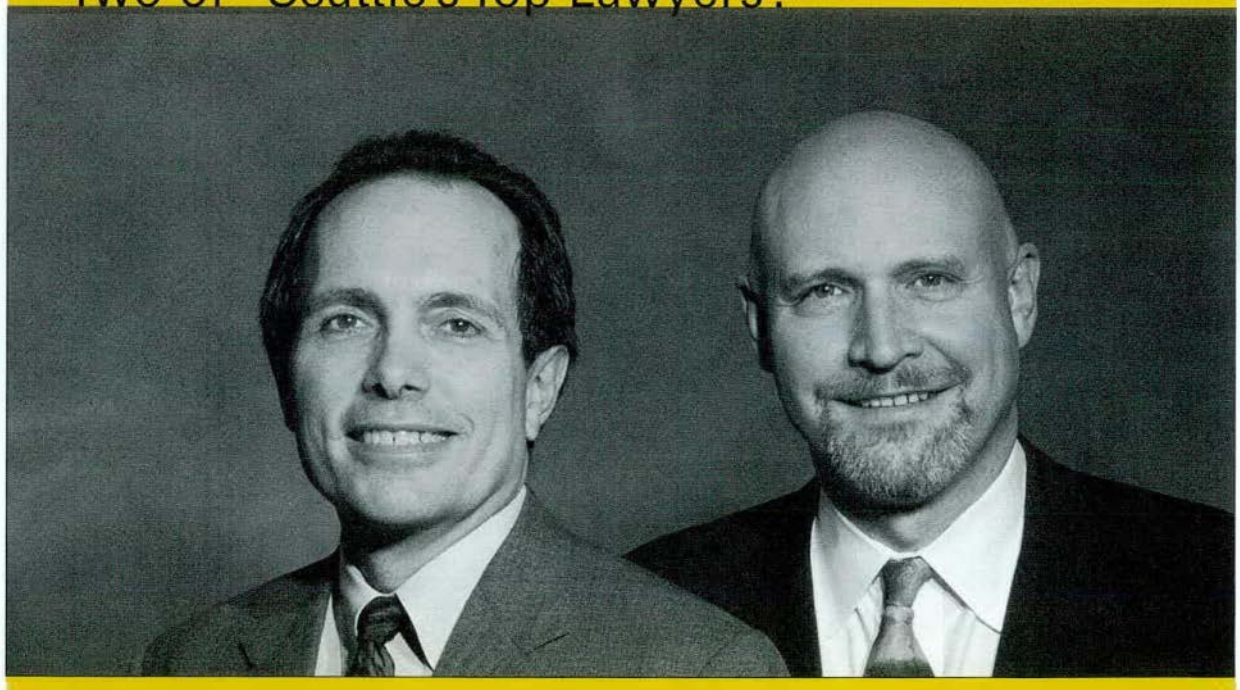
Judy Berrett, Director of Member and Community Relations
Bar Leaders Division — The Bar Leaders team supports Bar leadership programs (WSBA sections; WSBA committees; local, minority, and specialty bar associations; diversity programs; the Washington Young Lawyers Division); and tracks other groups' and associations' activities that interface with these leadership groups.

Communications Division — Communicating with members, the public, and the media in an effective, timely, and professional manner, using the appropriate communications methods is the overall goal of the Communications Division.

A thank you to our peers for
the honor of your votes.

William S. Bailey

Two of "Seattle's Top Lawyers."*



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Seattle Magazine 2005*

Justice Programs Division — By supporting access to justice and public legal education, the Justice Programs Division administers a core function of the WSBA in its efforts to ensure justice for all by making the justice system accessible, understandable, and accountable.

Service Center Division — The WSBA Service Center serves members and the public by responding to phone calls and e-mails in a professional, prompt, courteous, and thorough manner; and provides professional, courteous, and welcoming assistance to office visitors.

Judy says about the department: "Although the work of the Member and Community Relations Department is broad in scope, the common thread running through all that we do is service. From working with hundreds of volunteers through the Access to Justice Board, committees, sections, other bar associations, and the WYLD; managing programs, conferences, and events; designing and producing publications like *Bar News*; managing website content; and assisting thousands of callers and office visitors each month, we're privileged to serve WSBA members, the general public, and members of the news media."

Barbara Harper, Director of Lawyer Services

The Lawyer Services Department (LASD) serves members and protects the public by providing risk-management programs and services.

LaSD staff notes: "LaSD is a team effort providing a range of services to members. Our programs include Alternate Dispute Resolution, Fee Arbitration, the Ethics Line, the Law Office Management Assistance Program, and the Lawyers' Assistance Program. We are happy to consult by phone, in our WSBA offices, or to bring some of our services to members offsite."

Robert Levinson, Director of Information Technology (IT)

IT delivers smart, cost-effective, and timely solutions to meet the WSBA's technology needs. To do this, IT works collaboratively with other departments to understand the problem, define the

solution, evaluate alternatives, and implement an appropriate solution. IT is an "inward facing" department — it serves the membership by supporting other Bar staff in pursuit of their departmental goals.

"Technology's job is to support the policy and mission of the WSBA with the most cost-effective and efficient use of technology. Technology supports communications, management, accounting, and remote access to the WSBA. We're always looking for innovative ways to assist the WSBA and its members," explains IT staff.

Julie Mass, Director of Finance and Administration

This central services department delivers high-quality service in an efficient, timely, and dependable way, to assist WSBA staff, WSBA members, and the public in meeting their objectives. The department also ensures that the WSBA operates in a fiscally responsible manner.

"The Finance and Administration Department provides various services to WSBA departments and members. We are the fiscal arm of the WSBA and are responsible for the WSBA's accounting system, budget, and financial statements. We provide audit services to members in the form of random audits and to the Office of Disciplinary Counsel in the form of 'for cause' audits related to grievances. We manage WSBA's facilities and conference rooms, and we provide copying and mailing services to staff, committees, and sections," is how Julie sees the department's role.

Joy McLean, Director of Lawyer Discipline

The Department of Lawyer Discipline investigates any alleged or apparent ethical misconduct or incapacity of a lawyer; administers a procedure of diversion (rehabilitation) for certain circumstances; prosecutes formal proceedings and appeals when a hearing is ordered; and requests Supreme Court imposition of reciprocal discipline.

Joy adds: "Knowing that a profession will dependably enforce professional standards on its own members greatly elevates the profession in the public's view."

Jean McElroy, Director of Regulatory Services

Regulatory Services provides timely and accurate support and information to bar applicants, members, limited license holders, committees, the WSBA, and the public, assisting them to meet requirements and achieve their goals. Regulatory Services administers the rules, regulations, and policies governing these services in a consistent and professional manner. The department also provides services in a manner that

allows for respect for individuals and for differing abilities, both in those with whom we interact, and within the department and the WSBA.

As Jean sees it: "The Regulatory Services Department oversees the WSBA side of admissions, licensing, and mandatory CLE compliance, to ensure that the people practicing law in Washington have met established requirements for membership and licensing, and we strive to provide the best service possible. Good admissions, licensing, and continuing education policies, appropriately enforced, benefit our members and help to maintain public confidence in the legal profession."

Mark Sideman, Director of Continuing Legal Education

CLE serves the membership and legal profession through education. The department is guided by the principles of: a) supporting the overall goals of the WSBA, b) maintaining the fiscal viability of the WSBA-CLE Department, and c) continuing WSBA-CLE efforts as the

innovator in legal education.

Mark and WSBA-CLE are "committed to education, customer service, and an economically self-supporting department, staying in the forefront of the members' needs."

Gail Stone, Director of Legislative Relations
The Legislative Department is there to assist the WSBA and its sections in effectively participating in the state legislative process.

Gail remarks: "As the professionals who work every day with the practical application of the Constitution and statutes, lawyers have a unique expertise that is invaluable to legislators as they develop, create, and change the law."

Bob Welden, Office of the General Counsel (OGC)
The General Counsel is legal counsel to the Board of Governors, the executive director, and other WSBA departments, and manages the legal affairs of the WSBA. The OGC also provides counsel and support for the Disciplinary Board; the Practice of Law Board; the Chief Hearing Officer and the Hearing Officer Selection Panel; and these WSBA committees — Lawyers' Fund for Client Protection, Court Rules and Procedures, Amicus Brief, and Resolutions. The OGC also provides other legal counsel and support as needed, including providing a chief presiding officer at bar examinations.

"The lawyers and support staff in OGC are firmly committed to serving the legal profession and protecting the public. This is made possible by the dedicated service of the many volunteer lawyers and nonlawyers who serve on the committees and boards that we staff," explains Bob.

Executive Director Jan Michels can be contacted at janm@wsba.org.

Question, Comment, Request?

The WSBA Service Center is open Monday through Friday, 8:00 a.m. to 5:00 p.m.

800-945-WSBA

206-443-WSBA

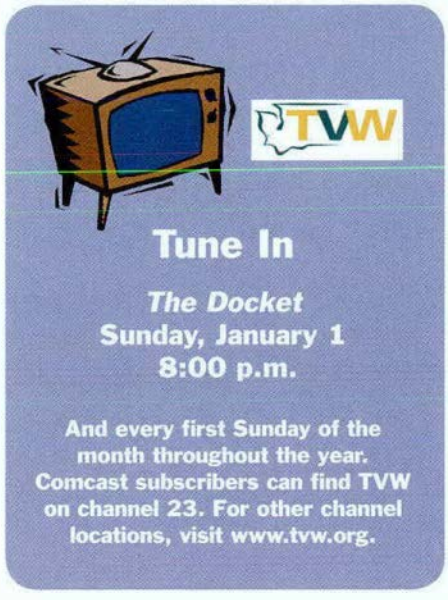
questions@wsba.org

New Legal Affairs Program to Debut on TVW

BY WSBA PRESIDENT S. BROOKE TAYLOR

I'm delighted to let you know that beginning this January, TVW, Washington's public-affairs network, will provide Washington citizens a fresh perspective on the law with the premiere of *The Docket*. Hosted by University of Washington School of Law Dean Joe Knight, each episode will feature a person or project that is making a difference in our legal system; a review of key court rulings and hearings from the previous month; and a "plain language" explanation of a legal concept or resource that every citizen should know.

As you are aware, general knowledge about our judicial branch of government is appallingly low, and on a daily basis, we witness and experience the consequences of this lack of basic civics education. My focus during my year as WSBA president will be on educating the public about the judicial system, with particular emphasis on the rule of law, the separation of powers, and the need for a strong, independent judiciary. I believe that *The Docket* will tie in very nicely with our educational efforts and perform a valuable public service. The audience will be broad — TVW is available to more than 3.5 million people throughout our state and is regularly watched by our legislators, particularly during the legislative session. We're excited about this opportunity to showcase how and why the legal system — and lawyers — are problem-solvers in the community.



The WSBA is very pleased to work with TVW and support the production of this exciting new program. I would especially like to acknowledge generous financial support from the following WSBA sections: Family Law; Real Property, Probate and Trust; and Senior Lawyers.

Watch for a newepisode of *The Docket* the first Sunday of each month, beginning January 1. There will also be frequent repeat showings, and streaming video of *The Docket* will be available on TVW's website at www.tvw.org. BN

The Language of Law

BY ROBERT C. CUMBOW

"When I use a word," Humpty Dumpty said in a rather scornful tone, "it means just what I choose it to mean — neither more nor less."
— Lewis Carroll, *Through the Looking Glass*

We speak a strange language in our profession. I suppose law is not so different from other professions in that respect. We use certain words that most nonlawyers rarely if ever have occasion to use (such as "tort," "laches," or "quash"). And there are other words to which we ascribe different meanings from most of the rest of society (such as "execute," "willful," "malice," "equity").

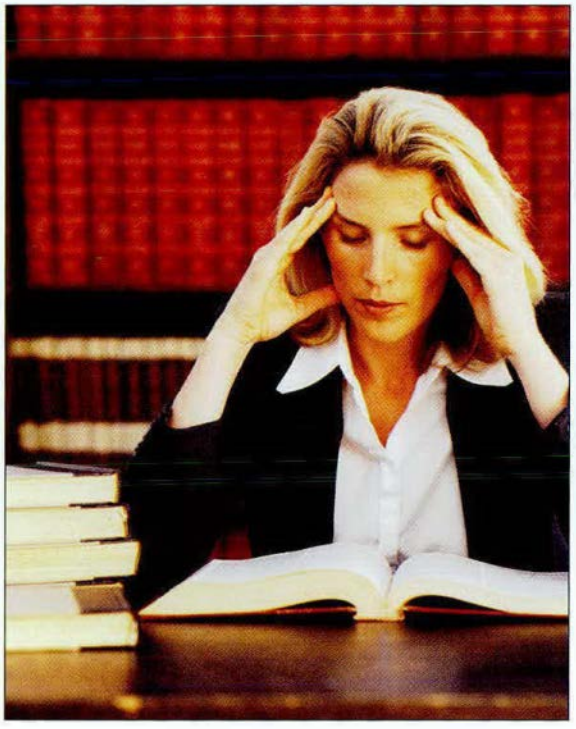
I'm not sure which of those two categories the word "preponderance" fits into. I suspect that most people never use it at all, but I also suspect that those who do use it regard it differently from the way the law does. Its sheer length, especially combined with its incorporation of the term "ponder," makes it seem as if it should mean "overwhelming weight." Indeed, one dictionary defines it as "a superiority that outweighs all other considerations."

In law, of course, the term simply means "the greater weight." A "preponderance of the evidence" means — as judges, lawyers, and jury instructions repeatedly caution jurors — that the thing alleged is more likely than not to be the case. Unlike the "beyond a reasonable doubt" measure of certainty that applies in criminal cases, the "preponderance of the evidence" measure means that if a jury sees a thing as 51 percent likely to be true and 49 percent likely to be false, they should decide that it is true.

Now no matter how you drum this into jurors' heads, they have a natural resistance to it. Case in point: A jury recently cleared two New York police officers of sexual harassment of junior officers, but the verdict was thrown out when it was revealed that, during deliberations, the jurors had asked for a dictionary, and the foreman had read aloud to the jury the dictionary definition of a key word.

The word was "preponderance."

Thus not only may a case turn on the meaning of a word, as I illustrated in a previous column regarding judicial interpretation of the difference between "which" and "that," but also a mistrial can be triggered by a jury's reliance on a dictionary definition rather than a legal definition. That's a profound lesson in how different legal English is from ordinary spoken English.



Plain Talk

For some time now, many have held that there shouldn't be such a gap between "Legalese" and "plain English." Indeed, this conviction is the foundation for most law school and CLE legal writing programs, and for widespread efforts to make statutory, regulatory, and contractual writing closer to the language we all speak every day.

California recently became the first state to rewrite its criminal and civil jury instructions from scratch. Several other states are following suit; yet many others still adhere to older, more formal and complex instructions, or have no standard instructions at all.

Some lawyers regard the new California instructions as "dumbed down" and so simplistic as to be actually less clear than the old instructions. Others have applauded the new instructions as likely to improve communication between officers of the court and jurors, and thus improve the chance that justice will be done.

One improvement to the California jury instructions is the elimination of the phrase "preponderance of the evidence" in favor of "more likely than not." Compare, for example, the old civil instruction on "burden of proof" with the new one:

Old: "Preponderance of the evidence means evidence that has more convincing force than that opposed to it. If the evidence is so evenly balanced that you are unable to say that the evidence on either side of an issue preponderates, your finding on that issue must be against the party who had the burden of proving it."

New: "When I tell you that a party must prove something, I mean that the party must persuade you, by the evidence presented in court, that what he or she is trying to prove is more likely to be true than not true. This is sometimes referred to as 'the burden of proof.'"

You can see how the new definition of "burden of proof" incorporates the phrase "more likely than not" and avoids any use of the windy and easily misunderstood term "preponderance."

To Forget or to Misrecollect

Another of the old California instructions reads: "Failure of recollection is common. Innocent misrecollection is not uncommon." Now this construction is in itself intriguing, for at least two reasons. First, it demonstrates once again how fine distinctions that many people don't make at all are not only made but considered extremely important in the law. "Failure of recollection" and "innocent misrecollection" are two different things. Both are opposed to accurate recollection, and both are ways in which testimonial evidence may be false or incomplete without deliberate lying.

The second thing that makes this instruction so interesting is that its drafter chose to use the opposing constructions "is common" and "is not uncommon." Why, one wonders, was that decision made? To understand, we'd need to know whether "common" and "uncommon" are mutually exclusive terms, or are simply opposite ends of a continuum of possibility. If they are mutually exclusive, then everything is either common or it is not. "Uncommon" means the same thing as "not common." Thus it would have been clearer, smoother, friendlier, and a lot less pompous to say, "Failure of recollection and innocent misrecollection are both common."

Now it may be that the author of the original instruction didn't want to cover both "failure of recollection" and "innocent misrecollection" in the same sentence, thinking that it would be simpler and clearer to devote a separate sentence to each. Fair enough. But the decision to end the second sentence with "is not uncommon" may still be explained in either of two ways. First, perhaps the author thought that it would be boring and repetitious to say "is common" again, or to say "is also common," so he hit upon the double negative "is not uncommon" as a way of saying the same thing without actually repeating the same words.

But a second possibility is that, to the author, "not uncommon" does not mean the same thing as "common." Rather, there is a spectrum, at one end of which one finds things that are "common" and at the other things that are "uncommon." Lying between the two extremes are things that are neither common nor uncommon, and that may thus be fairly described as "not uncommon." Of course, such things, one presumes, must also be fairly described as being "not common." The problem with that is that it leaves us in the awkward position of maintaining that "not common" and "uncommon" mean two different things. What the difference may be is anyone's guess — or perhaps a matter for further speculation, but let's not burden ourselves with it here.

In any event, it must at this point be amply clear why someone felt that the old rule ought to be rewritten. The author of the new version, in a moment of inspiration, realized that the important point of the original instruction was not how common or uncommon are "failure of recollection" and "innocent misrecollection," but rather that the two are different phenomena, and the law distinguishes between them for important evidentiary reasons. Hence, the new version:

"People often forget things or make mistakes in what they remember."

The degree of commonness of these phenomena is relegated to the use of the term "often." It no longer matters whether these are more or less common occurrences. The important thing is that there are two ways of having your memory fail: being unable to remember something and remembering it incorrectly.

Why is this important?

For the simple reason that the person who has forgotten something knows he doesn't remember it (when asked about it, he can truthfully say, "I don't recall"); while the person who *mis*remembers something *thinks* she remembers it accurately, and doesn't realize she is mistaken. We begin to see why this distinction is so important, because it goes to the degree of conviction with which a witness might testify, the level of certainty she might have or seem to have, and, ultimately, the witness's credibility.

Besides showing how, at least in this case, the California rewrite got it right, and produced a much more understandable and illuminating jury instruction, this little exercise also illustrates my earlier point that the law uses words in ways that most people don't, and that's because lawyers *think* in ways that other people don't. In fact, we go to school for three extra years to learn to think differently from others.

Most folks would figure that either somebody remembers a thing or they don't, that not remembering it at all is pretty much the same thing as remembering it incorrectly, and that both are examples of "forgetting." But "forgetting" is just one thing, what traditionally was called "failure of recollection," and in law, for reasons I touched on above, it is emphatically not the same thing as *mis*recollection.

You begin to see, I hope, why it is important for jurors to understand this, and thus for it to be explained to them in terms that do not obscure the issue

(as the "common"/"not uncommon" pairing in the old instruction did) but illuminate it. Reading the new instruction, anyone can easily see that making a mistake in what you remember is not the same thing as forgetting. In fact, forgetting is not a "mistake" at all, and this fact may also have importance in the weight a juror is likely to give a witness's testimony.

Keep It Simple — but Take Your Time

It's important to recognize, though, that simpler and clearer do not necessarily mean shorter. We are talking about the *best* use of language, not the briefest. To illustrate, one more example:

Old: "Circumstantial evidence is evidence that, if found to be true, proves a fact from which an inference of the existence of another fact may be drawn. A factual inference is a deduction that may logically and reasonably be drawn from one or more facts established by the evidence."

New: "Some evidence proves a fact directly, such as testimony of a witness who saw a jet plane flying across the sky. Some evidence proves a fact indirectly, such as testimony of a witness who saw only the white trail that jet planes often leave. This indirect evidence is sometimes referred to as 'circumstantial evidence.' In either instance, the witness's testimony is evidence that a jet plane flew across the sky."

Notice that the new version is longer, but that it is also clearer, and, once again, emphasizes the important point that the old instruction's windiness obscured: that *both* direct and circumstantial evidence are evidence that a thing has occurred.

Of course the making of fine distinctions and the precise use of language are not the exclusive property of lawyers. It helps when witnesses, too, recount their evidence with precision. Consider the refined legal system of the world of Robert Heinlein's *Stranger in a Strange Land*, in which professionals known as "fair witnesses," such as Anne in the following passage, are paid for the precision of their testimony as expert observers:

"Anne was seated on the springboard; she turned her head. Jubal called out, 'That new house on the far hill — can you see what color they've painted it?'

"Anne looked in the direction in which Jubal was pointing and answered, 'It's white on this side.' She did not inquire why Jubal had asked, nor make any comment.

"Jubal went on to Jill in normal tones, 'You see? Anne is so thoroughly indoctrinated that it doesn't even occur to her to infer that the other side is probably white, too. All the King's horses and all the King's men could not force her to commit herself as to the far side . . . unless she went around and looked — and even then she wouldn't assume that it stayed whatever color it might be after she left . . . because they might repaint it as soon as she turned her back.'"

In such a world, the jobs of lawyers, jurors, and judges would be a lot easier.

Robert C. Cumbow is a shareholder with Graham & Dunn, Seattle, where he counsels clients in beverage, food, communications, entertainment, and other businesses on trademark, copyright, advertising, media, and alcoholic beverage law. He teaches at Seattle University School of Law and has written extensively on law, film, and language.

Special Admission Rule for Military Lawyers

BY HON. GERRY L. ALEXANDER, CHIEF JUSTICE, WASHINGTON STATE SUPREME COURT

This article originally appeared in Bar Examiner. *Volume 74, No. 3, August 2005. Reprinted with permission.*

In recent years, the Washington State Supreme Court has adopted rules that permit some lawyers who have been admitted to the practice of law in another state or a territory of the United States to obtain special admission to the practice of law in Washington. Lawyers who obtain this limited license to practice law do not have to meet the requirement of passing the state's bar examination. The umbrella rule is Admission to Practice Rule (APR) 8. Under this rule, special admissions are authorized for lawyers who provide legal services to indigent persons under the auspices of a government- or bar association-sponsored legal services organization or public defender's office. APR 8(c). The rule also authorizes "emeritus membership" for lawyers who are fully retired from the practice of law but who wish to provide legal services under the auspices of a qualified legal services provider. APR 8(e). In addition, special admissions are authorized for lawyers enrolled in good standing in postgraduate studies or who serve as faculty members of law schools so that they may participate in the clinical work of the course of study in which they are enrolled or teaching. APR 8(d). This rule also authorizes special admissions for lawyers who are employed with and serve as house counsel for profit or nonprofit corporations and who agree to limit their practices exclusively to work for their corporate employers. APR 8(f).

Our court's recognition of the above categories of special admissions has been well received by the bar and by the general public. In my view, this is because they realize that it is entirely appropriate for the court to relax bar admission requirements for lawyers admitted to the practice of law in other states or in territories of the United States who are willing to provide legal services for a single corporate employer or for indigent persons.

No special admissions category has, however, been as acclaimed or provided as much satisfaction to the Washington State Supreme Court as has APR 8(g), the most recently recognized category of special admissions. That rule applies to military lawyers who are on full-time active duty in the state of Washington and who serve in a trial service office of a staff judge advocate. It allows these military lawyers to obtain special admission to practice in order to provide in-court representation in civil matters for active-duty military personnel in grades E-1 through E-4, and their dependents, to the extent that such representation is authorized by their military superiors.

No special admissions category has, however, been as acclaimed or provided as much satisfaction to the Washington State Supreme Court as has APR 8(g), the most recently recognized category of special admissions. That rule applies to military lawyers who are on full-time active duty in the state of Washington . . .

This rule was proposed to our court in 2001 by the Board of Governors of the Washington State Bar Association. The proposal had first been presented to the Board of Governors by the WSBA Legal Services to the Armed Forces Committee. That committee pointed out that since World War II, U.S. military legal assistance programs had provided no-cost legal services to military members and their families regarding their personal legal problems.

This had been done, we were told, in order to enhance military readiness, morale, and discipline.

Historically, legal assistance to military personnel has taken the form of drafting and execution of wills, powers of attorney, and other legal documents. Assistance has also been provided to military clients on divorce, adoption, and name-change proceedings, as well as paternity laws, landlord-tenant disputes, consumer-protection issues, and garnishments and other debt-related problems. Most of the legal assistance, though, was provided within the confines of military bases or on naval or coast guard vessels. Occasionally, military lawyers might enter appearances in state courts on behalf of military members, but only in cases where the military lawyer was a member of the bar of the state in which the court was located. However, because military lawyers, like other service members, are frequently reassigned from one military facility to another during their careers, they generally do not apply for bar admission in the states in which their military facilities are located. Some states, notably Florida and Illinois, recognized this lack of bar admission as a problem and have authorized representation of military members in their courts by military lawyers who are admitted to the practice of law in another state or a U.S. territory. We were asked to do the same by adopting the proposed special admissions rule.

Our court was immediately attracted to this rule for two important reasons. First, we recognized that a large number of military personnel are stationed in Washington; our state is the home of one of the nation's largest army forts, Fort Lewis, as well as two large air force bases, McChord AFB and Fairchild AFB. The Navy also

has a huge presence in Washington, with facilities in Bremerton, Bangor, Everett, and Whidbey Island. On top of that, the U.S. Coast Guard has several facilities in Washington. We also knew that military personnel of the lower ranks and their dependents generally do not have sufficient funds to hire civilian lawyers, should in-court representation become necessary to protect their interests.

Consequently, in February 2002, our court entered an order providing for adoption of proposed rule APR 8(g). Soon thereafter, we conducted a swearing-in ceremony for the first batch of military lawyers who qualified for admission under the new rule. This ceremony, which was held in our courtroom in Olympia and was televised live by our state's public-affairs television network, TVW, was, to say the least, very moving. Standing before the court that day for the administration of the attorney's oath were nine military lawyers, each looking very sharp in the uniform of his or her service. Three of the admittees that day were Navy JAG officers, one was an Air Force JAG officer, and five were from the Army JAG office at nearby Fort Lewis.

Opening remarks were presented by our court's senior justice, Charles W. Johnson, as well as by Kenyon Luce, the then-chair of the WSBA Legal Services to the Armed Forces Committee. Following their remarks, the admittees were presented to the court by high-ranking military lawyers from the three represented branches of the armed services. Following my administering of the attorney's oath, a reception for the admittees and their families and friends was held in our court's reception room. Since that memorable occasion, we have conducted periodic swearing-in ceremonies for other JAG officers who have qualified for this special admission.

We have been pleased to learn that the rule is working very well and is accomplishing the goals that our court had in mind when we adopted it, providing much-needed legal services to men and women of the armed services who serve our nation in the lower pay grades. Captain Moira D. Modzelewski, a Navy JAG officer, is a big fan of the rule. In communicating with her recently, I learned that her practice as a legal assistance officer has benefited tremendously from the rule. Although she indicated that counsel in her

APR 8
Special Admissions

...

(g) Exception for Military Lawyers. A lawyer admitted to the practice of law in a state or territory of the United States or of the District of Columbia, who is a full-time active duty military officer serving in the office of a Staff Judge Advocate of the United States Army, Air Force, Navy, Marines, or Coast Guard, a Naval Legal Service Office or a Trial Service Office, located in the State of Washington, may, upon application and approval, appear as a lawyer and practice law before the courts of this state in any matter, litigation, or administrative proceeding, subject to the following conditions and limitations set forth in this rule. The applicant must be of good moral character and shall apply by (i) filing an application in the form and manner that may be prescribed by the Board of Governors; (ii) presenting satisfactory proof of admission to the practice of law and current good standing as a member of the bar in any state or territory of the United States or the District of Columbia; (iii) complying with training requirements as set forth below; and (iv) furnishing whatever additional information or proof that may be required in the course of processing the application.

(1) To qualify for admission to practice under this rule, an applicant must, prior to admission, complete at least 15 credit hours of approved continuing legal education on Washington practice, procedure, and professional responsibility.

(2) Military lawyers admitted to practice pursuant to this rule are not, and shall not represent themselves to be members of the Washington State Bar Association.

(3) The applicant's right to practice under this rule: (i) may be terminated by the Supreme Court at any time with or without cause, or (ii) shall be terminated when the military lawyer ends active duty military service in this state. The lawyer admitted under this rule and his or her supervisory Staff Judge Advocate or his or her Commanding Officer are responsible to advise the Washington State Bar Association of any change in status of the lawyer that may affect his or her right to practice law under this rule.

(4) Military lawyers admitted pursuant to the rule may represent active duty military personnel in enlisted grades E-1 through E-4 and their dependents in noncriminal matters to the extent such representation is permitted by the supervisory Staff Judge Advocate or Commanding Officer, Naval Legal Service Office or Commanding Officer, Trial Service Office. Other active duty military personnel and their dependents may be represented if approved by the Service Judge Advocate General or his or her designee.

(5) Military lawyers admitted pursuant to this section may not demand or receive any compensation from clients in addition to the military pay to which they are already entitled.

(6) The practice of a lawyer admitted under this section shall be subject to the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules, and to all other laws and rules governing lawyers admitted to the bar of this state. Jurisdiction shall continue whether or not the lawyer retains the right to practice in Washington and irrespective of the residence of the lawyer.

office have not yet actually gone to court under Rule 8(g), "the power to personally appear on behalf of a client in Washington courts, even if rarely exercised, removes the usual 'so what?' attitude of opposing parties (primarily landlords and local car dealers)," and prevents them from ignoring the letters and phone calls that military lawyers make on behalf of the enlisted personnel they represent. She cited one example of a case with "golden facts" and a significant legal issue that would have been a "perfect" Rule 8(g) case. The case involved a Navy E-3 and his wife who signed a month-to-month rental agreement that imposed a $900 fee if they vacated the rental premises sooner than six months. It was Captain Modzelewski's view that the right of a tenant (or the landlord) to terminate a month-to-month rental agreement with proper notice is an unqualified right. In her view, a provision in a rental agreement that imposed a fee if a month-to-month tenancy was terminated by the tenant impermissibly burdened that statutory right and was contrary to public policy and unenforceable under Washington law. A Seattle city ordinance, she observed, outlaws this practice, but it is widely done in the county where her client was stationed. She said that this would have been a great case in which to seek a declaratory judgment stating that the fee was unenforceable.

Captain Modzelewski said: "Our ability to go into court was critical in reaching a settlement, because the potential defendant (a major nationwide real estate management company) would not return my counsel's calls or respond to letters until right after he called their corporate registered agent to confirm they were the current agent for service of process. We were happy to settle the case, because we obtained a complete victory for our client, but regretted losing the opportunity to take the case to court and get a ruling that perhaps would benefit other sailors."

As Americans, we have always relied on the members of our military services to defend the blessings of liberty we enjoy. Those who serve in the lower ranks of those services should not be denied the protections that the law provides them in civil matters. While the rule we adopted is not a panacea, it is, in our judgment, a positive step toward leveling the playing field in the courts of Washington for the men and women of our military who are providing such a valuable service to us all. We will continue to monitor the rule and improve it as we deem necessary. We urge the highest courts in other states and in our nation's territories to consider the value of such a rule for their jurisdictions.

Hon. Gerry L. Alexander was elected to the Washington State Supreme Court in 1994 after more than two decades of trial and appellate court experience, having served on the superior court and court of appeals bench. He is the longest-serving chief justice in the state's history, having been elected by his colleagues in 2000 and again in 2004. Chief Justice Alexander is an emeritus member of the Board of Visitors of Seattle University School of Law. He has also served as a member of the Washington State Commission on Law Reports, and as an alternate member of the Judicial Conduct Commission. He received both an undergraduate degree in history and a J.D. from the University of Washington, and practiced law in Olympia for nine years. Chief Justice Alexander was recently awarded a Doctor of Laws by Gonzaga University.

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Should Washington Raise the Homestead?

BY FREDERICK P. CORBIT

For more than a century, Washington homeowners have been protected from judgment creditors. Specifically, there is a "homestead" that exempts a limited amount of home equity from foreclosure on judgment liens.

The homestead was created to protect families from losing their homes in hard times,[1] but in relative terms the homestead has shrunk over the years, so that it now covers only a small portion of the value of a modest house. The Washington state homestead exemption has been limited to $40,000 since 1999, while the average price of a home in Washington has skyrocketed. (Pursuant to Chapter 6.13 of the Revised Code of Washington, there is a $40,000 homestead or, in other words, there is $40,000 of equity in a home that is unavailable to creditors unless voluntarily transferred by a deed or mortgage.)

In 1945, the $3,010 assessed value of the house on the left was totally covered by the $4,000 homestead in place at that time. The same house today (right) has an assessed value of $809,000 and the $40,000 homestead exemption covers less than five percent of its value.

The median price for a home in Washington state has jumped from $136,600 in 1995 to $225,000 in 2004.[2] And the failure of the homestead to keep pace with rising home prices is not a new phenomenon. U.S. Census data show that the median price of a house in King County grew from $9,200 to $236,000 between 1950 and 2000,[3] but during the same period the homestead rose from $4,000 to $40,000.[4]

Washington's shrinking homestead is in stark contrast to what has happened in some other states, like Florida and Texas. Until recently, the homesteads in those states were unlimited and therefore always covered the full value of homes regardless of inflation.

The unlimited homesteads provided by some states were criticized as a result of the actions of some unscrupulous individuals, like some of the former executives of Enron, who were able to use homesteads to keep millions of dollars of equity in their luxurious homes away from the claims of the creditors they defrauded.[5] As a result, Congress recently amended the Bankruptcy Code to provide debtors in all states with a $125,000 limit on homesteads acquired within 1,215 days of their bankruptcy filings.[6]

Congress concluded that a homestead over $125,000 is too high, but did not discuss whether $40,000, as allowed in Washington, could be too low. Is it time for the Washington Legislature to raise our homestead?

Why a homestead?

Many reasons are given for the homestead exemption. The Washington State Supreme Court has said that its purpose is to "protect the family" from being evicted from their home.[7] Also, commentators have noted that the homestead is necessary to achieve the classic goal of providing debtors with a "fresh start" from crushing debts.[8] Finally, the homestead exemption encourages prudent long-term investments in homes, which is consistent with the stated policy of the state of Washington to ensure the well-being of its citizens by protecting assets for retirement.[9]

Building equity in a home is a form of savings, and Americans are not saving like they used to. Back in the 1950s, the generation of Americans who survived the Great Depression and World War II saved roughly eight percent of their income, but now savings have plummeted to just 1.3 percent.[10] Accordingly, it is argued that government policies are needed to promote savings, so that households have more economic security.[11] Increasing the homestead is one way our Legislature could provide an incentive to save.

What is the effect on credit of raising the homestead?

Homestead exemptions shield debtors' equity from the claims of creditors, and therefore limit the rights of creditors. Accordingly, if creditors' rights are further limited by increasing the homestead, there is a concern that credit will no longer be as accessible. However, increasing the homestead will have different effects on different types of credit.

Since home loans are normally secured, their performance levels would be relatively unaffected by exemption levels. In fact, in a scholarly paper by two federal experts, the authors expressed their opinion that higher homestead exemptions can actually benefit mortgage lending.[12] It is argued that higher homesteads should reduce the incidence of mortgage default by leaving borrowers with more wealth after a bankruptcy filing, which would help the borrowers repay the mortgage in the future.

On the other hand, increased exemptions would likely make it more difficult for consumers to obtain unsecured credit.[13] (To the extent there are additional limits on the assets available to satisfy the judgments obtained by unsecured lenders against defaulting borrowers, the less desirable it becomes for unsecured lenders to do business in Washington.) But how much more difficult would it be to obtain unsecured credit in Washington if the homestead amount were increased? And would tightening the availability of unsecured credit necessarily be a bad thing?

The answer to the first question can

be found in Florida, Iowa, Kansas, South Dakota, and Texas. Prior to the recent amendments to the Bankruptcy Code, each of these states had an unlimited homestead exemption, but their residents were still bombarded with credit-card applications just like the residents of Washington.

The answer to the second question is "No." The plethora of easy-to-obtain credit cards is not good for our economy. Credit-card debt has almost tripled since 1989 and is up 31 percent in the past five years.[11] Moreover, large unsecured debts to credit-card companies frequently end up eating into home equity, because many homeowners take out a second mortgage to obtain a debt-consolidation loan when their unsecured debt loads become overwhelming.[15]

In conclusion, the Washington homestead and the savings of Washingtonians are shrinking. Therefore, to encourage savings, and to protect homeowners at a level more equivalent to what was provided in previous decades, the Washington Legislature should increase the homestead.

Fred Corbit is a shareholder in the law firm of Heller Ehrman LLP, and actively represents clients in creditor/debtor matters across the United States. Corbit is a past chair of the WSBA Creditor/Debtor Section and a past president of the King County Bar Association Bankruptcy Section.

NOTES

1 *See, In Re Feas Estate*, 30 Wash. 51, 70 P. 270 (1902).

2 The historic values are from the College of Business and Economics at Washington State University and were accessed at www/cbe.wsu.edu/~wcrer/market/HousingMarket.asp.

3 Data compiled by C. Felt, King County Budget Office, May 2005, from U.S. Census 1950 through 2000.

4 From 1881 to 1895, the homestead was limited to $1,000. It was increased to $2,000 in 1895, $4,000 in 1945, $6,000 in 1955, $10,000 in 1971, $20,000 in 1972, $25,000 in 1983, $30,000 in 1987, and $40,000 in 1999.

5 *See*, Ryan P. Rivera "*State Homestead Exemptions and Their Effect on Federal Bankruptcy Laws*," *39 Real Property, Probate and Trust Journal*, 71 (Spring 2004).

6 *See*, 11 U.S.C. § 522 as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

7 *See*, Note 1.

8 *See*, Note 5, *supra*, at 74.

9 *See*, RCW 6.15.020(1).

10 *See*, Robert Tanner, "America in the Red," published in the *Seattle Times*, August 28, 2005.

11 *See, The Plastic Safety Net: The Reality Behind Debt in America*, published by The Center for Responsible Lending and Demos and accessed at www.demos.org/pub654.cfm.

12 Souphala Chomsisengphet & Ronel Elul, *Bankruptcy Exemptions, Credit History, and the Mortgage Market, Working Papers* 04-14, Federal Reserve Bank of Philadelphia. Souphala Chomsisengphet is with the Office of the Comptroller of the Currency in Washington, D.C. Ronel Elul is with the Federal Reserve Bank of Philadelphia.

13 Gropp, R., J.K. Scholz, and M.J. White (February 1997). Personal bankruptcy and credit supply and demand. *Quarterly Journal of Economics*, 112(1), 217-251.

14 *See*, Note 10, *supra*; and Mark Trahant, "We Can't Borrow and Spend Forever," published in the *Seattle Post-Intelligencer*, October 16, 2005.

15 *See, Id.*

Free Billable Hours

BY PAUL H. BURTON

Okay, they're not free. Then again few things are. But the bottom line for lawyers is billable hours. No matter how many hours you work, it's the ones billed to clients that serve as your productivity measure. Increased billable hours mean better performance. This article focuses on techniques for quickly adding several hours of billable time to your timesheet every week.

There are three fundamental ways to increase your billable time: (1) improved legal skills, (2) a larger number of lawyers billing on your behalf, and (3) better capture of the hours you are currently working. The first and second come with time and experience. The third will produce results immediately.

Without diving into an extended conceptual analysis, lawyers measure what they sell (intellectual property) in increments of time — a fixed resource. As with any scarce resource, maximizing utilization is imperative, because simply working more is not a long-term solution. Here are several ways to rapidly improve your effective use and capture of billable hours:

Managing E-mail

The killer application that ushered in the Internet era can also be a huge time sink. Tuning your use of this powerful communication tool can rapidly increase your billable time.

- **Turn off any new message notifications**. This is a huge distraction to whatever you're doing. E-mail is an asynchronous communication tool. You do *not* need to know every time one hits your inbox. And don't worry, they're not going anywhere! Simply check your e-mail regularly (twice an hour or so) to stay abreast of what's happening.
- **Remove your work e-mail address from any personal e-mail subscriptions you receive**. Keep your inbox tidy and uncluttered. Get rid of the local snow report or special of the day at your favorite online retailer. This will eliminate additional distraction from billing your time.
- **Ask to be removed from any professional/office e-mail lists you don't need to receive**. Again, these represent a distraction from your work. Simply draft a polite, professional e-mail to the list manager asking to be removed.
- **Actively remove yourself from lists that you're not reading**. Most professional purveyors of lists provide a simple unsubscribe mechanism. Take advantage of it. Again, don't worry. You can always resubscribe.
- **Spot review your inbox from home in the evening, and reply to any quick requests for information**. Yes, you're working at home, but this is the new professional landscape. If you can handle several small items from home in the evening, they'll be on someone else's desk in the morning. You'll be working on more substantive issues.
- **Bill all e-mail correspondence**. Forward a copy of all billable e-mails to yourself or assistant with the client, matter, and billable time in the subject line. This will ensure that billable e-mails get billed and create a paper trail of your work.

Sequestering

It's not just for juries! The idea here is to find a place or process that provides you uninterrupted time to get work done. This doesn't mean all day, nor does it mean leaving the country. We're looking for a defined period each day (one to two hours) when you are able to focus on the highest-priority tasks. As for any perception of unavailability, remember you can't bill perceptions. Here are some specifics:

- **Privatize your office**. Close your door and DND your phone. If people continue to interrupt you, put a DND sign on your door. You can make it light — "Great Mind at Work, Please Do Not Disturb" or "Out to Work, Back at X:XX o'clock" or something equally inventive but clear.
- **Establish a secondary workplace**. If the firm has a library, go there. If the firm or office building has a small conference or caucus room, reserve one and go there. Even an empty office will do. Take only the things you're going to work on, sit down, and get the work done!
- **Work from home**. Come in late or go home early one day a week. If you're going to do this, you must commit to getting the work done. This is an opportunity to increase performance, but the temptation to mess around can undermine your objective, so be careful!

. . . the bottom line for lawyers is billable hours. No matter how many hours you work, it's the ones billed to clients that serve as your productivity measure. Increased billable hours mean better performance. This article focuses on techniques for quickly adding several hours of billable time to your timesheet every week.

You will inevitably be hunted down or interrupted. This is when it is imperative that you politely but clearly explain that you're not currently available, and that you'll get back to them immediately when you are. Then make sure you do it! It's an opportunity to retrain those you work with to understand that, in fact, you're enlisting their help to increase your productivity. Remember this: If you were out sick that day, you wouldn't be available either.

Capture All Billable Time

This is the never-ending nag about writing down your time as you bill it. The statistics are overwhelming — you lose 20 percent of your billable time if you don't write it down immediately upon completing the work. So track it

constantly through the day! Here are some tips:

- **Get client/matter numbers at the inception.** If you're handed a file or engaged in a discussion with another lawyer, ask for the client/matter number up front. This will do two things: (1) make it clear that you're going to bill the time you work and (2) eliminate the need for you or your assistant to chase it down later, which is a waste of billable time!
- **Copy yourself/assistant on e-mails with the client/matter number and amount of time spent.** I'll say it again: Here's your track record of what you've done in e-mail. If necessary, you can print them and have them transferred to the billing program, but at least it's captured!
- **Complete your timesheet every day by day's end at the latest.** The best practice is to keep a running log of time (software-based or otherwise) of everything you do as you do it. If you're a scrap-of-paper person, then you need to aggregate and compile the list into your billing program before going home. Even if your memory rivals that of the elephant, you will miss things if you don't do this every single day. The research simply supports this conclusion.

Implementing these suggestions will increase your productivity, measured by increased billable hours. Even if you pick up only one extra billable hour per week, you will gain 50 billable hours per year. And remember, these are hours you're already working, so the result is higher productivity without additional time commitments!

Paul H. Burton is a principal in Vision Mechanix, a professional development consulting firm that works exclusively with lawyers and law firms. Vision Mechanix provides training and consulting in the areas of business development, leadership skills, and practice management. Burton is a recovering corporate-finance attorney with an extensive background in personal and organizational development. He can be reached at paul@visionmechanix.com.

Professionalism Is a Noun

BY MARK T. PATTERSON II

Professionalism is a noun. It is also like fine art. You know it when you see it. You also know it when it is absent. This led us in the WSBA Professionalism Committee to consider all kinds of ideas on how to enhance professionalism throughout the state. There has been a lot written about how we need more of it, but what about citing concrete examples? What if a lawyer carried out his or her practice in such a fashion that one day he or she was featured prominently in *Bar News* as an example of how to be?

Everyone agreed that when *Bar News* arrives, we first turn to the pages that ominously announce "Disciplinary Notices." For those of you reading this, don't try to deny it. You know who you are. We posed the following question: What if that section was preceded by something positive, a column heralding the lawyers who practiced "Random Acts of Professionalism"?

I suggested there are other methods of recognition.

Recently I was watching my son and his friends play with their action figures. When I was a kid I had a G.I. Joe. Well, "G.I." now stands for gastrointestinal and has something to do with stress I have learned. Joe is a name for the average. The boys now want action figures that are supernatural, and their names reflect it. One was called "Maximum Carnage."

Maximum Carnage. That could be the action figure name for some of the lawyers I have encountered over the years. I would not describe the maximum-carnage lawyer as professional. Instead, I have witnessed a quiet and methodical erosion of an entire family's estate and emotional cohesion for the sake of conflict enhancement as opposed to conflict resolution. Professionalism: You know it when you see it, and you know when it is absent.

Somehow the bar article seemed too mundane, so I proposed the action figure approach. We could manufacture and distribute Chief Justice Gerry Alexander action figures, complete with robe and "gavel action arm." How about Charlie Wiggins and Ken Masters sold as a matched set? Or perhaps a Gumby-like Snohomish County Prosecutor Mark Roe? We could accessorize with all those old cars he drives as a testament to the salary of the government lawyer. Perhaps Professor Lew Orland could be on everyone's desk. We need only to make a few changes to the Yoda doll sold by the *Star Wars* franchise. All highly collectable, and they could sit in our offices as models of conduct for us to emulate. And the family-law lawyers would have something for the kids to play with.

We could manufacture and distribute Chief Justice Gerry Alexander action figures, complete with robe and "gavel action arm." How about Charlie Wiggins and Ken Masters sold as a matched set? Or perhaps a Gumby-like Snohomish County Prosecutor Mark Roe?

This proposal was met with stares. We returned to a more traditional approach and decided to revamp the *Bar News* announcement.

At present, several persons are nominated monthly from an invitation in a small article in the FYI pages of *Bar News*. Then, when there are enough nominations, they show up in a one-inch column near the front of the publication, no doubt glossed over as we eagerly turn to the disciplinary notices. Somehow, we thought, this is not quite good enough. This is where the Bar comes in.

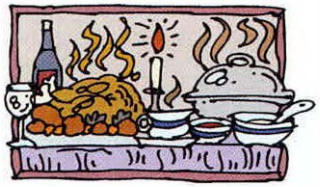
Think about the members of your community. Tell the Bar why they are great. Professionalism is a noun. You know it when you see it. Let's make it commonplace by example. Advance Random Acts of Professionalism as opposed to random acts of carnage.

Write us about those people whose professional acts occur randomly as part of the everyday fabric of the job. We are focused on a factual recounting of the conduct of the members of the bar, written by the nominating member, describing how the subject did the right thing when he could have done the wrong thing. Was the member a professional when he or she could have created maximum carnage?

Send your nominations to Judy Berrett at the Bar office, judithb@wsba.org. Your nominee will receive a suitable-for-framing Creed of Professionalism and a certificate signed by your vigorous committee chair Wendie Wendt, and the satisfaction of seeing your brethren featured prominently for doing the right thing.

But you will not get an action figure. Wait until I chair this committee.

Mark T. Patterson II has served as an attorney in private practice, as well as an arbitrator appointed by the Snohomish County Superior Court, primarily in the field of domestic relations law, and is the author of Washington Divorce Kit.



Tips for Reducing Holiday Stress

The holidays are a time to enjoy friends and loved ones. But they can also be stressful. Shopping, cooking, hosting guests, attending parties — it can be a lot of fun. It can also be a lot of work. Here are some tips for lowering the stress and increasing the cheer during the hectic holidays.

- **Share the work as well as the joy.** Make the shopping and cooking part of the fun by inviting friends and family to help.
- **Don't worry about sticking to a schedule.** Focus instead on enjoying yourself and those around you and let events unfold naturally.
- **Learn to say no.** Don't feel obligated to accept every invitation. Choose the activities you most want to attend, and send your regrets to the others.
- **Don't expect perfection.** Not everything will go as planned. There may be disappointment as well as excitement.
- **Enjoy.** The holidays are also about good food — and lots of it! It's OK to have that extra slice of pie, just balance it with a brisk walk or a few extra minutes at the gym.
- **Relax.** The holidays aren't just for taking time off from work; you need time off from worry. Whatever is on your mind can wait until January. If you start to feel stressed, slow down and take a few deep breaths.

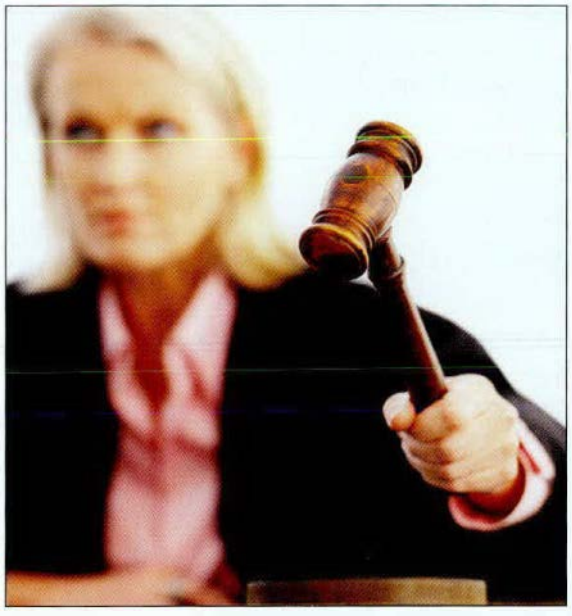
Remember, 'tis the season to be jolly! (And if you're not, that's OK, too!)

Happy Holidays!

Judicial Assistance: The Best-Kept Secret

Judges work in high-stress situations and are often isolated from their peers and communities. According to Dr. Isaiah Zimmerman, a Washington, DC, expert on judicial stress, "... their job can turn judges into trauma victims ... citing wrenching trial evidence, swollen dockets, and public criticism as some of the causes of this vocational trauma." With the legal professional, this can lead to a high incidence of substance abuse and other personal problems. Eleven to 18 percent of legal professionals have serious problems with substance addictions and stress-related illness. While bar associations have responded to the needs of lawyers, there has been little assistance available to judges. Unknown to many judges, the Superior, District, and Municipal courts' judges' associations offer a Judicial Assistance Service (JAS) and a Judicial Assistance Committee (JAC).

Prior to 2000, the associations offered a loose-knit effort by judicial officers to help their peers who were experiencing problems in their personal and/or professional lives. These efforts were well intended, but included neither experienced counselors nor confidential assistance. Serving judges could be compelled to provide information to the Commission on Judicial Conduct or to other disciplinary bodies. It was believed that this limitation discouraged judges from accessing services and limited the ability of the associations to provide needed assistance.



In 2001, the District/Municipal Court Judges' Association's Judicial Assistance Committee (DMCJA JAC) began to discuss the need for a more formal process and began to train those judges offering assistance. The DMCJA JAC adopted a mission statement and developed protocols for providing intervention. At about the same time, the DMCJA JAC proposed a court rule intended to provide confidentiality for judges seeking assistance. The proposed rule was adopted by the Supreme Court and became effective November 25, 2003. Discipline Rules for Judges (DRJ) Rule 14(e) provides that communication between a judicial officer and peer counselors of DMCJA and/or Superior Court Judges' Association Judicial Assistance Committee (SCJA JACs), or with the Washington State Bar Association's Lawyers' Assistance Program "shall be privileged against disclosure without consent of the judicial officer to the same extent and subject to the same conditions as confidential communications between a client and psychologist."

At about the same time, the DMCJA JAC met with Barbara Harper, director of the WSBA Lawyer Services Department and Lawyers' Assistance Program, to explore how more effective and professional service could be provided to judges in need. Part of that discussion focused on training for peer counselors. Peer counselors are trained individuals with experience in the professional milieu, who are able to understand the stresses and isolation inherent within the legal profession.

As a result of those conversations, the Judicial Assistance Service (JAS) was set up as a separate service under the auspices of the WSBA Lawyer Services Department. The JAS benefits from the experience of the Lawyers' Assistance Program (LAP), which has been integral in setting up and administrating a program to assist judicial officers. The LAP also provides JAS access to professional

counselors who are experienced in working with legal professionals and training peer counselors. The DMCJA JAC, with Ms. Harper's assistance, developed and published a brochure promoting the JAS, which has been available through the judicial associations and the LAP.

With the formation of JAS, the Superior Court Judges' Association's Judicial Assistance Committee ceased operation. The District/Municipal Court Judges' Association's Judicial Assistance Committee continues in operation.

Communications between a judicial officer, JAS clinician, or peer counselor are privileged against disclosure without the consent of the judicial officer to the same extent and subject to the same conditions as confidential communication between a client and psychologist. JAS offers confidential assistance with mental/emotional, drug, alcohol, family, health, and other personal problems. Services include assessment, short- or long-term counseling, referral, follow-up, and training for judicial officers and their significant others.

While bar associations have responded to the needs of lawyers, there has been little assistance available to judges. Unknown to many judges, the Superior, District, and Municipal courts' judges' associations offer a Judicial Assistance Service . . .

JAS clinical staff and peer counselors can meet with judges in their chambers or at a location mutually agreed upon in advance. Most judicial officers self refer to JAS. No one knows about requests for services.

A third-party referral is addressed with the same confidentiality and immediacy as a self referral. A concerned party need only call JAS at 206-727-8268 and report their concern. A JAS clinician will call or write a letter to the subject of concern, offering JAS or referral to services in the judicial officer's community. The clinician will assist the judge in arranging for a peer counselor and any other services required.

The assistance provided is completely confidential and separate from the lawyer referral service. Confidentiality of all calls and services is covered by rules specific to the individual programs (see DRJ 14 and RPC 19(e)).

The JAS program saw four judges and sent six third-party letters of concern this year. Issues addressed included mental health/stress, physical health, and substance abuse.

In conclusion, help is available to judges who may be experiencing mental/physical problems — It's a telephone call away.

Chairman of the DMCJA JAC Committee is Judge Charles J. Delaurenti II, King County District Court, South Division.

Any superior, district/municipal court judge willing to volunteer as a peer counselor should contact Judge Delaurenti at 206-296-3445 or Barbara Harper at 206-727-8268.

Referral Fees Paid by Other Professionals: Are They Ever Permissible?

BY KEVIN BANK

Ethical conundrum: Your old college roommate is a financial advisor who has just established her own business. She is eager to attract new clients. She is particularly interested in the type of clients you serve in your law practice — people with substantial assets who seek your advice on estate planning and business matters. Your former roommate is willing to offer you a percentage of her ongoing management fees for each referral — money you could put to use for your teenager's college fund. Alternatively, she suggests a one-time "referral fee" each time she obtains a new client from you. Can you accept either type of compensation in exchange for your referrals?

. . . the Washington State Bar Association's Rules of Professional Conduct Committee (RPC Committee) has issued two informal opinions . . .

There is no case or formal opinion in Washington that directly answers this question. However, the Washington State Bar Association's Rules of Professional Conduct Committee (RPC Committee) has issued two informal opinions,[1] and bar associations elsewhere have wrestled with this topic. Some state bars say that referral fees from a nonlawyer are prohibited, a position endorsed by the RPC Committee in two specific factual scenarios. Other bar associations have condoned referral-fee arrangements, but have imposed stringent disclosure requirements to address concerns about conflicts of interest, independent professional judgment, and undue influence. Thus, Washington lawyers would be wise to avoid accepting a referral fee from another professional, regardless of how the fee is paid.[2]

1. The View that Referral Fees Constitute an Unwaivable Conflict

Several state bar opinions hold that referral fees from other professionals are never permissible. These include Kentucky, New York, Texas, Iowa, New Hampshire, and Maine. The primary rationale is that acceptance of a referral fee results in an unwaivable conflict of interest for the lawyer under Rule of Professional Conduct (RPC) 1.7(b), 1.8(a), 2.1, or similar rules under the Code of Professional Responsibility. Under RPC 1.7(b), a lawyer cannot represent a client if the representation will be "materially limited" by the lawyer's own interests. The conflict can be waived, but only if the lawyer "reasonably believes" the representation will not be adversely affected. RPC 1.8(a), which concerns business relationships with clients, requires that any business transaction with the client be on terms that are "fair and reasonable to the client." RPC 2.1 states that a lawyer must exercise independent professional judgment in advising a client.

The "no" states have concluded that payments of referral fees to lawyers create conflicts of interest that are "likely to interfere materially, on a continual basis, with the lawyer's independent professional judgment in objectively considering the client's best interests."[3] Our RPC Committee deemed two proposed arrangements unethical and inconsistent with a lawyer's duty to exercise independent judgment — one where an investment firm would pay a lawyer a referral fee based on the dollar amount of the investment assets of the client he referred, and the second involving a referral fee of one percent of the gross amount of loans made by a financial company to clients referred to the company by the lawyer.[4] Because the states that bar referral fees regard them as an unwaivable conflict, it is very unlikely that the form of the fee — whether a percentage of management fees or a one-time fixed payment each time a referral is made — would change the analysis.[5]

2. The View that Referral Fees Are Permissible If the Client Gives Informed Consent

The "yes but" states would permit referral fees if the lawyer makes appropriate disclosures to the client and obtains the client's informed consent. These states include Florida, Connecticut, Utah, California, and Pennsylvania. All the state bar opinions permitting referral fees emphasize the need for comprehensive disclosure to, and consent from, the client. For instance, the Connecticut Bar decided not to prohibit an arrangement where a lawyer would refer clients needing financial management to an investment advisory firm in exchange for a split of the management fees, but then qualified its approval by detailing the extensive disclosure and waiver requirements the lawyer would have to meet to comply with ethics rules. First, the lawyer must have a reasonable, objective belief that the conflict of interest is waivable under Connecticut's equivalent of RPC 1.7(b). If so, the lawyer would need to obtain the client's informed written consent to share confidential information with the financial advisor (to comply with Rule 1.6), and also obtain a written waiver of the potential conflict of interest between the lawyer and the client (to comply with Rule 1.7(b) and 1.8(a)). In addition, the lawyer must make sure that the terms of the arrangement are fair and fully disclosed to the client, and advise the client to consider consulting independent counsel (to comply with Rule 1.8(a)).[6]

. . . Washington lawyers would be wise to avoid accepting a referral fee from another professional, regardless of how the fee is paid.

Connecticut's stringent disclosure

obligations are not atypical. Every state opinion permitting referral fees requires substantial disclosure and client consent. For instance, although a Florida Bar opinion appears to require less disclosure, it still warns that the attorney receiving the referral fee must: (1) conduct an independent investigation that the investment or referral is a proper one under the circumstances; (2) make full disclosure to the client of all the facts, including the fact that the lawyer will obtain the referral fee; and (3) obtain the client's consent in writing to the referral fee.[7]

In sum, referral fees paid to lawyers by other professionals implicate serious issues of self-interest versus client interest. You might want to tell your old roommate that paying you a referral fee would open the door to questions about whose best interest is being served — yours or your client's.

Kevin Bank has been a disciplinary counsel at the WSBA since 1999. He graduated from New York University Law School in 1987 and practiced in a small private firm and with the federal government prior to joining the WSBA.

NOTES

1 Informal opinions are issued in response to specific inquires, and reflect the opinion of the Rules of Professional Conduct Committee only. They are not individually approved by the WSBA Board of Governors and do not reflect the official opinion of the Association. Informal opinions can be accessed on the WSBA's website at http://pro.wsba.org/io/search.asp.

2 Likewise, Washington lawyers should avoid paying referral fees to other professionals to refer clients to them. *See* RPC Committee Informal Opinion 1951 (2001).

3 Kentucky Ethics Op. E-390 (1996).

4 RPC Committee Informal Opinions 1853 (1998) and 1399 (1991).

5 *See* Ohio Supreme Court Ethics Op. 2001-4 (regardless of how referral fee is negotiated, it would still create an unwaivable conflict of interest).

6 Connecticut Informal Ethics Op. 97-6 (1997).

7 Florida Ethics Op. 02-8 (2004).

Summer 2005 Bar Exam Pass List

Congratulations to the 630 candidates who passed the Summer 2005 Bar Exam! The exam was administered July 26-28 at Meydenbauer Center in Bellevue. Of the 913 candidates who took the exam, 69 percent passed. A pass list, along with statistical information, can also be found at the WSBA website at www.wsba.org.

A

Abbott, Steven Brian, Arlington
Abell, Hunter M., Spokane
Acevedo, Nancy Lorena, Eugene, OR
Acevedo, Marco Antonio, Eugene, OR
Adams, Christopher D., Spokane
Adams, John Richard, Spokane
Adler, Erin Nicole, Alameda, CA
Aho, Anna Marie, Amboy
Ainsworth-Taylor, Julie K., Fall City
Albrecht, Matthew C., Spokane
Alexander, Nathan T., Seattle
Amala, Jason Paul, Seattle
Amies, Sara B., Seattle
Anderson, Katrina E., Seattle
Anderson, Ryan R., Seattle
Angell, Kelly M., Seattle
Applegate, Bick, Seattle
Arntzen, Tami L. Nida, Richland
Assali, Aaron J., Spokane
Ausenhus, Scott L., Bellevue
Austin, Lilian Carla, Federal Way
Austin, Rebecca L., Port Orchard
Avalos, Paulette, Seattle
Avilez, Nigel P., Mercer Island

B

Bach, Kathryn Elizabeth, Bellevue
Backholm, Joseph, Seattle
Baker, Katherine Alissa, Charlottesville, VA
Baldwin, Joshua, Spokane
Baldwin, Chelsea C., Longview
Barash, Jonathan Samuel, Seattle
Barrilleaux, Barbara McKinstry, Seattle
Bartels, Jeremy Scott, Medina
Barto, Sandra S., Mercer Island
Bates, Kristen Michelle, West Linn, OR
Baumeister, Bryan D., Woodinville
Baxter, Heidi Lynn Rumazza, Seattle
Beatty, Mark Edward, Seattle
Beers, Michael Ryan, Seattle
Benn, Cari Anne, Everett
Bentson, Daniel R., Everett
Berry, Jennifer C., Seattle
Berry, Matthew R., Boise, ID
Berwind, Nathaniel M., Seattle
Binder, Brock Jonathan, Issaquah
Bird, Sarah L., University Place
Bird, Stephanie M.R., Seattle
Bishop, Jeremy J., Richland
Bisognano, Lucy R., Berkeley, CA
Bodden, Kendall Rodney, Seattle
Bodey, Michael Lee, Spokane
Boehl, Kurt Edward, Seattle
Bondon, Shirley A., Pine Bluff, AR
Borelli, Tara, Puyallup
Borgnino, Kenneth W.D., Spokane
Borud, Randall, Surrey, UK
Bos, Michelle, Granger
Bowen, Brigham John, Bellevue
Bowman, Maygan Holly, Federal Way
Boyajian, Katie, Yakima
Breckenridge, Karen Diane, Seattle
Brewer, William Patrick, Seattle
Bridge, Maria Tsircou, Seattle
Brine, Elissa, Seattle
Brininger, Margie, Tacoma
Brinkman, April Boutillette, Tacoma
Brittain, Sean M., Spokane
Brockhagen, Manda Lena, Spokane
Bromiley, J. Kevin, Spokane
Bronson, Chris, Seattle
Brown, Jeremy, Seattle
Brown, Zachary K., Sharon, VT
Brown, Marcus T., Seattle
Browne, Joseph Malachy, Seattle
Brust, John Matthew, Seattle
Buck, Monica Anne, Seattle
Buder, James K., Bellevue
Buhr, Cynthia F., Seattle
Bunch, Mark Lane, Seattle
Bungay, Adam, Issaquah
Burgdorf, Molly, Seattle
Burgess, Jeb Elvin, Seattle
Burns, Jacquelyn Nicole, Boise, ID
Burnside, Rachel E., Seattle
Butler, Charles Le Grand, Seattle
Buzard, Anna C., Seattle
Byl, Neil Francis, Seattle

C

Camm, Eric J., University Place
Cantrick, Sara M., Boulder, CO
Carroll, Susan Elaine, Seattle
Carroll, Heather Lynne, Seattle
Carter, Benjamin Lloyd, Bellevue
Cassara, Jill M., Eugene, OR
Celebi, Kubilay, Worth, IL
Chang, Eunah, Seattle
Chang, Janis Jin, Seattle
Chase, Meike Briana, Salem, OR
Chasin, Andrew E., Seattle
Chen, Joy, Redmond
Cheng, Franz Chen-Shue, Arcadia, CA
Chianglin, Steve Shin-I, Redmond
Chiang-Lin, Timothy C., Bellevue
Choquette, Peter William, Bellevue
Christenson, Julie Ann, Auburn
Chuang, Laura Michelle, Spokane
Church, David Michael, Poulsbo
Clary, Ford Peters, Seattle
Clason, Jeremy M., Seattle
Clawson, Jessica Marian, Federal Way
Coburn, Linda Wang-Yi, Edmonds
Comer, Charlotte F., Liberty Lake
Conom, Derek Thomas, Edmonds
Conrad, Marla Leza, Spokane
Contos, Steven J., Seattle
Cook, Shelley Lynn, Clovis, CA
Cooper, Ryan Matthew, Spokane
Cordo, Emily, Seattle
Corr, Joseph Patrick, Seattle
Cottle, Rob R., North Bend
Crago, Christopher Stephen, Spokane
Crain, Scott, Minneapolis, MN
Cram, Matthew Dean, Maple Valley
Crockett, Bradley C., Otis Orchards
Crosetto, John B., Bellevue
Crowner, Daniel Paul, Seattle
Crumpler, Andrea Dawn, Tacoma
Culberson, Christopher J., Spokane
Curtis, James Hassan, Renton
Cushing, Kimberly C., Seattle

D

Daley, Matthew William, Spokane
Daniels, Kirsten Gail, Seattle
Danielson, Alicia Marie, Oregon City, OR
David, Adrian, Lincoln, NE
Davis, Tina Ann, Seattle
Davison, Ken Nakasu, Seattle
Day, Gina L., Issaquah
De Zengotita, Katherine, Rhinecliff, NY
Deckman, Emily Ann, Seattle
DeGraaff, Jacob D., Lynden
DeJong, Jennifer, Spokane
Delaney, Sarah Jean, Seattle
DeLisa, Amy Jane, Natick, MA
Deltchev, Delian Petrov, Spokane
Diener, J. Patrick, Moscow, ID
Diener, Colleen Marie, Moscow, ID
Dobrovich Jr., John P., Helena, MT
Dohrmann, Jennifer R., Seattle
Drury, Bradley J., Renton
Dugan, Benedict, Seattle
Dunlap, Lucinda Merlyn, Seattle
Dupler, Alice Ellen, Valley

E

Earhart, Stephanie Ann, Seattle
Eav, Monica, Herndon, VA
Eiting, Jessica Elizabeth, Seattle
Eiting, Brian James, Seattle
Elison, Jesse P., Sammamish
Ellis, Erika L., Seattle
Emmans, Robin C., Selah
English, Eric M., Washougal
Ernst, Angela Rose, Seattle
Erwin, Courtney P., Issaquah
Eurich, Debra, Olympia
Evans, Fletcher B., Seattle

F

Farnsworth, L. Denise, North Bend
Fassio, Michael A., Bellevue
Fasy, Daniel Troy Logan, Seattle
Fennerty, Kelly B., Seattle
Ferrell, Jessica K., Seattle
Fisher, Elizabeth Anne, Bellevue
Fisher, Kristen Leigh, Seattle
Fitzpatrick, Rosann, Lacey
Fitzpatrick, Danielle S., Seattle
Fjeld, E. Michiko, Spokane
Flock, Brian Matthew, Seattle
Fogel, Jessica E., Federal Way
Forbush, Brian Michael, Englewood, CO
Forde, Rachel Elizabeth, Arlington
Foster, Tena Marie, Wasilla, AK
Fountain, Emily Jane, Everett
Fountain, Tamara Y., Bainbridge Island
Frederickson, J. Preston, Seattle
Freeman, David Elias, Olympia
Freimuth, Andrea, Bellevue
Fried, Dorigen R., Seattle
Froelich, William Robert, Seattle

G

Garberding, Brook, Shoreline
Gaul, Joshua C., Seattle
Gephart, Carey M.E., Fife
Gerber, Matthew, Seattle
Gerl, Daniel Joseph, Bothell
Gigler, Philip A., Seattle
Gilday, Gregory L., Seattle
Giles, Jessica R., Tacoma
Gill, Jamil L., Tacoma
Gilmore, James DeMott, Anchorage, AK
Gilmore, Danielle J., San Francisco, CA
Gion, Holly, Seattle
Glazier, Nathan Jeffrey, Maple Valley
Goldman, Rebecca Elizabeth Jacobs, Seattle
Gonzalez, Maria Lorena, Seattle
Grannis, Casey, New York, NY
Grauman, Nancy E., Seattle
Greene, Duncan McGehee, Vashon
Gregoire, Courtney O'Grady, Washington, DC
Grelish, Kristine, Seattle
Griffiths, Jay L., Issaquah
Groebner, Benjamin J., Seattle
Grogan, Kyla C.E., Seattle

Grotzke, Erik R., Sumner
Groves, Laura Marie, Seattle
Grow, Leslie E., Seattle
Gruben, Ann Zajdel, Renton
Gugino, Jeremy J., Spokane
Gunn, Nicholas Rex Dwyer, Seattle
Gutina, Shaunna H., Spokane
Guzzo, Antoinette T., Seattle

H

Haffie, Douglas J., Spokane
Hahn, Tricia Diane, Seattle
Halm, Lindsay L., Seattle
Hamilton, Julie Brewer, Seattle
Hansen, Matthew R., Tacoma
Hanson, Meghan Lisa, Kirkland
Hardy, Kathryn Jennifer, Issaquah
Harlan, Annie M., Seattle
Harlan, Kristy Tully, Mercer Island
Harness, Susan E., Snohomish
Harris, Eliot M., Seattle
Haslam, Benjamin J., Edmonds
Hastings, T. Andrew, Spokane
Heinz, Andrew W., Eugene, OR
Heinz, Lacy Westfall, Eugene, OR
Hembree, Daniel Lee, San Diego, CA
Henry, Jeffrey Lee, Seattle
Henry, Nathan William, Spokane
Hick, Carter William, Olympia
High-Edward, Jacquelyn M., Spokane
Hill, Brandon A., Cambridge, MA
Hill, Gordon Brennan, Seattle
Hill, Diana Suzanne, Seattle
Hinckley, Tyler Michael, Seattle
Hinterberger, Holly, Seattle
Hitchcock, Kristen C., Woodinville
Hoekstra, Leslie Joan, Champlin, MN
Hofman, Laura, Seattle
Hofmann, Stacia R., Seattle
Holbrook, Cynthia K., Mercer Island
Hole, Trisha Dianne, Lake Oswego, OR
Holleman, Scott Edward, Seattle
Holverson, Gayle C., Seattle
Hong, Sunny Kim, Seattle
Hong, Gloria S., Seattle
Horibe, Neil Seiji, Seattle
Horton, Joshua Bryce, Seattle
Horton, Erica Therese, Bellevue
Howard-George, Andrea D., Fife
Hughes, Elizabeth, Fife
Hughes, Marcella Ann, Tacoma
Hull, Charlynn R., Waltham, MA
Hume, Dana Elisabeth, Spokane
Huntsinger, Daryl, Seattle
Hurd, Abigail E., Seattle
Hutzenbiler, Daniel, Seattle

I

Iddins, Robert Cory, Kent
Im, Alice Sun, Seattle
Irizarry-Hougan, Lesley Ann, Seattle

J

Jackson, Joseph James Anthony, Ely, NV
Jackson, Kristina Maliga, Seattle
Jankovic, Tamara, Incline Village, NV
Jarvis, Zachary Walker, Seattle
Jay, Meagan Alene, Bellevue
Jensen, Brie, Kirkland
Jensen, Michelle, Seattle
Jobe, Timothy Paul, Edmonds
Johnson, Patrick, Cincinnati, OH
Johnson, Derek M., Seattle
Jorge, Carla Rosa, Seattle
Jurcovan, Ioana Cristina, Beaverton, OR

K

Kahler, Amy Katherine, Seattle
Kallstrom, Jeffrey Robert, Beltsville, MA
Kamerrer, Julie L., Seattle
Kamin, Aviva, Seattle
Kanner, Samantha Dara, Seattle
Kapaun, Michael John, Lacey
Karassik, Laura E., Seattle
Karg, Gordon P., Spokane
Karnes, Heather Larisa, Seattle
Kas, Susan L., Seattle
Kauffman, David William, Seattle
Kay, Karen Marie, Aberdeen
Keaney, Nina Ellen, Kirkland
Keay, John, Bellingham
Keller, Alexandra, Seattle
Keller, Laura, Maple Valley
Kennedy, Kelly M., Spokane
Kenny, Megan Ellsbeth, Seattle
Keo, Meatra B., Lynnwood
Keyes, Jason B., Seattle
Khan, Khalil-Ur-Rehman, Seattle
Kim, Eugene, Seattle
Kim, Nami, Seattle
Kim, Wangjin, Bellevue
Kim, Candice Eun-Lyi, Tacoma
Kim, Suzanne In, Federal Way
Kirby, Cornell, Renton
Kirkham, James Doyle, Spokane
Kisner, Leah R., San Diego, CA
Kistler, Brian F., Spokane
Kleespie, Amanda, Everett
Klemetsen, Derek N., Bellingham
Klosterman, Anne E., Seattle
Koempel-Thomas, Beatrice L., Spokane
Koenigs, Matthew D., Lynden
Kolbly, Marye-Heather Tobin, Milpitas, CA
Koo, Ronald Yim, Edmonds
Koop, Lisa Marie, Seattle
Kostelec, Colette M., Port Townsend
Kreptul, Andrei Nicholas John, Seattle
Kuo, Lee Wen, Seattle
Kwak, Alexandra Jung Min, Wenatchee

L

LaFranchi, Scott, Tacoma
Lander, Todd M., Los Angeles, CA
Landsee, Rachel Anne, Puyallup
Larkin, Alex Thomas, Federal Way
Larsen-Bright, Shawn J., Seattle
Larson, Jon Christian, Redmond
Latterell, Angel M., Seattle
Laue, Naomi Rose, Bothell
Laurine, Jason Howard, Seattle
Laws, Richard A., Clarkston
Learn, Dale Matthew, Washington, DC
Lee, Linda, Lynnwood
Lee, Angela D., Edgewood
Lee, Sharon M., Richmond, BC
Liang, Chen, Bellevue
Licona, Evi M., Yakima
Liljenquist, Levi E., Orem, UT
Lim, Nolan, Seattle
Lin, Shu-Jung, Seattle
Lind, Matthew A., Seattle
Lingafelter, Sara, Poulsbo
Lintner, Laura Maria, Seattle
Lovejoy, Jack Michael, Seattle
Lovell, Erin Lorraine, Bainbridge Island
Luera, M. Christina, Seattle
Luke, Jonathan, Kenmore
Luloff, Gregory, Bainbridge Island

M

Mabalay, Virgil Roy, Everett
MacIntyre, Kylee T., Seattle
Maestas, Adriana Emilia, Seattle
Malone, Lindsey Elizabeth, Iowa City, IA
Manning, Stephen Sloan, Snohomish
Mariner, Lisa N., Poulsbo
Marlton, George Alexis, Lake Forest Park
Maroney, Bryan J., Seattle
Marshall, Kathleen Jane, Eugene, OR
Marshall, Jolene Lau, Bothell
Marshlain, Angela Nicole, Mill Creek
Martin, Kari, Mill Creek
Martin, Sarah Leigh, Silver Spring, MD
Mashuda, Stephen D., Seattle
Mathews, Heather Dawn, Seattle
Mattson, Ingrid A.B., Seattle
Mayer, Melanie L., Kirkland
Mazer, Zachary Lovett, Bainbridge Island
McCann, Meghann Ryan, Seattle
McCann, Christina Surr, Spokane
McChesney, Sean M., Seattle
McClain, Kimberly Marthe, Portland, OR
McConnell, Sharon, Seattle
McDonald, John David, Battle Ground
McDonald, Patrick M., Seattle
McGaha, Angelica J., Richland
McGinnity, Daniel T., Colbert
McKay, Alexandra T., Seattle
McKennon, Kristina Jarrett, Pasco
McKimmie, Heather Lynn, Seattle
McNab, Thomas Anthony, Enumclaw
McNeice, Ryan R., Spokane
Meachum, Lynette, Seattle
Mejia, Julia Dawn, Spokane
Mentink, Scott, Seattle
Merrell, Bryan S., Anchorage, AK
Michael, Kevin Anthony, Issaquah
Miller, Kathryn A., Tulalip
Miller, Allison Kathleen, Seattle
Miller, Tabatha S., Seattle
Mills, James P., Bainbridge Island
Mills, Michael R., Anchorage, AK
Miyamasu, Christina, Seattle
Moll, Frederic J., Seattle
Mollerup, R. Troy, Brush Prarie
Monroe, Katherine K., Seattle
Moon, Justin L., Seattle
Moorehead, Jon-Paul, Seattle
Mordekhova, Evgeniya D., Bellevue
Morgan, Michael J., Spokane
Morrow, JoDean III, Seattle
Mortimer, Melissa M., Seattle
Mosey, Elizabeth Ann, Spokane
Mullenix, Peter, Seattle
Munk, Jessica, Spokane
Murillo, Candelaria, Everett
Murphy, Gillian, Spokane
Murphy, Gregory, Seattle
Murray, Christopher Owen, Woodinville
Murray, Jennifer Rust, Seattle

N

Naccarato, Aaron Michael, Spokane
Nagae, Sarah Elizabeth, Seattle
Nagy, Joseph E., Seattle
Neal, Ryan, Bellevue
Nelson, Colm, Seattle
Nemec, Stephen J., Coeur d'Alene, ID
Neukom, John McMakin, Seattle
Newberg, Matthew Lee, Cheney
Newman, W. Martin, Steilacoom
Newton, Charles Ennis, Seattle
Ngo, Minh P., Tigard, OR
Nguyen, Hiep Huu, Seattle
Nguyen, Hoa Thi, Seattle
Nielsen, Christopher M., Issaquah
Nigrey, Michael P., Seattle
Niles, Corey B., Seattle
Norman, Robert W. Jr., Irvine, CA
Norman, Susan M., Milton
Nowak, Melissa A., Seattle
Nugent, Jennifer Ann, Auburn

O

Obrist, Gretchen Suzanne, Lincoln, NE

Odonkor, Sarah, Renton
Okovo, Onyinyechi Ifeoma, Seattle
Oliphant, Elizabeth Dickson, Seattle
O'Neill, Marlee Beth, Kirkland
O'Neill, Thomas Robinson, Seattle
Onyenezi, Chukwuka Francis, Houston, TX
Ortega, Michael D., East Lansing, MI
Osborne-Klein, Joshua, Seattle
Osher, Daniel Andrew, Issaquah
Oskouian, Mozhdeh, Seattle
Ostrovsky, Aaron A., Ann Arbor, MI
Ostrovsky, Andrea Delgadillo, Ann Arbor, MI
O'Sullivan, Thaddeus, Duluth, MN
Otterstrom, Katherine Cedergreen, Snohomish

P

Palmer, Karen Diane, Seattle
Pannell, Arthur, Seattle
Park, Bio F., Edmonds
Parker, Amy K., Seattle
Parker, Renee M., Temecula, CA
Parker, James T., Hoquiam
Pate, Michael G., Provo, UT
Patrick, Richard Paul, Port Orchard
Paulson, James M., Anacortes
Pautler, James A., Mountlake Terrace
Pearson, Alyn, Seattle
Pease, Brian W., Seattle
Peck, Robert Clinton, Seattle
Perkins, Abbey, Seattle
Perkins, Crystal, Sammamish
Perras, Sloane Sussman, Cherry Hill, NJ
Peshtaz, Polly A., Puyallup
Petersen, Ross S., Curtis
Petty, C. Andrew, Issaquah
Pham, Connie, Seattle
Phelan, David, Seattle
Phelps, Rebecca Berman, Seattle
Pilon, Eric Daniel, Coquitlam, BC
Pincock, Trevor R., Moscow, ID
Pitman, Lauren Angela, Union
Poe, Alyssa Michelle, Bow
Popovac, Brandon M., Seattle
Potebnya, Nicole Marie, Olympia
Povarchuk, Valentin A., Seattle
Povarchuk, Rebecca J., Seattle
Powell, Kelly Rachel, Mill Creek
Pritchard, Aaron J., Seattle
Prouser, Rachel B., Lake Oswego, OR
Pruner, Jacqueline Frances, Seattle

Q

Quesinberry, Steven M., Des Moines
Quint, Emily Petersen, Seattle
Quintal, Amber Kikine, Seattle
Quirk, John Michael, Seattle

R

Racette, Justin, Fairbanks, AK
Raiford, Michelle Denise, Seattle
Rapoza, Jenae Marie, Spokane
Rasmussen, Aaron M., Spokane
Rasmusson, Andrea K., Nevada, IA
Ratioos-Davoud, Darvin, Seattle
Redekopp, Ryan D., Seattle
Reich, Daniel Amir Hossain, Spokane
Reynoso, Monica, Oak Harbor
Rho, Julie, Spanaway
Rhode, Elizabeth Kay, Seattle
Richards, Alison Miller, Shoreline
Richey, Valiant L., Seattle
Richmond, Kristen Kathleen, Seattle
Riensche, Aaron Paul, Seattle
Riesz, David B., Seattle
Ritter, Alisha Una, Bothell
Roberson, Jeffrey K., Fairfax, VA
Roberson, Donna Lee, Seattle
Roberts, Jessica, Eugene, OR
Roberts, Christopher Wayne, Alamogordo, NM
Rohner, Kyra Kay, Portland, OR
Rosentrater, Eowen, Spokane
Rosner, Paul Mark, Arcadia, CA
Roussinova, Ioulia B., Seattle
Rowan, Charles Churchill, Seattle
Rowe, Patrick G., Phoenix, AZ
Royalty, Paula K., Seattle
Ruckle, Kathryn Kellogg, Tacoma
Rule, Troy Arthur, Chicago, IL
Russell, Christopher Ryan, Eugene, OR
Rutar, Michelle, San Diego, CA

S

Sachet, Manja, Seattle
Safri, Taiyyeba, Seattle
Sagrillo, Robert L., Denver, CO
Sahandy, Sheida Rebecca, Seattle
Sakata, David K., Puyallup
Saona, Hannah Athlyn Brass, Seattle
Sarich, Tracy J., Mercer Island
Savojni, Alexander F., Seattle
Sayani, Serena, West Vancouver, BC
Schaefer, Camille Joy, Renton
Scheele, Andrea, Seattle
Schick, Nikole Victoria, Fairbanks, AK
Schlameus, Brett, Seattle
Schneider, David S., Seattle
Schonwald, Christine Alsop, Seattle
Schorr, Jennifer L., Seabeck
Sedell, Justin Maxwell, Seattle
Sellman, Thomas, Seattle
Senick, Melanie Erin, New York, NY
Settle, Edward Jason, Lake Forest Park
Seyedali, Nima A., Kirkland
Shapiro, Valerie Semmes, Woodinville
Shaw, Katherine Jo, Seattle
Shillito, Charles Tyler, Tacoma
Shimada, Seth, Seattle
Sigafoos, Kate, Seattle
Skelton, Jessica Anne, Olympia
Skelton, Steven Thomas, Olympia
Sklut, John D., San Anselmo, CA
Small, Sean Vincent, Seattle
Smith, Jason D., Seattle
Smith, Karen Melinda Siscel, Seattle
Smitrovich, Jennifer M., Carlisle, PA
Sneed, Spencer C., Anchorage, AK
Sommer, Brian S., Sevin Devils, NC
Spencer, Grace C., Spokane
Spencer, James Whittingham, Seattle
Spielman, Robert Dan, Seattle
Steding, Douglas John, Seattle
Steele, Jennifer, Seattle
Steffener, William Christopher, Snohomish
Sternoff, Ryan W., Seattle
Stottlemyre, Jennifer Marie, Richland
Straub, Alexander M., Seattle
Street, Leslie A., Seattle
Studt, James Lawrence, Spokane
Sudduth, Debra Kay, Seattle
Sullivan, Craig R., Columbia, MO
Swanson, Bradley Damic, Bellingham
Swennumson, Nichole, Spokane

T

Taguba, Leah, Federal Way
Tait, Adam P., Spokane
Tessin, Robyn Michelle, Ann Arbor, MI
Thorpe, Stephanie A., Seattle
Thurtle, Devon, Kirkland
Till, Dustin Trowbridge, Seattle
Timbreza, Lance Phillip, Seattle
Tisdel, Kyle J., Ashland, OR
Todd, Rebecca, Seattle
Tohan, Ankur K., Seattle
Toland, Erin M., Seattle
Tollefson, Debra M.H., Lacey
Tornatore, Diamanta L., Covington
Traxler, Dannon C., Bellingham
Treacy, Albert Michael, Seattle
Treece, Stephen Kyle, Spokane
Trickler, Robin W., Lake Stevens
Trout, Angela M., Seattle
Truax, Margret Warrick, Seattle
Tsorpon, Tenzin C., Bellevue
Tutmarc, Elizabeth, Seattle
Twohig, Shannon Marie, Glen Allen, VA

U

Uhlig, Michael Dean, Bainbridge Island
Unger, Kurt, Sparks, NV

V

Valdez, Ciarelle Jimenez, Bellevue
Vallely, Jill Marie, Seattle
Van Kirk, Jared, Tacoma
Vance, Holly, Seattle
Victor, Austin, Seattle
Vidoni, Dawn E., Spokane
Villager, Kristine R., Lynnwood
Virani, Samir, Burnaby, BC
Vlug, Kaaren H., Seattle

W

Wagar, Mariah A., Spokane
Wagner, Alex, Washington, DC
Wais, Morgan John, Redmond
Waite, Elizabeth E., Seattle
Walker, Jill J., Seattle
Wallace, Alexis T., Mercer Island
Walton, Amalia R., Seattle
Warbinton, Blakeley A., Bellevue
Ware, James P., Redmond
Warren, Robin A., Seattle
Waters, Liberty, Bothell
Waters, Brian Patrick, Spokane
Way, M. John, Portland, OR
Weden, Elizabeth A., Seattle
Weinberg, Andrew Morgan, Puyallup
Weiner, Joshua Samuel, Pittsburgh, PA
Wells, Kerry L., Spokane
Wheeler, Becki L., Spokane
White, Katherine A., Olympia
White, Ryan Ducharme, Sammamish
Wilkinson, Jay W., Lake Oswego, OR
Williams, Shelley Anne, Seattle
Williams, Nathan J., Seattle
Williams, Michael Patrick, Menlo Park, CA
Wilson, Rochelle Dale, Missoula, MT
Wilson, Graham M., Seattle
Wing, Forrest M., Seattle
Winters, Melissa R., Seattle
Witherspoon, John T., Spokane
Wood, Lesli, Seattle
Wood, Kristi L., Woodinville
Wyckoff, Courtney Graham, Yakima
Wysocki, Cindy M., Seattle

Y

Yasutake, Alison, Auburn
Yeager, Dustin, Richland
Yurchak, Reed, Bellevue

Z

Zafiro, Katrina Soriano, Seattle
Zandell, Trevor Arthur, Spokane
Zorea, Avraham B., Tacoma

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.

***Note:** More than 29,000 persons are eligible to practice law in Washington state. Some of them share the same or similar names.* Bar News *strives to include a clarification whenever an attorney listed in the Disciplinary Notices has the same name as another WSBA member; however, all discipline reports should be read carefully for names, cities, and bar numbers.*

Disbarred

Phillip E. Miller (WSBA No. 7703, admitted 1977), of Bellevue, was disbarred, effective April 8, 2005, by order of the Washington State Supreme Court following a hearing. This discipline was based on his conduct in 2001 involving commission of a criminal act; conduct involving dishonesty, fraud, deceit, and misrepresentation; and failure to secure a written contingent fee agreement; and his conduct in 2002 and 2003 involving failure to cooperate with a disciplinary investigation. *Phillip E. Miller is to be distinguished from Phillip S. Miller of Seattle.*

Matter 1: Mr. Miller was employed by a licensed collection agency (hereinafter Corporation A) to pursue collection actions on claims assigned by Corporation A's clients. Mr. Miller's compensation was based on receiving a percentage of the 33 percent fee that Corporation A charged for collecting assigned claims. The fee arrangement between Mr. Miller and Corporation A was never reduced to writing. In early 2001, Mr. Miller assisted certain owners and employees of Corporation A in forming a new corporation (hereinafter Corporation B) in order to avoid some of Corporation A's liabilities. Mr. Miller became Corporation B's president, sole corporate officer, sole director, and the only shareholder. Corporation B operated a lien-filing and collection business comparable to that of Corporation A, but Corporation B was never licensed as a collection agency. Mr. Miller continued to handle collection claims for Corporation B for a percentage of the collection fee charged by the corporation. The fee arrangement between Mr. Miller and Corporation B was not reduced to writing.

In mid-2001, a client assigned a $150,000 claim to Corporation A for collection. Corporation B subsequently assumed the assignment of the collection claim. Mr. Miller filed suit to collect the claim. Mr. Miller subsequently negotiated with the debtor regarding payment of the claim. The lawsuit settled in August 2001, and the debtor paid $130,699.63 in full satisfaction of the settlement agreement. The sum was deposited into Corporation B's bank account and Mr. Miller obtained an order of dismissal of the lawsuit. Mr. Miller was paid a fee of $19,059, constituting 40 percent of Corporation B's 33 percent share of the collected sum. Neither Mr. Miller nor anyone else at Corporation B notified the client of the settlement or the dismissal. The general manager of Corporation B instructed Mr. Miller to attempt to cut a better deal with the client in order to increase Corporation B's share of the settlement.

Later in August 2001, a representative of the client contacted Mr. Miller to ascertain the status of the matter. Although Mr. Miller knew that the full amount owing had already been collected, he did not reveal this information to the client. Instead, he misled the client into believing that Corporation B had received an offer from the debtor to settle the matter for 85 percent of the amount due. The client indicated that it was not interested in such an offer, pointed out that the amount of the claim should have been greater, and insisted that a lien should be filed for the full amount. Despite the settlement agreement and dismissal of the lawsuit, the lien was filed and Mr. Miller received additional payments from the debtor. The total amount received on the claim was $149,777.67, of which the client was entitled to receive $100,351.04.

In October 2001, Mr. Miller became aware of a shortage in Corporation B's bank account balance resulting in an inability to pay the client what was due from the settlement funds. On October 15, 2001, the client again contacted Mr. Miller about the claim. Mr. Miller did not disclose that he had received the full sum owed by the debtor, but instead misled the client into believing that the debtor was offering to pay 85 percent of the total or to make periodic payments of 100 percent of the amount due. Mr. Miller confirmed these "payment options" in an October 16, 2001, letter to the client. The client did not agree to either of these proposals.

In December 2001, the client learned from the debtor that the claim had been paid in full several months earlier. The client subsequently filed suit against Corporation B and Mr. Miller for moneys owed from the settlement. Judgment was confessed for $150,000. A settlement agreement required an initial payment of $50,000 followed by $2,000 monthly payments commencing in March 2002. Payments ceased in July 2003, with an unpaid balance of $70,000 remaining.

Matter 2: In July 2002, during the Bar Association's investigation of Matter 1, Mr. Miller appeared at a deposition in response to a subpoena *duces tecum* requiring him to bring all financial records relating to the handling of funds received in connection with the collection claim. Mr. Miller did not bring those records to the deposition. He testified that this was an oversight and agreed to provide the records. Mr. Miller never provided all of the records. As a result, it was necessary for a Bar Association auditor's examination to be based on microfiche copies of canceled checks and deposit items obtained from the bank. The need to reconstruct records greatly complicated the examination of the account.

Mr. Miller's conduct violated RPC 1.5(c)(1), requiring contingent fee agreements to be in writing; RPC 8.4(b), prohibiting commission of a criminal act (here, theft in the first degree) that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; RPC 8.4(c), prohibiting conduct involving dishonesty, deceit,

fraud, or misrepresentation; RPC 8.4(d), prohibiting conduct prejudicial to the administration of justice; former RLD 2.8(a), requiring a lawyer to promptly respond to any inquiry or request for information relevant to grievances; and RPC 8.4(l), prohibiting a lawyer from violating a duty imposed by or under the Rules for Enforcement of Lawyer Conduct (here, ELC 5.3(e), requiring a lawyer to promptly respond to any inquiry or request for information relevant to grievances).

Randy Beitel represented the Bar Association. Kurt M. Bulmer represented Mr. Miller. Lish Whitson was the hearing officer.

Suspended

Theresa A. Olson (WSBA No. 16402, admitted 1986) was suspended for two years, effective April 5, 2005, by order of the Washington State Supreme Court following a hearing. This discipline was based on her conduct in 2002 involving sexual relations with a client.

In October 1999, Ms. Olson's employer, a public defense provider, was appointed to represent an individual charged with three counts of aggravated first-degree murder in King County Superior Court. Ms. Olson and another lawyer in the office were assigned to represent the client. During the course of her representation of the client, Ms. Olson developed romantic and/or sexual feelings for the client. An inappropriate personal relationship, with sexual overtones, ensued, as confirmed in a three-page handwritten letter that Ms. Olson sent from her home to the client at the King County Jail. In August 2002, Ms. Olson met privately, in person, with the client in a conference room of the King County Jail for the stated purpose of providing legal representation to the client. During the meeting, Ms. Olson knowingly and intentionally engaged in inappropriate intimate physical contact, including sexual relations, with the client. Ms. Olson made no disclosures to the client regarding any conflict of interest or the possible effects of an inappropriate personal and/or sexual relationship on him or his case, and obtained no written waivers.

Ms. Olson's conduct violated RPC 1.7(b), prohibiting a lawyer from representing a client if the representation may be materially limited by the lawyer's own interests, unless the lawyer reasonably believes the representation will not be adversely affected and the client consents in writing after a full disclosure; RPC 1.8(k), prohibiting a lawyer from having sexual relations with a current client; RPC 2.1, requiring a lawyer to exercise independent professional judgment and render candid advice in representing a client; and RPC 8.4(d), prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice.

Joanne S. Abelson and Scott G. Busby represented the Bar Association. David Allen represented Ms. Olson. David A. Thorner was the hearing officer.

OPPORTUNITIES FOR SERVICE

Commission on Judicial Conduct

Application Deadline: February 1, 2006

The WSBA Board of Governors is accepting letters of interest and résumés from members interested in serving the remaining two years of a four-year term on the Commission on Judicial Conduct, with the ability to reapply for a full four-year-term appointment. The goal of the Commission is to maintain confidence and integrity in the judicial system by preserving judicial independence and public accountability. The public interest requires a fair and reasonable process to address judicial misconduct or disability, separate from the judicial appeals system that allows individual litigants to appeal legal errors. The Commission reviews new complaints, discusses the progress of investigations, and takes action to resolve complaints. The Commission consists of 11 members who serve four-year terms — six nonlawyers, three judges, and two lawyers. The lawyers must be admitted to the practice of law in Washington and are selected by the WSBA. The term will commence upon appointment. Please submit a letter of interest and résumé to: Bar Leaders Division, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, or e-mail barleaders@wsba.org.

Washington State Access to Justice Board

Application deadline: December 31, 2005

The Washington State Access to Justice (ATJ) Board announces three vacancies, effective May 2006, for (1) a representative from the Legal Foundation of Washington and (2) two at-large members. These positions are for attorneys.

The Washington State Supreme Court established the Access to Justice Board in 1994 to assure equal access to the civil justice system for those facing economic and other significant barriers. The ATJ Board works to achieve this mission through the oversight of its State Plan for delivery of civil legal aid; coordinating and implementing statewide initiatives for improving access for unrepresented and underrepresented populations in Washington state; and building leadership, funding, and other support for equal access to the civil justice system.

The ATJ Board consists of nine members, including up to two lay members, selected on the basis of a demonstrated commitment to, and familiarity with, access to justice issues. Board members may serve up to two three-year terms. The ATJ Board has approximately seven full-day meetings throughout the year in Seattle. Additionally, the Board has an annual retreat and meets at the annual Access to Justice Conference. Travel expenses are reimbursed.

Responsibilities of ATJ Board members include attending Board meetings and the annual planning sessions; serving as liaison to at least one Board committee; and actively participating in Board initiatives. The Access to Justice Board strives to have a membership that reflects ethnic, gender, geographic, and other diversity. For more information about the Access to Justice Board, please contact WSBA Justice Programs Manager Joan Fairbanks at 206727-8282 or joanf@wsba.org, or visit www.wsba.org/atj.

Please submit a résumé and letter of interest including a summary of qualifications to the Bar Leaders Division, WSBA, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, or e-mail barleaders@wsba.org.

Board of Governors Election

Three positions on the WSBA Board of Governors will be up for election in 2006: governors representing the 1st, 5th, and 7th-West congressional districts. These positions are currently held by Kristin G. Olson (1st District), Michael Pontarolo (5th District), and Mark Johnson (7th-West District).

The WSBA Bylaws provide that any member in good standing, except a member previously elected to the Board of Governors, may be nominated* for the office of governor from the congressional district (or geographical region within the 7th District**) in which such member is entitled to vote. Nominations are made by filing a statement of interest and a biographical statement of 100 words or less.

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

Nomination forms are available from the Office of the Executive Director, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330, or by calling 206-727-8244, or at www.wsba.org. The WSBA executive director must receive nomination forms by 5 p.m. on Wednesday, March 1, 2006. The Board of Governors determines the official dates of the election. Ballots will be mailed on or about April 15.

*Biographical statements of nominated candidates will be published in the May issue of *Bar News*.

**The 7th Congressional District is divided into three sub-districts: East, Central, and West. These sub-districts are distinguished by zip codes, and each has one elected governor. For 2006, the west sub-district (zip codes: 98013, 98070, 98106, 98107, 98116, 98117, 98119, 98121, 98126, 98133, 98136, 98146, 98160, 98177, 98190, 98195, 98199) will elect a new governor.

Third-Party Liability Information

If your client is involved in a personal-injury case and has received or is re-

ceiving medical assistance (Medicaid) payments for his or her medical care, you are required to contact the Department of Social and Health Services (DSHS). RCW 43.20B.060 places a lien against any settlement or judgment your client receives from a third party responsible for your client's injuries — which includes his or her own insurance coverage — in order to reimburse the medical bills paid by Medicaid. Before settling your client's claim with the third party or the insurance company, contact the Coordination of Benefits (COB) Casualty Unit of DSHA at 800-562-6136, or write to COB Casualty Unit, PO Box 45561, Olympia, WA 98504-5561, or visit the DSHS website at fortress.wa.gov/dshs/maa/LTPR/PersonalInjury.html. Failure to pay any liens imposed by the department on any settlement or judgment obtained by your client can subject you to personal liability for any funds improperly distributed (RCW 43.20B070).

YMCA Mock Trial Program Seeks Volunteers

The YMCA Youth and Government Mock Trial Program allows high-school students to participate in a "true-to-life" courtroom drama. Each team of attorneys and witnesses prepares the case for trial before a real judge in an actual courtroom. A "jury" of attorneys rates teams on their presentations, while the presiding judge rules on the motions, objections, and ultimately the merits. Participants develop critical-thinking and analytical skills, learn the art of oral advocacy, and gain a respect for the law and the judiciary. The state championship competitions will be held Friday, March 24, through Sunday, March 26, 2006, at the Thurston County Courthouse in Olympia. Volunteer attorney raters and judges are needed. To volunteer, please contact Janelle Nesbit at 360-357-3475 or youthandgovexec@qwest.net. Please visit www.youthandgovernment.org for more details.

PILA Benefit Auction

The Public Interest Law Association (PILA), a nonprofit organization run by University of Washington law students, is hosting a benefit auction to help fund a loan repayment assistance program and a summer grant program for law students who accept unpaid legal internships. Since 1995, PILA has awarded over $320,000 in grants supporting work at a wide range of public-interest organizations, including the Northwest Justice Project, the Unemployment Law Project, and Columbia Legal Services. The benefit will be held on February 10, 2006, from 5 to 10 p.m. at the W Hotel in downtown Seattle. For more information, contact Katie Meyer at 206-543-8899 or katie@uwpila.org.

WSBA-CLE Delivers in December

Take advantage of all the ways WSBA-CLE makes it easy to earn end-of-year MCLE credits. ***Live seminars, live credits — 18 in December.*** For a complete listing and registration information, visit the CLE webpage at www.wsba.org/cle/seminars/default.htm. ***WSBA-CLE online Internet seminars for A/V credits*** — 100 segments in more than 20 practice areas. Visit www.wsba.org/cle/online.htm. ***Audio seminars for A/V credits*** — order from the online store at www.store.yahoo.com/wsbastore. Express delivery is available, or come to the December CLE onsite bookstore for a limited selection of audio seminars and save on shipping. December 19 to 30 at the WSBA office: Monday through Friday, 9 a.m. to 4:30 p.m. (closed on December 26 and open from 9 a.m. to noon on December 30).

WSBA Court Rules and Procedures Committee to Review General Rules (GR)

The WSBA Board of Governors has authorized the Court Rules and Procedures Committee to undertake a comprehensive evaluation of the General Rules (GR) in 2005-2006. This will be the first time the General Rules have been included in the Committee's quadrennial cycle of review of the Washington Court Rules. The Committee invites interested persons to submit suggestions for adoption, amendment, or repeal of a General Rule. Please address suggestions to Douglas Ende, staff liaison to the Committee, at 206-733-5917 or WSBACourtRules@wsba.org. More information about the Committee is available on the WSBA website at www.wsba.org/lawyers/groups/courtrules.

Watch *The Docket* on TVW

On January 1, a new program covering Washington's legal system, *The Docket*, makes its debut. This half-hour magazine-style program, featuring interviews, reviews of recent Supreme Court cases, and educational segments, will air Sunday nights at 8 p.m., with frequent rebroadcasts. Twelve programs will be produced in 2006. Program host will be University of Washington School of Law Dean Joe Knight. The WSBA is pleased to work with TVW and support production of *The Docket*. Special thanks to the WSBA Family Law; Real Property, Probate and Trust; and Senior Lawyers sections for their generous financial contributions.

20th Annual Goldmark Award Luncheon

The Legal Foundation of Washington will present the 2006 Charles A. Goldmark Distinguished Service Award to the Washington State Supreme Court at the 20th Annual Goldmark Award Luncheon. The luncheon will be held Friday, February 17, 2006, at the Washington State Convention & Trade Center in Seattle between 12 and 1:30 p.m. The Goldmark Award honors the memory of attorney Charles A. Goldmark — community leader and ardent supporter of access to justice. Goldmark served as the Legal Foundation's president at the time of the tragic assault that led to his death in 1986. The program will include remarks from Goldmark's brother Peter to commemorate the 20th anniversary of this award. The public is invited to attend the luncheon where tribute is paid to all of the volunteer lawyers and legal aid providers in our state. Visit www.legalfoundation.org for more information.

New Sexual Orientation and Gender Identity Legal Issues Section Considered

This notice is posted pursuant to the WSBA Bylaws, Article IX, "Sections," regarding a six-month prior notification of intent to establish a new Sexual Orientation and Gender Identity Legal

Issues Section. For more information, please contact Rachel da Silva at 360-943-6260, ext. 203, or e-mail rachel.dasilva@columbialegal.org.

Opening Doors in the Legal Profession

"Opening Doors in the Legal Profession" — the inaugural joint retreat with Washington's minority bar leaders, the WSBA Committee for Diversity, and the WSBA Board of Governors Diversity Committee — was held October 15 at the law offices of Christensen, O'Connor, Johnson & Kindness PLLC in Seattle. The purpose of the retreat was to plan, organize, and coordinate common activities and events, with the goal of increasing diversity in our state's legal profession and legal community. It was an excellent opportunity to share ideas and plans, and to get to know one another better.

Participants of the "Opening Doors in the Legal Profession" retreat on diversity gather for a photo.

For more information about diversity in Washington's legal community, see www.wsba.org/wsbadiversity.htm (the website includes links to minority bar associations' websites and other useful information), or contact Joslyn Donlin, WSBA diversity advocate, at joslynd@wsba.org or 206-727-8216.

Resources Directory

The 2006 *Resources* directory will print the contact information as it exists in the WSBA membership database on February 1, 2006. Now is the ideal time to check that your correct contact information is in the WSBA database. You can check by going to the online lawyer directory on the WSBA website at http://pro.wsba.org.

If your contact information has changed, please complete and return the Contact Information Change form included in your license packet to the address shown on the form, or fax to 206-727-8319, or e-mail the changes to questions@wsba.org. Please update your information no later than January 31, 2006, for inclusion in *Resources*. For more information, please see the WSBA website at www.wsba.org/licensing, or contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

Speakers Available

The WSBA Lawyers' Assistance Program offers speakers for engagements at county, minority, or specialty bar associations or other law-related organizations. Topics include stress management, life/work balance, and recognizing and handling problem-personality clients. For more information, contact Jennifer Favell, Ph.D., at 206-727-8267.

WSBA Emeritus Training

If you are considering changing your WSBA status in 2006, you might want to consider Emeritus. APR 8(e) creates a limited license status of Emeritus for attorneys otherwise retired from the practice of law to practice *pro bono* legal services through a qualified legal services provider (QLSP). A QLSP is a not-for-profit legal-services organization whose primary purpose is to provide legal services to low-income clients. There are no MCLE requirements for Emeritus attorneys. To register for the Emeritus training and for more information regarding Emeritus status, contact Sharlene Steele at 206-727-8262 or sharlene@wsba.org.

New MCLE Compliance Report in 2006 License Packets

All active members who are not due to report MCLE compliance at the end of this year, including new admittees, will receive a new report — the C4/C5 form — in their 2006 licensing packets. APR 11.6(a)(3) requires that the WSBA provide an annual report to all active members regarding the credits and courses posted to their MCLE online rosters. This new report will help nonreporting active members to better track their credits, ensuring correct reporting and compliance at the end of their reporting period. If you receive the new C4/C5 form in your 2006 license packet, it is for your information only. No action needs to be taken.

If you need to make corrections to your WSBA MCLE roster, go to http://pro.wsba.org. Click on the "Member" tab, and then on "Member Login." The online instructions will lead you through the process of creating a password and using the system. Help is available online. You can also contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org to have corrections made or request an MCLE system instruction booklet.

MCLE Certification for Group 2 (2003-2005) — Complete Credits by December 31, 2005

Active WSBA members in MCLE Reporting Group 2 must report compliance with MCLE credit requirements for the 2003-2005 reporting period at the end of this year. Members in Group 2 include active members who were admitted to the WSBA in 1976-1983 or in 1992, 1995, 1998, or 2001. (Members admitted in 2004 are also in Group 2 but are not due to report until the end of 2008. Their first reporting period will be 2006-2008, but any credits earned on or after the day of admittance to the WSBA may be counted for compliance.)

If you are a Group 2 member, you will receive a Continuing Legal Education Certification (C2) form in the license packet that will be mailed to you at the beginning of December. The C2 form, not your online profile, is the official record of MCLE compliance. This form is an affidavit that lists all WSBA-approved courses that were on your 2003-2005 MCLE online profile at the beginning of

October 2005. If you have taken other classes since the C2 was printed and they are all listed in your online profile, you may print and attach a copy of the online profile to the C2 form. Indicate on your C2 form that the attached profile is the true and correct record of the courses taken for the reporting period. Alternatively, you may simply add the additional WSBA-approved courses you took to the back of the C2 form (the C3 form). The deadline for completing the C2 form and returning it to the WSBA is February 1, 2006.

All WSBA-approved courses you list on your C2 form must have an Activity ID number. This number is listed on your online MCLE profile and is assigned at the time the Form 1 for each course is reviewed. If you have taken courses that have not yet been approved by the WSBA, please submit Form 1s for these courses immediately to ensure that they are approved before your C2 is due. Form 1s submitted electronically (at http://pro.wsba.org) could take at least four weeks to process if they are submitted in October through February, due to high volumes. Paper Form 1s may take at least six weeks to process during the same period. If you submit a paper Form 1, you will be notified by mail of the Activity ID number assigned to it after the Form 1 is processed. If you have questions about the Form 1 process, please contact the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

See the section that follows for more information about MCLE compliance.

MCLE Certification for Active Members Due Date for MCLE Reporting

WSBA members are divided into three MCLE reporting groups based on year of admission. (Newly admitted members are exempt. See "Newly Admitted Members" below.)

Group 1: Admitted through 1975, 1991, 1994, 1997, 2000, 2003, or 2006.
Group 2: Admitted in 1976 through 1983, 1992, 1995, 1998, 2001, or 2004.
Group 3: Admitted in 1984 through 1990, 1993, 1996, 1999, 2002, or 2005.

Reporting Group	Next Reporting Period	Complete Credits by	File C2 Form by
Group 2	2003-2005	December 31, 2005	February 1, 2006
Group 3	2004-2006	December 31, 2006	February 1, 2007
Group 1	2005-2007	December 31, 2007	February 1, 2008

Credit Requirements. The following credit requirements must be met by December 31 of the last year of an active member's reporting period:

- At least 45 total credits of WSBA-approved continuing legal education (CLE) activities must be taken, including a minimum of 30 live credits and six ethics credits.
- A/V courses cannot be more than five years old, except approved "skills-based" courses.
- Six *pro bono* credits can be earned per year. Two of these credits are for approved annual training, which must be taken prior to being able to earn credit for the *pro bono* work. Four *pro bono* credits may be earned each year if at least four hours of *pro bono* work was provided through a qualified legal services provider.

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

C2 Reporting Requirement. All active members due to report are required to file a Continuing Legal Education Certification (C2) form with all CLE courses taken for credit compliance. The deadline for filing your C2 form is February 1 of the year following the end of your reporting period. Note:

- Your online roster is not a substitute for filing the C2 form.
- The C2 form is an affidavit and must be signed and dated, and the city and state where signed must be identified.
- C2 forms are included in the license packets sent in early December to all members due to report (which will be Group 2 members this year).
- All CLE courses listed on member rosters as of October 1 will be printed on the back of the C2 form. If you took additional CLE courses after October 1, and they appear on your online roster, you may print a copy of your roster and attach it to your C2 form. State on your C2 form that the attached online roster printout is a true and correct statement of the CLE courses taken for credit compliance.

MCLE Late Fees/Noncompliance. 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 (the end of the grace period after the February 1 deadline), must pay a late fee of $150. The late fee increases by $300 for each consecutive three-year reporting period of noncompliance.

If a member is noncompliant after March 1, a Notice of Apparent Noncompliance will be sent by certified mail to the member's address on file at the WSBA. It is the member's responsibility to have a current address on file and to accept delivery of the letter. If the member does not comply within 30 days, a pendency letter is sent by certified mail. If the member does not comply to the pendency letter within 10 days, the member's name is sent to the Supreme Court with a recommendation for suspension from the practice of law.

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 2004, you will not report for this reporting period (2003-2005) even though you are in Group 2. You will first report at the end of the 2006-2008 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 Washington State Bar Association and your primary office for the practice of law is in Oregon, Idaho, or Utah, you may meet your mandatory CLE requirements by providing proof of current MCLE compliance. Only a Certificate of MCLE Compliance from your primary state bar (not a "Certificate of Good Standing"), sent with your Washington Continuing Legal Education Certification (C2) form, will satisfy your MCLE requirements in Washington.

MCLE System — Course Listing and Member Profiles. Members 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, *pro bono* credit, or prep-time credit.
- Search for approved courses being offered.

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 password and using the system. Online help is available. If you have any questions, see the online FAQs at www.wsba.org/lawyers/licensing/faq-mcle.htm, call the WSBA Service Center at 800-945-WSBA or 206-443-WSBA, or e-mail questions@wsba.org.

2006 License Fee Packets

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

We encourage you to pay your mandatory fees promptly to avoid penalties. **Payments must be postmarked or delivered to the WSBA office by these dates:** If the annual license fee remains unpaid after March 1, 2006, WSBA bylaws require a 20 percent late-payment penalty. After April 1, 2006, a 50 percent late-payment penalty is imposed. If your license fee, penalty assessment, or Lawyers' Fund for Client Protection (LFCP) assessment remains unpaid after May 2006, the delinquency will be certified to the Supreme Court, which will enter an order of suspension from the practice of law. In order to be reinstated to your former status after suspension for nonpayment, you must pay double the amount of the combined fee and penalty (triple the original fee). For active members, nonpayment of the $13 LFCP assessment (required by APR 15) is also cause for suspension. You may also pay online by visiting the WSBA website at www.wsba.org. Click on the "For Lawyers" tab, then click on "Pay License Fee Online."

Computer Clinic

The WSBA offers a hands-on computer clinic for members wanting to learn more about what Microsoft Office programs — such as Outlook, PowerPoint, Excel, and Word, as well as Adobe Acrobat 6.0 — can do for a lawyer. Are you a total beginner? No problem. The clinic teaches helpful tips you can use immediately. Computers are provided, and seating is limited to 15 members. There is no charge, and no CLE credits are offered. The next clinic will be held on January 9, 2006, from 10 a.m. to noon at the WSBA office. For more information, contact Pete Roberts at 206-727-8237 or peter@wsba.org.

More LOMAP Events

LOMAP hosts a meeting of contract lawyers the first Tuesday of each month. The next meeting will take place December 6 from noon to 1:30 p.m. at the WSBA office. The December dates for "LOMAP & Ethics ... on the Road: The 2005 Traveling Seminar" are December 1 in Bellevue, December 7 in Spokane, and December 13 in Seattle. Registration is $79, and each seminar has been approved for four CLE credits, including two ethics credits. For more information, contact Julie Salmon at 206-733-5914 or juliesa@wsba.org.

Seeking Applications from Judicial Candidates

Application deadline: February 28, 2006

The WSBA Judicial Recommendation Committee is currently accepting applications from attorneys and judges seeking consideration for appointment to fill potential vacancies on the Washington State Supreme Court and Court of Appeals. Candidates will be interviewed by the Committee in March 2006. Applications must be received at the WSBA office by 5 p.m. February 28, 2006.

The Committee's recommendations are reviewed by the WSBA Board of Governors and then referred to the state governor, who then reviews the recommendations when making judicial appointments.

If you are interested in scheduling an interview, please contact the WSBA at 206-727-8239, or e-mail barleaders@wsba.org, to obtain an application. Please specify whether you need the application designed for a judge or an attorney. Applications may also be downloaded at www.wsba.org/lawyers/groups/judicial recommendation.

Upcoming Board of Governors Meetings

December 9-10 — Bremerton, January 12-13 — Olympia, March 3-4 — Seattle.

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

Usury Rate

The average coupon equivalent yield from the first auction of 26-week treasury bills in November 2005 was 4.303 percent. Therefore, the maximum allowable usury rate for December is 12 percent. Informa-

tion from January 1987 to date is on the WSBA website at www.wsba.org/media/publications/barnews/usury.htm.

Job Seekers Discussion Group

Looking for a job or making a transition? Join us at the Job Seekers Discussion Group the second Wednesday of each month from noon to 1:30 p.m. The group discusses where to look for jobs, how to use your network of contacts, strategies for résumés and cover letters, and how to keep yourself organized and motivated. Exchange information and ideas with other lawyers looking to make a change. Come as you are — no need to RSVP. For more information contact Rebecca Nerison, Ph.D. at 206-727-8269 or rebeccan@wsba.org.

LAP Solution of the Month: Financial Stress

How fiscally sound is your law practice? Do you struggle with untimely billing or failing to collect your receivables? Financial stress can wreak havoc on a law practice. For help with getting your firm onto a stable financial footing, call the Law Office Management Assistance Program at 206-733-5914.

Contact Information

APR 13(b) requires all attorneys to update their office address and telephone number within ten days of the change. You can check your listing by going to the online lawyer directory at 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.

APR 13(c), which went into effect on September 1, 2005, provides: "Electronic mail address: An attorney should advise the Washington State Bar Association of a current business electronic mail address if one exists. An attorney whose business electronic mail address changes should, within 10 days after the change, notify the Executive Director of the Washington State Bar Association, who shall forward changes weekly to the Office of the Clerk of the Supreme Court for entry into the state computer system. Use of electronic mail addresses for court notice, service and filing must comply with GR 30." Please note: If you list a home address as your public contact address, that address will be provided to all inquirers as your contact information. All requests for contact information changes must be made directly by the member or with the member's demonstrated approval.

Learn More About Case-Management Software

The WSBA's Law Office Management Assistance Program (LOMAP) office maintains a computer for members to review software tools designed to maximize office efficiency. The LOMAP staff is available to provide materials, answer questions, and to make recommendations. To make an appointment, contact Julie Salmon at 206-733-5914 or juliesa@wsba.org.

Announcements

SOHA & LANG, P.S.

is pleased to announce that

Geoffrey Bedell

Liam McCann

and

Laura Kleisle

have joined the firm as Associates.

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HILLIS CLARK MARTIN & PETERSON

is pleased to announce that

Michael K. Kirschner

has joined the firm as Of Counsel.

Michael's practice at HCMP will encompass patent and litigation matters — with a special emphasis in the biotechnology and pharmaceutical industries.

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In keeping with its reputation for excellence, **Shilo Inns** announces that

Philip S. Harris

will immediately assume the position of General Counsel and COO and is slated to become General Counsel and CEO following the retirement of current General Counsel and CEO John Kneeland in May 2006.

Mr. Harris graduated with honors from Cornell's Hotel School and subsequently received his law degree *cum laude* from Lewis & Clark Law School. The former Davis Wright Tremaine lawyer is licensed to practice in Oregon and Washington.

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Effective October 31, 2005

Michael Hitt,

a founding partner of Harlowe & Hitt LLP, retired from the practice of law.

Michael has enjoyed a diverse law practice for almost three decades, representing clients in commercial law, real estate, business law, and bankruptcy. He has long been a court-qualified bankruptcy trustee. Michael plans to continue with his administrative work as a bankruptcy trustee and will be establishing a separate office locally. Harlowe & Hitt LLP will continue working in business law, real estate, federal and state tax law, and estate planning. We wish Michael continuing success with his new, nonlawyer endeavor.

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The partners of

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William H. Martin

for his six years of service as Managing Partner of the firm and are pleased to announce the election of

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as the new Managing Partner of the firm.

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KANTOR TAYLOR MCCARTHY P.C.

is pleased to announce that

Thomas H. Nelson

has become a shareholder of the firm,

and

Katie K. Monroe

has become an associate of the firm.

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DISCIPLINARY INVESTIGATION and PROCEEDINGS

Patrick C. Sheldon,
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INSURANCE BAD FAITH

For when they insure it is sweet to them to take the money; but when disaster comes it is otherwise and each man draws his rump back and strives not to pay.

— Francesco di Marco Datini —
Florentine businessman, letter to his wife, 14th century.

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Calendar

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

WSBA *Bar News* Calendar
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Fax: 206-727-8319
E-mail: comm@wsba.org

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

Antitrust

22nd Annual Antitrust and Consumer Protection Seminar
December 2 — Seattle. 6.25 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Arbitration

Practice Development Brown Bag — New Arbitration Rules
January 11 — Seattle. By WDTL; 206-749-0319.

Business Law

Responsible Corporate Leadership in Washington State: 2nd Annual Conference
December 1 — Seattle. 6 CLE credits, including 2.5 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

The Indispensable Guide to Handling Private and Public Offerings
December 6 — Seattle. 6 CLE credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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

Creditor/Debtor

Judgments: What to Do After You Win
December 2 — Seattle. 6.25 CLE credits. including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Creditor-Debtor Law: Hot Topics
December 8 — Spokane. 6 CLE credits. including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Bankruptcy Abuse, Prevention and Consumer Protection Act of 2005: Now What? (video replay with live moderator)
December 19 — Seattle. 6 CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Dispute Resolution

Four-Day Intensive Mediator Training Program
January 17-20 — Seattle. 40.5 CLE credits, including 2.5 ethics credits. By Alhadeff & Forbes Mediation Services; 206-281-9950, www.mediationservices.net.

One-Day Advanced Mediator Training Program: "Mining Gold: Lessons from the Dark, Hard Struggle"
January 25 — Seattle. By Alhadeff & Forbes Mediation Services; 206-281-9950, www.mediationservices.net.

Employment Law

Ethics for Employment Law Lawyers
December 13 — Telephone CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Environmental Law

The Latest Word on Compliance with SEPA/NEPA
January 25 — Seattle. 7 CLE credits. By Washington Law Seminars; 800-854-8009 or 206-567-4490.

Estate Planning

When Death and Divorce Collide: Cross-Over Issues in Estate Planning and Family Law
December 1 — Seattle. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Advanced Probate (video replay with live moderator)
December 12 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Ethics

Annual Ethics Update
December 1 — Seattle. 4 CLE credits. By WDTL; 206-749-0319.

13th Professional Responsibility Institute
December 10 — Seattle. 6.5 ethics credits. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Ethics for Employment Law Lawyers
December 13 — Telephone CLE. 1.5 ethics credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

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

Litigation Ethics Teleconference, with Stephen Saltzburg and Joel Cunningham
December 14 — Teleconference. 2 ethics credits. By WSTLA; 206-464-1011.

Annual Spokane Ethics Seminar
December 15 — Spokane. By WSTLA; 206-464-1011.

3rd Annual WSBA Conference on Law of Lawyering
December 15-16 — Seattle; Day 1: Malpractice, Risk Management, Insurance and Professionalism. Day 2: Ethics, Conflicts, Sanctionable Conduct and the New Proposed Rules of Professional Conduct. 6.25 ethics credits. Register for either day or both days. By WSBA CLE. 800-945-WSBA or 206-443-WSBA.

Ethics in Literature
December 22 — Seattle. CLE credits pending. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Professional Mediation Skills Training
December 13, 14, 15, 28, 29 — Seattle. 34 CLE credits and 2 ethics credits. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Family Law

When Death and Divorce Collide: Cross-Over Issues in Estate Planning and Family Law
December 1 — Seattle. 6.0 CLE credits pending with 5 general credits and 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

History and Future of Reproductive Rights Featuring Stewart Jay
December 19 — Seattle. 3 CLE credits pending. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Insurance Law

Annual Insurance Law Seminar
January 19 — Spokane; January 20 — Seattle. CLE credits pending. By WSTLA; 206-464-1011.

Land Use

The Latest on Land Use
December 15 — Seattle. 6.75 CLE credits, including 1 ethics credit pending. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Law Practice Management

The Prescription for a Sound Law Firm: Business and Financial Fundamentals

for a Healthy Practice
December 7 — Seattle. 6 CLE credits, including 1 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Law Office Management

LOMAP & Ethics . . . On the Road: The 2005 Traveling Seminar!
December 1 — Bellevue
December 7 — Spokane
December 13 — Seattle
4 CLE credits, including 2 ethics. By WSBA Law Office Management Assistance Program; 800-945-WSBA or 206-443-WSBA.

Litigation

Movie Magic
December 8 — Seattle; December 9 — Spokane. 6 CLE credits, including 2 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Deposition Techniques: Strategies, Tactics, Skills Featuring David B. Markowitz
December 14 — Seattle. 6 CLE Credits. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Miscellaneous

Best of CLE: Encore of Excellence
December 9 — Seattle. 6 CLE credits, including up to 3 ethics. By WSBA-CLE; 800-945-WSBA or 206-443-WSBA.

Central Washington Seminar
December 9 — Yakima. 3 CLE credits. By WDTL; 206-749-0319, www.wdtl.org.

Trial Stars with Paul Luvera and Jimmy Rogers
December 9 — Seattle. 5 CLE credits. By WSTLA; 206-464-1011.

Theories of Political Legitimacy Featuring Ken Himma
December 19 — Seattle. 3 CLE credits pending. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Professionalism

Professional Mediation Skills Training
December 13, 14, 15, 28, 29— Seattle. 34 CLE credits and 2 ethics. By UW School of Law; 800-CLE-UNIV or 206-543-0059.

Classifieds

Reply to WSBA *Bar News* Box Numbers at:

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L, the Romans count it

by Lindsay Thompson

Suspicion Breeds Confidence.
— Inscription on placard in the film ***Brazil*** (1985)

I'm not making any big plans for the holidays. There's too much uncertainty in the air.

There's gas prices. There's terror. There's avian flu. There's the 1918 flu, recently recreated and published as a how-to article. Having dodged two influenza quasi-pandemics, and one really grand non-flu one, I'm worrying how to try to avoid a promised Mother and Several Vengeful Aunts of All Pandemics.

There's even talk we are entering the End Times (hurricanes, earthquakes, pestilences, tsunamis, the homosexual menace). Crashing to my end on a plane suddenly unpiloted seems an alarming way to find out my seating assignment for the hereafter.

And shortly I turn 50.

At that age, Orwell archly commented, "Everyone has the face he deserves."

Mine looks perplexed, if relatively unlined (a 30s friend peered at me recently and said, "You don't *look* 50. Have you had work done?")

Fifty always seemed unreachably distant. Australia. The return of Halley's Comet.

President Clinton, at 50, fretted there were more yesterdays than tomorrows. "Love is lame at fifty years," wrote Thomas Hardy in 1909, clearly not anticipating President Clinton. T.S. Eliot fussed, "The years between fifty and seventy are the hardest. You are always being asked to do things, and yet you are not decrepit enough to turn them down."

I'm told my invitation to join the AARP should arrive any day. I'm losing my place in the coveted 18-49 male TV ratings demographic. I will start driving much more slowly, and will enthuse about places where I can have dinner at 5:00 p.m.

"Really," Philip Larkin commented in 1972, "one should ignore one's fiftieth birthday. As anyone over fifty will tell you, it's no age at all."

But then — the big killjoy — he added, "All the same, it's rather sobering to realize that one has lived longer than Arnold of Rugby, or Porson, the eighteenth-century professor of Greek. It's hard not to look back and wonder why one hasn't done more, or forward and wonder what, if anything, one will do in the future."

Indeed. When I dust off my yellowing c.v. and compare it to the standouts of 1955 — Kermit the Frog, Gumby, Chief Justice Roberts — I wonder if I should have devoted more effort to being quietly, not conspicuously, undistinguished.

Back when I took the SAT, you could check a box and make your results available to schools. The ones that thought you interesting could send you literature.

So I checked the box and heard from two: Shimer College, which went broke before I would have graduated, and a truck-driving academy in Cheraw, South Carolina. There may have been a message there.

But *noooo*, as John Belushi used to say. I pressed on to get a degree in politics. Then one in philosophy, politics, and economics. Then law school, where virtually no one thought I should be a lawyer. College professor, writer, newspaperman, common scold ("Have you ever thought of becoming . . . *a minister*?" the dean once hooted), all were bruited to me.

So here I am, a ten-a-penny lawyer in a Seattle suburb, with a penchant for triviality in writing that makes Max Beerbohm seem deep.

I expect I'll stick to my holiday routine: put up the tree, pour a drink ("I've got to get out of these wet clothes," Robert Benchley quipped on a winter's night, "and into a dry martini."), and dust off my collection of Dystopian Holiday Videos. Farces like *Christmas in Connecticut*; deeply black comedies like *The Ref*, *Blackadder's Christmas Carol*, *Bad Santa*, and *Home for the Holidays*. They're a bracing tonic to the treacly tone of the season.

This year I welcome a new entry. I saw *Brazil* 20 years ago, but forgot it's set at Christmas. As a terrorist campaign enters its 13th year ("Beginner's luck," snorts the deputy minister of information), Consumers for Christ parade past a poster reading "Happiness: We are all in this together," promising "Top Security Holiday Camps/Relax in a Panic-Free Environment/Luxury With Security/Fun Without Suspicion."

People pursue their normal routines, shopping, dining, and self-improvement. "My mother's away for Christmas," the hero tells his love. "She's spending it at the plastic surgeon's." You get the feeling the script for the war on terror was actually authored by Terry Gilliam, Charles McKeown, and Tom Stoppard.

Happy holidays.

For personal correspondence, Lindsay Thompson can be reached at tradelaw@hotmail.com. E-mail letters to the editor to letterstotheeditor@wsba.org or mail to WSBA, Attn: Letters to the Editor, 2101 Fourth Ave., Ste. 400, Seattle, WA 98121-2330.

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