WASHINGTON STATE
BarNews
THE OFFICIAL PUBLICATION OF THE WASHINGTON STATE BAR ASSOCIATION

2024 LUMINARY AWARD · EXCELLENCE IN PUBLICATIONS ·

HELP WANTED

Why a hiring and retention watershed moment among prosecutor offices has many raising the alarm / p. 30

FEB. 2025
VOL. 79, NO. 2

CONNELLY
LAW OFFICES

Offices in Seattle & Tacoma, WA
www.Connelly-Law.com | 253.593.5100
Info@connelly-law.com

PROVEN ADVOCATES - PROVEN RESULTS


John R. Connelly


Lincoln C. Beauregard


Micah R. LeBank


Nathan P. Roberts


Amanda M. Searle


Evan T. Fuller


Meaghan M. Driscoll


Marta L. O'Brien


Samuel J. Daheim


Jackson R. Pahlke


Matthew J. Wurdeman


Hollie M. Connelly


Christian P. McDonald


John Francis Connelly


Dalia Ibrahim


Susan E. Wassell


John B. McEntire, IV


Colin G. Prince

We look forward to assisting you in your pursuit of justice anywhere in the State.

TRUTH | JUSTICE | ACCOUNTABILITY | EQUAL ACCESS

DAVIS LAW GROUP, P.S.™

SERIOUS INJURY & WRONGFUL DEATH ATTORNEYS

Attorney Chris Davis

Davis Law Group is headed by founder and principal attorney, Chris Davis. For the past 30+ years, **Davis Law Group** has excelled by offering superior client service and achieving substantial verdicts and settlements (including several in many difficult and high-risk cases that other attorneys turn down).

We routinely accept attorney referrals and associations. **We offer generous fee sharing terms to other lawyers in compliance with RPC 1.5(e).** If you need to refer or associate on a case, the proven litigation experts at **Davis Law Group** should be your first call. To refer a case, or learn more, you can use the QR code, or call our office at the number below.

Case Types We Handle:

- Wrongful Death
- Car & Trucking Accidents
- Pedestrian & Cycling Accidents
- Dog Bites & Attacks
- Government Negligence
- Professional Negligence
- Law Enforcement Negligence
- Construction & Workplace Accidents
- Insurance Bad Faith & IFCA

Contact us today for referral information

Some of our **BIGGEST** cases have been resolved through litigation, including:

- **$14 M** airport workplace injury
- **$11 M** verdict wrongful death in rehab facility
- **$10 M** for bicyclist crashing into bollard
- **$8 M** wrongful death DUI crash
- **$5 M** MVA & TBI auto collision
- **$5 M** motorcyclist & car collision
- **$4 M** wrongful death in street sweeper incident
- **$4 M** pedestrian vs. MVA
- **$4 M** wrongful death - building vs. truck
- **$4 M** wrongful death T-bone collision
- **$3.8 M** car collision into parked truck
- **$3.75 M** wrongful death truck collision
- **$3.45 M** DOC negligence
- **$2.5 M** UIM bad faith & IFCA violations
- **$2.5 M** wrongful death motorcyclist
- **$2.3 M** TBI & drink driving crash
- **$2.2 M** ride share & pedestrian collision
- **$2.0 M** trip & fall outside of retail store
- **$1.3 M** 8 year old child bitten by dog
- **$1.0 M** hang-glider crash

The Pacific Northwest's Local Mesothelioma and Sex Abuse Law Firm

Ruby Aliment | Jonathan Kim | Erica Bergmann | Chandler Udo
Vanessa Oslund | Brendan Little | Meg Price | Myles Crandall

BERGMAN
OSLUND
UDO
LITTLE

Over $1 Billion Recovered For Our Clients

Accepting Referrals

206.957.9510 – Contactus@bergmanlegal.com

www.bergmanlegal.com

Nationally recognized trial lawyers in your backyard

On the Docket

WASHINGTON STATE BAR ASSOCIATION • FEB. 2025

FEATURES

ESSENTIALS

COLUMNS

ANSWER OUR Q&A

If you'd like to see yourself in *Bar News*, let us know! We would love to send you a questionnaire. **wabarnews@wsba.org**.

GET PUBLISHED!

WE ARE LOOKING FOR A FEW GOOD WRITERS

Are you interested in writing for *Washington State Bar News*? Please scan the QR code to fill out our questionnaire, and someone from the *Bar News* team may reach out to you.

Questions? Contact wabarnews@wsba.org.

Editor's Note

Balancing the Crisis

Following in-depth coverage of the state of public defense in Washington (see "Walking in Their Shoes" in the June 2024 issue of *Bar News*), this issue's main feature explores the flip side of that system—prosecution. If public defenders talk of intense caseloads, subpar wages, lack of funding, and a court docket that often works, as my colleague described it, like "a human-processing contraption," prosecutors share similar concerns—namely, position vacancies, budget cuts, and fewer new and young lawyers choosing to join prosecutors' offices. As one person interviewed for the piece states, "The system has to be symbiotic" in order to work for all parties involved. Read "No Rest for the Prosecution" on page 40.

Kirsten Lacko is the editor of *Washington State Bar News* and can be reached at kirstenl@wsba.org.

ON THE COVER
Illustration © Getty/wildpixel

Also in this issue: WSBA LGBTQ+ Section Chair Adriena Clifton writes about toppling barriers to success for Asian American female litigators like herself (page 34), ethics columnist Mark Fucile discusses what to do in the unfortunate case of client perjury (page 22), WSBA finance staff highlight the value of the license fee (page 30), and recent law school graduate Sarah B. Murphy shares her experience volunteering with the University of Washington's Federal Tax Clinic (page 45). BN

CHECK OUT OUR *BAR NEWS* ARCHIVE ONLINE

Don't forget to visit our online archive where you can browse issues of *Bar News* back to the 1950s. **wabarnews.org/archive**.

WASHINGTON STATE
Bar News

The WSBA's Official Members' Magazine

Washington State Bar News will inform, educate, engage, and inspire by offering a forum for members of the legal community to connect and to enrich their careers.

PUBLISHED BY THE
WASHINGTON STATE BAR ASSOCIATION
1325 Fourth Ave., Ste. 600
Seattle, WA 98101-2539

EXECUTIVE DIRECTOR	**Terra Nevitt** 206-727-8282 terran@wsba.org
WASHINGTON STATE BAR NEWS EDITOR	**Kirsten Lacko** 206-239-2127 kirstenl@wsba.org
WASHINGTON STATE BAR NEWS DESIGNER	**Jessica Randklev** 206-727-8214 jessicar@wsba.org

Washington State Bar News Contact Information

QUESTIONS/SUBMISSIONS	**wabarnews@wsba.org**
LETTERS TO THE EDITOR	**wabarnews@wsba.org**
IN REMEMBRANCE SUBMISSIONS	**wabarnews@wsba.org**
WASHINGTON STATE BAR NEWS ONLINE	**www.wabarnews.org**

Washington State Bar News is published nine times a year by the Washington State Bar Association, 1325 Fourth Ave., Ste. 600, Seattle, WA 98101-2539, and mailed periodicals postage paid in Seattle, Washington (ISSN 2690-1463). For inactive, pro bono, and honorary members, a free subscription is available upon request (contact subscriptions@wsba.org). A portion of each member's license fee goes toward a subscription. For nonmembers, the subscription rate is $36 a year. Washington residents, please add sales tax; see https://webgis.dor.wa.gov/taxratelookup/SalesTax.aspx for sales tax rate.

POSTMASTER: SEND CHANGES OF ADDRESS TO:
Washington State Bar News
Washington State Bar Association
1325 Fourth Avenue, Suite 600,
Seattle, WA 98101-2539

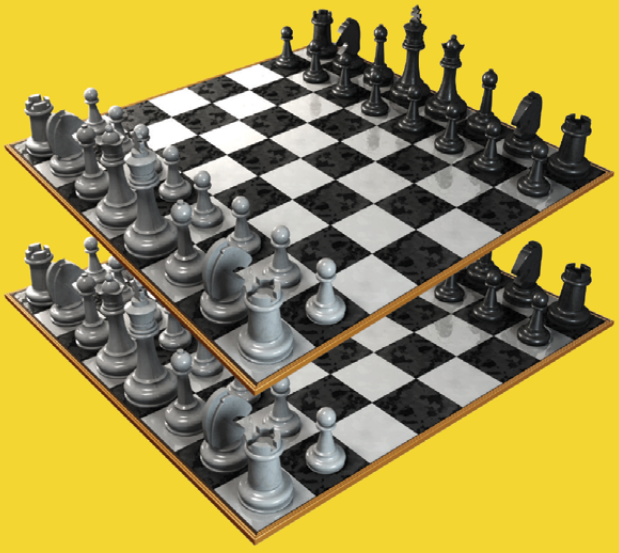
JFS

JOHNSON FLORA SPRANGERS PLLC

Personal, professional help for serious injury and professional liability claims

A TWO-TIERED CHESS GAME

The causation requirement in a legal malpractice action requires proving the merits of the underlying matter — the case within the case — which may be more complex than the professional negligence claim itself.



We have the knowledge and the experience to make the right moves and we would appreciate the opportunity to help you and your client.

MARK JOHNSON | MICHAEL SPRANGERS
JOHNSON FLORA SPRANGERS PLLC
JOHNSONFLORA.COM
2001 WESTERN AVENUE, SUITE 205
SEATTLE, WA 98121
206.386.5566

Inbox

LET US HEAR FROM YOU!

We welcome letters to the editor on issues presented in the magazine. Email letters to wabarnews@wsba.org.

Letters to the editor published in *Bar News* must respond to content presented in the magazine and also comply with Washington General Rule 12.2 and *Keller v. State Bar of California*, 496 U.S. 1 (1990).* *Bar News* may limit the number of letters published based on available space in a particular issue and, if many letters are received in response to a specific piece in the magazine, may select letters that provide differing viewpoints to publish. *Bar News* does not publish anonymous letters or more than one letter from the same contributor per issue. All letters are subject to editing for length, clarity, civility, and grammatical accuracy.

*GR 12.2(c) states that the WSBA is not authorized to "(1) Take positions on issues concerning the politics or social positions of foreign nations; (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or (3) Support or oppose, in an election, candidates for public office." In *Keller v. State Bar of California,* the Court ruled that a bar association may not use mandatory member fees to support political or ideological activities that are not reasonably related to the regulation of the legal profession or improving the quality of legal services.

Tales From a Woman in Maritime Law

I was excited to see the cover article in *Bar News* ["No Longer Bad Luck on Board," December/January 2025] about the local female maritime bar. In 1986, I was the only female member of the admiralty department at Bogle & Gates, which was one of the first admiralty firms in the Pacific Northwest. Paradoxically, my clients were more accepting of a female maritime attorney than the senior members of my department. I was not permitted to travel on business, for example, not even to Tacoma to attend the annual seafood client development dinner held there. (I was told that a certain kind of woman might jump out of a cake at the dinner and embarrass me!) The fact was that most clients appreciated having a woman advising them, something that the stories of the eight admiralty attorneys in this article confirm. Opposing counsel could, however, sometimes be less than respectful; I was once told by opposing counsel that I was "nothing but a paper tiger." Within an hour of that conversation in Seattle, a U.S. marshal was arresting the factory trawler at issue in Dutch Harbor, Alaska. His

CONTINUED >

There's More on the Blog

NWSidebar

THE VOICES OF WASHINGTON'S LEGAL COMMUNITY

The Top 10 Posts of 2024

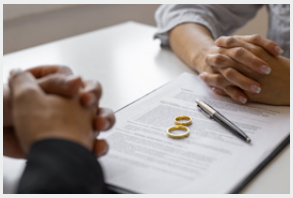
The 21st century is almost one-quarter complete. When the calendar switches over and 2024 moves aside for 2025, it's hard not to think about where we were 25 years ago. Back then we were worried about Y2K and a technological apocalypse; today our lives have been infiltrated by artificial intelligence. [...]

nwsidebar.wsba.org

What You Don't Know About Irrevocable Trusts Could Devastate Your Medicaid Planning Clients

A married couple sought Medicaid planning to protect their home from estate recovery by placing it in an irrevocable trust, but this resulted in their home becoming an available asset, making them ineligible for benefits. The author [...]

nwsidebar.wsba.org



The History and Future of No-Fault Divorce in the U.S.

Last month, a rise in divorce inquiries was noted at a family law firm, possibly linked to political rhetoric surrounding no-fault divorce. California pioneered this system in 1969, which promotes less adversarial separations. Washington state [...]

nwsidebar.wsba.org

GET SOCIAL! >

facebook.com/wastatebar.main

x.com/wastatebar

linkedin.com/company/washington-state-bar-association/

Inbox

CONTINUED >

client ended up paying the factory trawler crew that I represented millions of dollars in back pay and prejudgment interest in a landmark class action suit, as well as a multimillion-dollar criminal fine for dumping plastics at sea. I am still proud to be a proctor in admiralty and thrilled to read about eight prominent, successful women who are now warmly welcomed on board.

Lynn Bahrych
Shaw Island

Beyond the Ambassador Program

Kudos on the launch of the WSBA ambassador program. I've been lobbying for years for an organized way to promote public goodwill toward the legal profession and awareness of what we do for those in need, and to instill trust and confidence in our legal profession. We make headlines and prominent news when a huge verdict is assessed against a government entity or a school district for its failings, or when a plaintiff's or class action litigator is deemed a white knight in a tragic case. These are instances of public relations, negative or positive, that are reactive and incident dependent. Instead, I would like to see a concerted effort where WSBA executives, members of the Board of Governors, and ambassadors through the new WSBA program accomplish some or all of the following:

1) Publish op eds in the *The Seattle Times* and air stories on local TV and radio about what our bar members are doing that the public isn't aware of. Our state and county bar publications often feature pro bono efforts and other activities of our bar members that go above and beyond. Share those stories with the general public. Help change some perceptions of lawyers as overpriced gladiators or hired guns for businesses and the wealthy.

2) Use these same modalities to feature programs that folks in need may not be aware of. Show people where and how they can get much needed legal access and help.

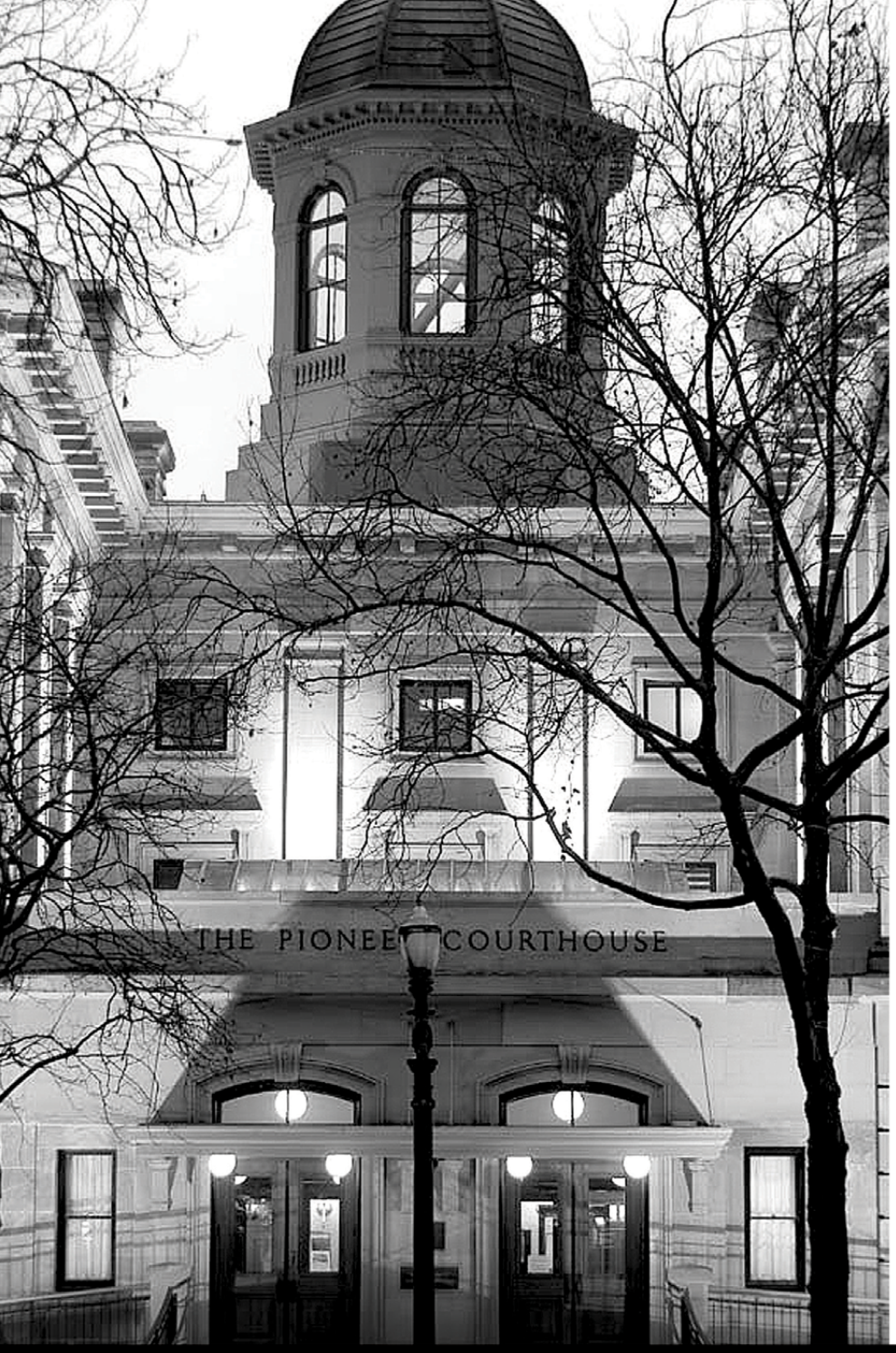
3) Set up speakers to share what lawyers do and how folks can access pro bono clinics and other programs in local libraries, community centers, town halls, and other places that folks convene.

4) Volunteer outside of the legal sphere in communities to help folks accessing social or health services.

5) Do "show and tells" (I'm dating myself) in local schools to educate and inspire kids. For those who have kids in school, volunteer to be a speaker or set up a short mock court experience or debate using a book that the students are reading.

All of us can be a public ambassador in our neighborhood. We're doing a much better job of featuring our local heroes and pro bono ventures among ourselves. Let's take it to the streets. Bring your enthusiasm and your ideas and sign up to be a WSBA ambassador (contact saran@wsba.org). It's an easier and more impactful New Year's resolution than the usual diet and exercise pledge.

Michael B. Goldenkranz
Seattle



Powerful
LITIGATION SUPPORT

COURT REPORTING

LEGAL VIDEOGRAPHY

REMOTE DEPOSITIONS

TRIAL PRESENTATION

LEGAL TRANSCRIPTION

COPYING AND SCANNING

LANGUAGE INTERPRETERS

NAEGELIUSA.COM

(800) 528-3335

SERVING WASHINGTON AND THE ENTIRE NATION

NAEGELI is a leader in the court reporting and trial support industry. We provide exemplary client service while leading the country in technology and innovation. **NAEGELI** utilizes only the most qualified professionals to assist you and your client at every stage of the legal process.

N

NAEGELI
DEPOSITION & TRIAL
Established 1980

A NOTE FROM THE WSBA EXECUTIVE DIRECTOR

A Legislative Priority for 2025:

Studying the Harm Caused by Disparate Local Court Rules, Funding, and Technology

As we head into this year's legislative session there is one WSBA priority that has me really energized.

For years, I have listened to members cite incongruent local court rules, funding, and technology as significant barriers to closing the access-to-justice gap in our state. I have heard about unwritten requirements for certain filings in some jurisdictions, leading to rejection of documents and weeks of delays. I have heard about data systems that prevent some jurisdictions from systemically analyzing the impact of new rulings and laws, barring equitable application for all involved. I have heard from lawyers who have to hire other lawyers, adding extra cost for their clients, because a local liaison is the most expedient way to navigate local rules and in-person appearance mandates in certain courts.

At a recent WSBA Listening Tour stop in Yakima, one member asked simply: *What can the WSBA do to help us advocate about the problems caused by a non-unified court system for our clients?*

In response, we at the WSBA have not been sitting idly on your experiences and requests. We have been testing the political temperature and having conversations with various stakeholders; and for 2025, I am very pleased to say that the WSBA's top legislative priority is helping to craft and pass a bill that will establish a comprehensive study of the issue. Rep. Jamila Taylor's bill[1] creates a "blue ribbon commission" to review the "structure, policies, practices, and procedures of the state courts, and identify areas where a more unified or centralized approach to court operations may improve consistency and efficiency in the delivery of court/judicial services." The current draft of the bill specifies that the WSBA will have a seat on the commission.

This bill is a smart approach. Our state's non-unified court structure is constitutionally derived and deeply personal—for all the people working in local court systems who best understand their community's culture and needs. As our Board of Governors discussed whether and how to advocate in this complicated arena, they spoke of considerations like respect for and maintenance of relationships with local officials, judges, clerks, and court staff.

What is moving skeptics to allyship is that this bill does not present solutions or answers; it does not malign the current system or presume that centralization is a magical fix. It leads with curiosity, and it centers the people we serve, those who need equitable, consistent access to justice. If enacted, the WSBA and its members will be uniquely positioned to be assets in the research and analysis during the study. Legal professionals are the ones on the forefront, traversing the many local jurisdictions, with perhaps more direct knowledge than any other group of the inefficiencies and inequities caused to clients. It strikes me that members of the general public who seek legal help, especially those who go *pro se,* probably assume that whatever local rules and procedures they encounter are simply the way courts operate universally. It's the perspective of professionals who work across all the various systems that can bring to light best practices and pain points.

Many of the WSBA's strategic priorities[2]—the areas most urgently in need of attention, as identified by members— also stand to benefit from a deep dive into the court-system structure. These are complex problems searching for all-angles solutions. How might we

Terra Nevitt

WSBA Executive Director

Nevitt can be reached at terran@wsba.org or 206-727-8282.

This bill does not present solutions or answers; it does not malign the current system or presume that centralization is a magical fix. It leads with curiosity, and it centers the people we serve, those who need equitable, consistent access to justice.

MORE ONLINE

Read the WSBA's proclamation in support of a statewide study to learn more about the inefficiencies and inequities created by local court rules, funding, and technology at **www.wsba.org/about-wsba/legislative-affairs**.

Follow the 2025 legislative session at **https://leg.wa.gov/**.

ease the crisis of attorney shortages by making rural court systems more accessible to legal practitioners across the state—whether through remote access or common procedural rules? How might we capitalize on sweeping legal technology innovations and opportunities to maximize the reach and operations of all courts? The proposed study is an exercise in possibility.

My expectation is that, if and when this bill is enacted, the WSBA's seat on the blue-ribbon commission will carry the full voice and experience of our members to the table. Our process will include robust outreach to and surveying of legal professionals to collect the data that will allow us to give shape and scope to problems and opportunities.

Please join us in the journey ahead this legislative session and beyond. Your voice, experience, and perspective matter. BN

NOTE

1. See the online version of this article for a link to track the status of the bill at wabarnews.org.
2. See https://wabarnews.org/2024/03/08/bar-in-brief-the-fab-four-strategic-goals-coming-in-fy-24/.

The 'Respect Zone'

An interview with King County District Court Judge Michael Finkle

At a time when faith in and respect for our justice system is ebbing, I was honored to interview King County District Court Judge Michael Finkle. Before we get to the interview, I want to share explanations of two terms of art used by Judge Finkle, "access to justice" and "therapeutic justice." The National Center for Access to Justice defines "access to justice" as: "... when people encounter life problems that touch the law, they will be able to understand and assert their rights in a neutral process pursuant to the fair rule of law and enforce the result."[1] Therapeutic justice has been defined in the *National Institute of Justice Journal* as "an option that promotes health and does not conflict with other normative values of the legal system."[2] Judge Finkle adds to this understanding of therapeutic justice with follow-up questions:

1. Is there an impediment to the individual's ability to follow the law (and to lead a better life)?
2. If so, is there an option that offers a reasonable likelihood of removing or reducing that impediment?
3. If so, then the court should implement the option.

What follows is an edited transcript of my interview with Judge Finkle.

Q. How did you come to develop your insights about the connection between principles underlying therapeutic justice and access to justice?
A. As I started looking at things we were doing in therapeutic courts, I thought of how they could be applied more widely. We talk about "taking to scale," which involves integrating ideas from the therapeutic justice model to the non-therapeutic justice model. Those ideas include eliminating impediments to those accessing the court system as well as expanding the notion of access to justice beyond decision making to include procedural justice.

Q. In the presentation you give on therapeutic court principles, you have described impediments to include barriers with respect to language, culture, understanding of the proceedings, lack of time with the judge, and belief that the judge does not care. What do you as a judge do to mitigate or eliminate those impediments?
A. I always start my calendar by saying "hello" to those in my courtroom. The simple act of saying "hello" is humanizing and shows defendants that the court notices them. I pay attention to the names of those individuals in front of me by asking simply, "How do I pronounce your name?" and I work to get it right. I had a person who spoke Mandarin who told me that I pronounced his name better than his wife did! My goal for defendants is for them to understand what is happening to them in court. Defendants will notice if you treat them like they matter, *and* if you treat them like they don't.

Q. What about the notion of procedural fairness and its connection to access to justice?
A. Access to justice is more than providing resources to people; it's also about enabling people to understand the legal process and how judges make the decisions that they do. It's about engaging defendants and litigants with the process and providing appropriate validation to them. This ties in with promoting respect.

Q. Can you talk a little about respect?
A. If I treat someone with respect who has never before been treated with respect by anyone in the legal system, I may have started to heal a rift between that person and the system. I always say that my court is a "respect zone."

Q. Is this connected to civility?
A. Yes, if I as a judge am not civil no one else in my courtroom can be.

Q. In your presentation, you talk about importing some non-treatment components of therapeutic justice to our general court system, such as explaining the process (and law, if necessary), connecting with litigants by talking with them, not at them, and engaging in at least some conversation with each party. You also talk about judges and lawyers taking the time they need to do this, and your presentation delves into an interesting discussion about how to approach the concept of time. Can you elaborate on this?
A. Typically when judicial resources are allocated, they are done so according to a formula that allots a certain amount of time per case. It has become a "rocket docket" mentality which values speed in getting through cases at all costs. But what if we adopted a different approach? What

Sunitha Anjilvel
WSBA President

Sunitha Anjilvel is the 2024-2025 WSBA president. She can be reached at sunitha@amlawseattle.com.

if we looked at the value of time in a case from an access-to-justice perspective? That value cannot be quantified in a traditional sense and we need to look at that. We in the judicial system currently serve two masters: efficient time management of calendars versus access to justice for real people. We need to change this.

Q. What message would you give to lawyers and legal professionals about this model of access to justice?

A. It does not take away from your case to give your clients more time to understand the legal process they face. Patience will result in better outcomes for your client and greater client satisfaction.

Michael Finkle has served as a judge of the King County District Court (KCDC) since March 2010. He currently presides at the KCDC Issaquah Courthouse. In addition to previously serving as a criminal trial judge, Judge Finkle has presided over the district court's Regional Mental Health Court and Regional Veterans Court. He is a member of the Washington Supreme Court's Gender and Justice Commission, the judicial member of the Washington State Bar Association's Well-Being Task Force, and a board member of the Joint Minority Mentorship Program. Judge Finkle also chairs the statewide subcommittee that is responsible for creating and maintaining standard form orders for criminal cases in which defendants have a mental illness that might interfere with their ability to proceed. BN

NOTES

1. "What is Access to Justice? Protecting Rights and Securing Basic Needs," National Center for Access to Justice, https://ncaj.org/what-access-justice.
2. David Rottman and Pamela Casey, "Therapeutic Jurisprudence and the Emergence of Problem-Solving Courts," July 1999, *National Institute of Justice Journal*, www.ojp.gov/ncjrs/virtual-library/abstracts/therapeutic-jurisprudence-and-emergence-problem-solving-courts.

CLIENT PERJURY: THAT SINKING FEELING

BY MARK J. FUCILE

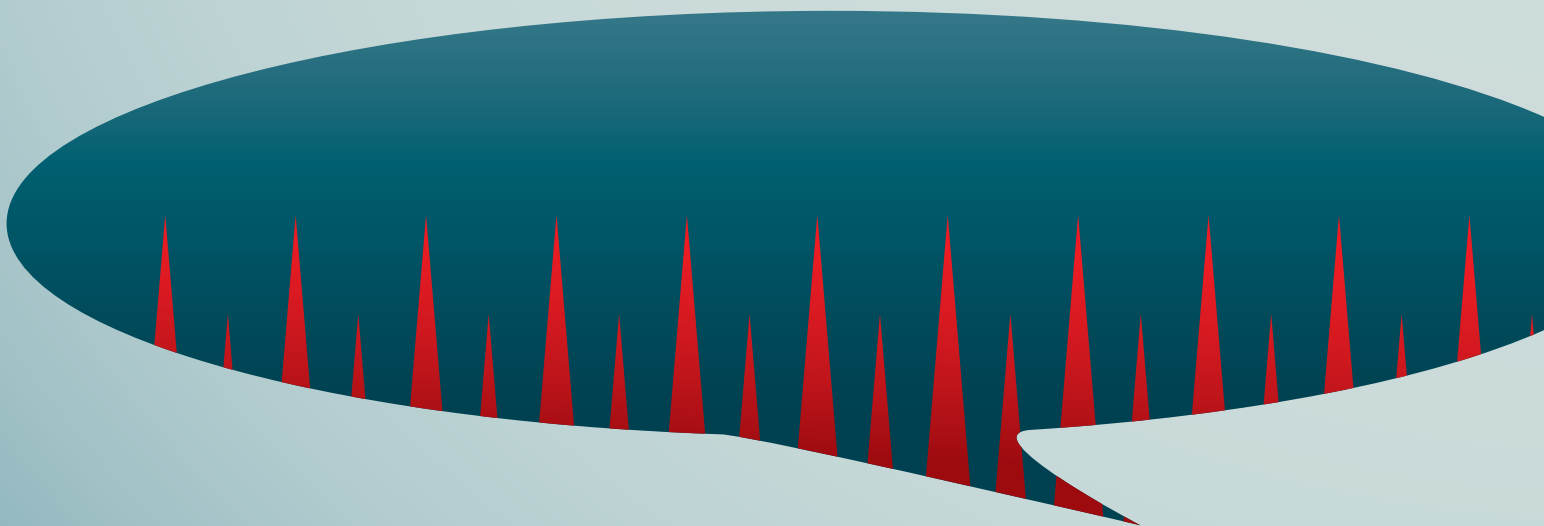
Imagine this scenario: You are defending your client's deposition in a hard-fought commercial case. You prepared your client thoroughly for the deposition and the morning session went well. The deposition will continue in the afternoon. Over the lunch hour, your client admits they lied on a key point. That revelation takes away your appetite for the sandwich sitting in front of you. What do you do?

RPC 3.3(c) addresses the uncomfortable situation when a lawyer "has offered material evidence and comes to know of its falsity[.]"[1] Although the rule provides straightforward guidance, that likely won't make the personal dynamic any easier.[2] Because Washington's rule varies somewhat from its ABA Model Rule counterpart, we'll begin by briefly surveying the Washington version for context. We'll then turn to the difficult conversation that must be had with the client involved. Finally, if the client will not voluntarily correct the testimony, we'll discuss how to approach the court to withdraw.

Before we do, three qualifiers are in order.

First, as our opening example illustrates, for many civil litigators client perjury often surfaces in depositions rather than trials simply because the former precedes the latter. Comment 1 to RPC 3.3 notes that the rule applies with equal measure to an "ancillary proceeding" like a deposition. Therefore, although the rule certainly applies to trials, we'll focus on the corrective actions available pretrial.

Second, in my experience advising lawyers over the years in this unhappy predicament, virtually all involved situations where the clients disclosed the perjury to the lawyers—either directly or with a slight nudge from the lawyer when the testimony involved did not sound consistent with what the client had told the lawyer earlier. We'll take that approach here.[3] That said, the ABA addressed the issue of "reasonable suspicion" that a client may be committing a crime or fraud using the lawyer's services in Formal Opinion 491 (2020). Drawing on authority nationally and across several areas within the ABA Model Rules, Formal Opinion 491 makes the point that a lawyer cannot simply adopt a posture of "deliberate ignorance or willful blindness" without risking being held culpable for the client's wrongdoing. The duties under RPC 3.3(c) are triggered when a lawyer "knows" that a client has testified falsely. "Knows" is defined as actual knowledge under RPC 1.0A(f). Actual knowledge, however, can be "inferred from circumstances" under that same definition.[4] Comment 8 to RPC 3.3 puts it this way: "[A]lthough a lawyer



should resolve doubts about the veracity of testimony or other evidence in favor of the client, the lawyer cannot ignore an obvious falsehood." In short, although the standard under RPC 3.3(c) is actual knowledge, lawyers need to carefully evaluate, as Comment 8 suggests, whether a client's testimony is obviously false. If something just doesn't add up, therefore, lawyers are often prudent to push back on the client's story in deposition preparation to avoid having the client dig themselves (and the lawyer) a hole that can be difficult to find their way out of.[5]

Third, we'll focus on civil rather than criminal proceedings. Although the rule is the same in criminal proceedings, the application can vary in light of a criminal defendant's right to testify on their own behalf. Professors Tom Andrews and the late Rob Aronson discuss this intersection in detail in their treatise, *The Law of Lawyering in Washington* (Wash. State Bar Assoc. 2012).[6]

THE WASHINGTON RULE

Washington RPC 3.3 contains a subtle, but significant, variation from the corresponding ABA Model Rule when it comes to potential disclosure of client perjury.

Illustration © Getty/erhui1979

Under ABA Model Rule 3.3(a)(3), a lawyer who comes to know that a client has committed perjury "shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal." Under Washington RPC 3.3(c), by contrast, a lawyer in that situation "shall promptly disclose this fact to the tribunal unless such disclosure is prohibited by RPC 1.6."

In other words, while candor toward the tribunal trumps confidentiality in the ABA Model Rule, the Washington rule puts the policy accent on confidentiality over candor. This distinction is not coincidental.

When the ABA Model Rules were developed in the early 1980s, the American College of Trial Lawyers suggested that the duty to disclose under Model Rule 3.3 be tempered with the phrase "unless disclosure is prohibited by Rule 1.6."[7] The proposal was rejected. Washington, however, added the American College of Trial Lawyers' qualifier.[8]

When the ABA Model Rules were later amended in the early 2000s, the ABA made the duty to disclose more specific by adding the phrase noted above: "including, if necessary, disclosure to the tribunal."[9] The WSBA proposed moving to the Model Rule formulation in the wake of the ABA amendments.[10] The Supreme Court, however, rejected that suggestion and retained the qualifier "unless disclosure is prohibited by RPC 1.6."[11]

Commentators have noted that this distinction may be illusory in the sense that perjury is a crime[12] and Washington RPC 1.6(b)(2) allows a lawyer to "reveal information relating to the representation of a client to prevent the client from committing a crime[.]"[13] Nonetheless, although disclosure is required under the ABA Model Rule, the exception to confidentiality under Washington RPC 1.6(b)(2) is discretionary. In short, while disclosure is mandated under the ABA Model Rule, it remains discretionary under the Washington rule—with that discretion tethered to RPC 1.6(b)(2).[14]

Although the standard is actual knowledge, lawyers need to carefully evaluate whether a client's testimony is obviously false.

Mark J. Fucile of Fucile & Reising LLP handles professional responsibility and risk management for lawyers, law firms, and legal departments throughout the Northwest. He is a former chair of the WSBA Committee on Professional Ethics and has served on the Oregon State Bar Legal Ethics Committee. He is editor-in-chief of the WSBA's *Washington Legal Ethics Deskbook* and is a principal co-editor of the WSBA's *Law of Lawyering in Washington* and the OSB *Ethical Oregon Lawyer*. He also teaches legal ethics as an adjunct for the University of Oregon School of Law at its Portland campus. He can be reached at 503-860-2163 and mark@frllp.com.

TALKING TO THE CLIENT

RPC 3.3(d) requires a difficult conversation with the client once a lawyer learns of the perjury:

> If the lawyer has offered material evidence and comes to know of its falsity, and disclosure of this fact is prohibited by Rule 1.6, the lawyer shall promptly make reasonable efforts to convince the client to consent to disclosure.

Although a client may initially be reluctant to "fess up," having the lawyer tell the client that the lawyer will at least need to withdraw (or that the lawyer will disclose the perjury on their own) if the testimony is not corrected is usually enough to convince the client to make the necessary correction voluntarily.

While it won't make the conversation any easier, client perjury is usually easier to "fix" when it occurs during a deposition than at trial. Assuming the client agrees to the correction, the lawyer can inform opposing counsel that the client wishes to correct a portion of the client's earlier testimony when the deposition resumes. If the deposition has concluded, the lawyer can instead inform opposing counsel that the record should be reopened and corrected.[15]

The fact that revelation of the perjury will likely harm the client's case is not a reason to avoid the discussion. RPC 3.3 is entitled "Candor Toward the Tribunal" and underscores that we have duties to the court as well as our clients. Comment 2 to RPC 3.3 puts it this way:

> A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client's case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal.

CONTINUED >

WITHDRAWAL

RPC 3.3(d) expressly allows the lawyer to seek leave to withdraw if the client will not correct the testimony:

> If the client refuses to consent to disclosure, the lawyer may seek to withdraw from the representation in accordance with Rule 1.16.

The practical dynamic on withdrawal will vary depending on whether the lawyer has disclosed the perjury to the court or not.

If the lawyer has exercised the discretionary exception to confidentiality under RPC 1.6(b)(2) discussed above and disclosed the client's perjury, courts will usually recognize that the attorney-client relationship has likely been irretrievably broken and permit withdrawal. Comment 15 to RPC 3.3 notes that a lawyer in this circumstance may be required to withdraw when "the duty of candor results in such an extreme deterioration of the client-lawyer relationship that the lawyer can no longer competently represent the client." Because the reason for the withdrawal will ordinarily be clear through the disclosure of the perjury, this situation does not usually involve the delicate confidentiality issues present when the lawyer has not disclosed the perjury.[16]

By contrast, if the lawyer opts to withdraw without revealing the perjury, the lawyer will need to tread carefully through the confidentiality rule. WSBA Advisory Opinion 201701 (2017)[17] addresses navigating confidentiality considerations when withdrawing and should be read closely in this situation. The opinion counsels that confidential information should not be disclosed in either public motion papers or public proceedings and that, if required to seek leave of the court,[18] the shorthand that "professional considerations" require withdrawal should usually be sufficient to inform the court without compromising client confidentiality.[19] If, however, the court orders more (and, therefore, triggers the exception under RPC 1.6(b)(6) for revealing otherwise confidential information in response to a court order), the lawyer is permitted to reveal more but, as Advisory Opinion 201701 suggests, should use available protective procedures such as an *in camera* hearing (preferably *ex parte* with permission of the court) and sealed filings.[20] BN

NOTES

1. The word "offer" in this context is used in the sense that a lawyer's client has presented testimony that is materially false. *See generally* ABA, *A Legislative History: The Development of the ABA Model Rules of Professional Conduct, 1982-2013* (ABA Legislative History) at 473-74 (2013) (discussing the scope of "offering" material false evidence). RPC 3.3(c) should also be read in conjunction with RPC 3.3(a)(2), which reads: "A lawyer shall not knowingly … fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client unless the disclosure is prohibited by Rule 1.6[.]"). "Tribunal," in turn, is defined broadly under RPC 1.0A(m) to include courts, administrative proceedings, and private arbitration. Read together, these provisions are intended to protect the integrity of the adjudicative process. Therefore, the key for present purposes is that the client has testified falsely on a material point—not whether the false testimony was in response to a question on direct, cross-examination, or from the court. The Washington Supreme Court has interpreted the qualifier "material" used in RPC 3.3 as "those facts upon which the outcome of the litigation depends in whole or in part." In re Dynan, 152 Wn.2d 601, 613-14, 98 P.3d 444 (2004).
2. By its terms, RPC 3.3(c) is not limited to clients and can include non-client witnesses whose testimony the lawyer has offered. Because client confidentiality issues are not usually triggered in this situation, however, the analysis—and the personal dynamic—are generally more straightforward than when client perjury is involved.
3. In theory, a client could also disclose to a lawyer an intent to commit perjury in the future. Although public statistics are not available on this point, anecdotal evidence from my advisory practice suggests that this scenario is rare. In any event, under RPC 3.3(e), "[a] lawyer may refuse to offer evidence the lawyer reasonably believes is false."
4. In State v. Berrysmith, 87 Wn. App. 268, 944 P.2d 397 (1997), the Court of Appeals suggested a test of "reasonable belief." *Berrysmith* has been criticized by knowledgeable commentators as inconsistent with the actual knowledge standard in Washington RPC 3.3 through its use of the terms "knowingly" and "knows." *See* Thomas R. Andrews & Robert H. Aronson, *The Law of Lawyering in Washington*, Ch. 6, at 6-39 through 6-43 (2012) (Andrews and Aronson); *see also* Brooks Holland, "Confidentiality and Candor Under the 2006 Washington Rules of Professional Conduct," 43 *Gonz. L. Rev.* 327, 365-66 (2008) (Holland).
5. ABA Formal Opinion 491 (at 7) frames this approach as a part of the lawyer's duty of competent representation. RPC 3.3(a)(4) expressly prohibits a lawyer from knowingly offering "evidence that the lawyer knows to be false."
6. *See* Andrews and Aronson, *supra* note 4, at 6-36 through 6-39 (2012); *see also* Nix v. Whiteside, 475 U.S. 157, 106 S. Ct. 988, 89 L. Ed.2d 123 (1986) (addressing client perjury in the context of effective assistance of counsel); ABA Formal Op. 87-353 at 3-4 (1987) (discussing *Nix*). *See also* Holland, *supra* note 4, 43 *Gonz. L. Rev.* at 365-66 (discussing the interplay between RPC 3.3 and a criminal defendant's constitutional right to testify); RPC 3.3, cmt. 7 (addressing criminal proceedings); ABA, *Annotated Model Rules of Professional Conduct* at 413-15 (10th ed. 2023) (compiling authorities nationally on this point).
7. ABA Legislative History, *supra* note 1, at 458 (recommending that qualifier to ABA Model Rule 3.3(a)(2) and (c)).
8. Jan. 18, 1985, Letter from WSBA Board of Governors to Washington Supreme Court recommending adoption of ABA Model Rules with selected changes at 3 (WSBA Archive); Robert H. Aronson, "An Overview of the Law of Professional Responsibility: The Rules of Professional Conduct Annotated and Analyzed," 61 *Wash. L. Rev.* 823, 863 (1986) (Aronson) (surveying the then-new Washington RPCs).
9. ABA Legislative History, *supra* note 1, at 468-69.
10. WSBA, *Reporter's Explanatory Memorandum to the Ethics 2003 Committee's Proposed Rules of Professional Conduct* at 179-181 (2004).
11. *See* Washington Supreme Court Order 25700-A-851, July 10, 2006 (adopting amendments to RPCs); Douglas J. Ende, "Supreme Court Adopts 'Ethics 2003' Amendments to Rules of Professional Conduct," 60 No. 9 *Wash. St. Bar News* 13, 14 (Sept. 2006) (discussing Washington Supreme Court's rejection of WSBA proposed amendments to RPC 3.3).
12. RCW 9A.72.020; 18 U.S.C. § 1621.
13. Holland, *supra* note 4, 43 *Gonz. L. Rev.* at 362 ("This distinction between Model Rule 3.3 and 2006 RPC 3.3 largely may be obviated, however, by the broader 'any crime' disclosure authorized by 2006 RPC 1.6(b)(2)."); *see also* Andrews and Aronson, *supra* note 4, at 6-37. This approach implicitly assumes that the effect of the perjury is ongoing, as RPC 1.6(b)(2) is framed in terms of preventing a client from committing a crime. Under RPC 3.3(b), a lawyer's duty to correct a material fact when "necessary to avoid assisting a criminal or fraudulent act by the client" under RPC 3.3(a)(2) continues until the conclusion of the proceeding. Comment 13 to RPC 3.3 explains that this obligation continues until a final appellate judgment or the equivalent has been entered in the proceeding concerned.
14. *See* WSBA Advisory Op. 1236 (1988) (with abbreviated analysis, essentially reaching

this conclusion). There is an argument that because Washington uses the word "prohibited" in RPC 3.3(a) and (c) with reference to RPC 1.6 and, in a sense, disclosure is not absolutely "prohibited" because RPC 1.6(b)(2) allows discretionary disclosure, that disclosure is actually mandatory under RPC 3.3. *See* ABA Legislative History, *supra* note 1, at 468 (mentioning this argument when discussing similar provisions under the former ABA Model Code). The counterargument is that if the Washington Supreme Court wanted mandatory disclosure, it could have simply adopted the ABA Model Rule in 2006 as the WSBA suggested. The Supreme Court, however, rejected the ABA formulation. Therefore, it is for the Supreme Court to clarify if it believes the approach it adopted is ambiguous.

15. Because opposing counsel will likely wish to examine the client on the correction, simply attempting to make the correction on a deposition correction sheet is an impractical alternative.

16. The discretionary exceptions to confidentiality under RPC 1.6(b), however, limit disclosure "to the extent the lawyer reasonably believes necessary[.]" *See also* RPC 3.3, cmt. 15 ("In connection with a request for permission to withdraw that is premised on a client's misconduct, a lawyer may reveal information relating to the representation as permitted by Rule 1.6.").

17. WSBA Advisory Opinion 201701 can be found at https://ao.wsba.org/print.aspx?ID=1687.

18. RPC 1.16(c) requires that a lawyer withdrawing in a court proceeding comply with any applicable rules of the forum. Unless the client or the opposing party objects, CR 71(c) allows withdrawal on notice. If there is an objection, however, CR 71(c)(4) requires court permission. Similarly, LCR 83.2(b) in the federal Western District and LCivR 83.2(d)(4) in the Eastern District generally require court approval to withdraw.

19. RPC 1.16, cmt. 3 ("The court may request an explanation for the withdrawal, while the lawyer may be bound to keep confidential the facts that would constitute such an explanation. The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient.").

20. If the lawyer has incorporated the client's perjury into a statement the lawyer has made, *see* RPC 3.3(a)(1) on the duty to correct. Washington also recognizes so-called "noisy withdrawal" where a lawyer, without saying why, disavows representations previously made. *See* RPC 1.6, cmt. 27; Dewar v. Smith, 185 Wn. App. 544, 342 P.3d 328 (2015) (discussing concept in context of accountants); *see also* ABA Formal Op. 92-366 (1992) (discussing contours of "noisy withdrawal").

YOU BECAME A PUBLIC DEFENDER TO FIGHT AGAINST THE HARMS OF THE CRIMINAL LEGAL SYSTEM.

JOIN THE FUTURE OF PUBLIC DEFENSE.

At the King County Dept. of Public Defense (DPD), we're implementing new caseload standards that are long overdue.

Starting in July 2024, DPD began implementing groundbreaking new caseload standards from the ABA/RAND Study, weighting cases from 1 to 8 based on seriousness and significantly lowering caseloads. For example, a murder case is worth 7 credits.

WSBA's New Caseload Standards

- In 2025, a maximum of 110 weighted felony credits
- In 2026, the limit reduces to 90 weighted felony credits
- In 2027, weighted felony credits limited to 47

Be the lawyer you always wanted to be

At King County DPD, you'll have:

- Felony and misdemeanor caseload limits
- Robust funding for expert witnesses
- Support from skilled, in-house investigators and mitigation specialists
- Supportive and inclusive workplace

We value your passion and experience

- Salary range: $103,272 - $163,621
- Comprehensive medical benefits
- Strong union workplace
- Well-funded and secure pension
- Ongoing training opportunities

If you have 3+ years as a criminal defense attorney or civil litigator and trial experience, join us.

READY TO LEARN MORE?

Visit kingcounty.gov/dpd/jobs or email dpd-hr@kingcounty.gov
Equal opportunity employer

King County
Department of PUBLIC DEFENSE

Illustration © Getty/Natalya Kosarevich

INNOVATIONS IN LEADERSHIP:

Why You Need to Rely on Others

BY JORDAN L. COUCH

Lawyers are not general experts. I know this may come as a surprise to some readers, but having a J.D. doesn't qualify you to do anything other than practice law. What's more, there are many who think that having a J.D. by itself doesn't even qualify you to practice law without passing additional tests. Why is this important? Every law firm is, at its core, a business like any other (if you disagree, take a look at the business license you have on file in your office). In order to be successful, you need to employ knowledge on a wide variety of topics, from the obvious accounting and sales to the more abstract client experience and growth modeling. Even in larger firms it's common to see all of the leadership roles held by attorneys, and as a result firm operations are often run poorly and inefficiently. Clio's latest Legal Trends Report demonstrated that lawyers are spending less than three hours in an eight-hour day on billable work and yet 48 percent of those same lawyers are failing to respond when potential clients are calling. It's time we bring law firm leadership into the 21st century by recognizing our own limitations and learning to identify and trust the experts we need to build the most successful law firms.

WHY YOU NEED EXPERTS

Leadership isn't about doing it all yourself. It's about building the right team of people, setting goals, and empowering your team members to achieve those goals. The leader doesn't have to be the best at each role that has to be performed. A baseball coach doesn't become a great team leader by being better at every position than the players. And

CONTINUED >

even if you are the best, is it the best use of your time to be telling every employee how to do their job? Lawyers need experts because (1) we don't know everything, and (2) we have things to do that are better suited to our skills. Sometimes that will mean hiring outside consultants. At other times that will mean hiring expert employees. It all depends on the specific need and the circumstances of your firms. Examples of both will be discussed below.

To some extent every law firm already understands this principle. Partners at firms give work every day to associates and paralegals that perhaps they could do themselves but are better in the hands of another. Yet in many other realms (management, IT, marketing) I see lawyers often try to do it themselves or worse, hire an expert and then try to dictate to the expert how best to complete a task. Does your firm have an IT expert to help you set up your computer systems? If not, do you know what "packet sniffing" and "sim swapping" are? If your answer to either question was "no," you're probably in the danger zone. Understanding both those terms has engendered enough fear in me that I won't be getting rid of my firm's IT team any time soon.

An expert: A basic example

My firm, like most injury firms, does a lot of marketing: SEO, radio ads, over-the-top videos, pay-per-click, social media, banner ads, geotagging, good old-fashioned networking, and the list goes on (including the ads you may see in this magazine). Over the years we've gotten pretty great at all of these, but to pretend that we have the capacity as lawyers to also be experts in each of these categories would be silly. So we outsource it. We trust our radio marketing team to advise us on the type of ads we should run and where we should run them. We trust our web marketers to manage our SEO and buy ads on the right search terms. It's not that we don't check in to make sure it's working, but we don't tell them what to do. We tell them the result we want and trust them to know how best to achieve that result.

This is not to say that we aren't aware of and signing off on what's happening. Our marketing consultants are expected to be able to explain plans to us in a way we understand so that we can hold them accountable to expected results. Just because you aren't second-guessing your experts doesn't mean you don't need to be able to assess their results.

Leading with data is a key tool for any forward-thinking law firm and it's especially important when working with outside experts.

An expert: A more innovative example

When Palace Law began a process of firmwide technology and systems improvement, we knew we needed help. Not only did we consult with friends who had expertise in project management, but we also decided to hire someone to lead the change in our office. The project manager we hired had training in agile project management and technology. With her help our firm increased profitability by 76 percent in one year. The practice of law is an old profession and thereby one with a lot of room for improvement. As lawyers, our training often does not include any of the skills necessary to make these types of improvements. If you don't have the ability to hire someone to be your full-time operations manager (the title our project manager has moved into), there are outside consultants with expertise in law practice (e.g., Lawyerist or John Grant of Agile Attorney Consulting) to help you improve on your business systems.

HOW TO FIND & ASSESS EXPERTS

Finding experts willing to sell their services to lawyers is easy (just open your LinkedIn account). But deciding who you should work with is a challenge. First, you need to decide what you want. Less time stuck in tech problems? A better tax return? Or just more free time to actually practice law? Whatever it is, step two is laying out metrics for how you will decide whether those experts have met your expectations.

Any expert you choose to work with should treat you not like a customer they are selling services to, but rather like a partner who wants to work with you to make your firm succeed. When you're a customer, the vendor expert will talk to you about their services but won't ask about your firm. A partner expert wants to know every detail of your firm before offering guidance on how they can help. A vendor will tell you what metrics you should measure them by. A partner will ask what metrics matter to you. A vendor will always have a way to spend more of your money. A partner will be open about the limitations of what they can offer and help you vet other opportunities to fill additional needs.

Lead with data

"If I'm supposed to trust my experts and not second-guess them, how can I also hold them accountable and fire them if they are not performing up to the standards I need?" Leading with data is a key tool for any forward-thinking law firm and it's especially important when working with outside experts. If you aren't measuring data, you have no way of knowing what's working and what isn't. With outside experts it's important to set objective goals tied to your firm's business plan. Work with experts to determine what are reasonable, measurable goals with definite timelines. Avoid a mismatch between your goals and the expert's deliverables. For instance, a lot of marketing companies want to brag about how they can increase the number of calls you're getting. But calls aren't what you want—you want new clients, and new clients only come from a particular subset of calls.

Trust your experts (or fire them)

I've sat in too many meetings with lawyers who are questioning and arguing in response to everything being told to them by an expert they asked for advice. Please don't do that. Admittedly it's a tendency I under-

Jordan L. Couch is a partner at Palace Law. Outside of his practice, Couch is heavily involved in state, local, and national bar associations, advocating for a better, more client-centric future to the legal profession. Contact him at jordan@palacelaw.com.

stand. I am a litigator and I regularly have to cross-examine doctors about their medical opinions. But that energy isn't helpful in running your business. Assess your experts, hold them accountable, but if you feel the need to cross-examine their recommendations, they probably aren't the right expert for you. Trust them or find someone new.

Limitations in our profession

At this point you might be asking, is hiring experts really innovation? Until the leadership of most firms evolves beyond attorneys filling every role, the unfortunate answer is yes. Our CEO at Palace Law, for instance, is a talented lawyer who also has a business degree. These days the latter is at least as important as his J.D. in his day-to-day work. "This is all interesting, Jordan, but using outside experts all the time is really expensive and hiring them even more so. Plus, I can't have a partner in my company who isn't a lawyer." You're right. An unfortunate aspect of the legal profession is that long ago we installed structural barriers that make it substantially harder for us to access broad expertise in the way other industries do. Firm ownership rules make it nearly impossible to bring on a skilled C-suite that can invest in and profit along with the success of your firm. Thankfully there are experiments in other states and across the Atlantic that have had promising results allowing nonlawyers (for lack of a better word) to partner with lawyers in delivering legal services. The results out of Utah and Arizona's experiments have been small so far, but promising.[1] Lawyers have been able to partner with tech talent, marketing talent, and just simple capital to offer better services to more people. Opportunities like that may be coming to Washington with the Supreme Court's authorization for the pilot project to examine legal regulation[2] and lawyers are the ones who stand to benefit the most. Find the experts who can add value to your firm and start talking about what a partnership might look like. BN

NOTES

1. *See, e.g.*, https://utahinnovationoffice.org/; www.lawnext.com/2020/08/arizona-is-first-state-to-eliminate-ban-on-nonlawyer-ownership-of-law-firms.html.
2. Read the Washington Supreme Court's order at www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/Order%2025700-B-721.pdf.

GRAPHICALLY SPEAKING:

Infusing Ever More Value Into the License Fee

What new long-term license fee philosophy will guide the WSBA's work into the future?

BY WSBA STAFF

A core tenet of Washington State Bar Association leaders is infusing value into each license to practice law. Toward that end, the 2025 licensing season marks the sixth year in a row with no increase to the $458 active-attorney fee (a fee that has risen only $9 since 2018).

While the license fee has remained flat, the work of the Bar has not. The WSBA's court-ordered mission is to uphold and support an integrous legal profession that champions justice for all Washingtonians. To do that, the WSBA—like most of you—must keep pace with the growing complexities and opportunities of the modern legal system by continually prioritizing and pivoting, adapting and renewing, firefighting and innovating.

Therein lies the tightrope of the annual license fee: Respecting members' pocketbooks while maintaining compulsory regulatory and service standards at the highest levels. Previous editions of this "Graphically Speaking" column have explored two ideas—one, how strategic financial decisions have allowed the license fee to remain flat for so long[1] and, two, how a "steady" license fee is, in fact, a significantly diminishing fee when adjusted for inflation year to year.[2] This edition of "Graphically Speaking" delves into the other side of the equation, which is the value proposition of the license fee—*the punch your fee is packing!*—as the WSBA's work has been growing in complexity and size even as revenue has declined.

GROWTH AND COMPLEXITY

The numbers themselves tell the tale of growth: While the license fee has increased 2 percent since 2018, the total size of membership has grown 7 percent. That translates into escalating service needs, such as 80 percent more bar-exam disability accommodation requests, 7 percent more admissions applications, and 19 percent more requests for license status changes per year than in 2018, just to name a few.

What the statistics don't convey is the

MORE ONLINE

Graphically Speaking Series

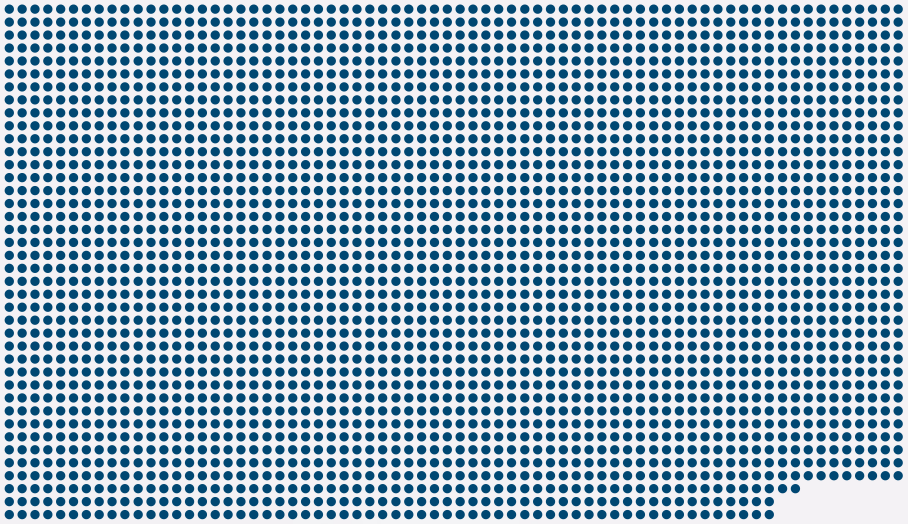
> Read the November 2024 installment for more information about the WSBA's new office lease, smart investments, and other strategic decisions that have allowed us to keep license fees steady for the past six years.

> Read the December/January 2025 installment for more information about how the "steady" license fee is, in fact, a diminishing license fee when adjusted for inflation year to year.

wabarnews.org

License fee increase 2018-2025: **+$9**
$$$$$$$$$

Total membership size increase 2018-2025: **+2,772**



growth of complexity across all facets of the WSBA's court-defined scope of work. These are best illustrated through some examples:

- **Technology needs.** The rapid advancement of technology is accelerating the aging process for software systems to the point where they are unsuitable for modern usage, at best, and obsolete, at worst. The WSBA's current association management software—the backbone for WSBA membership and the system of record serving all other systems—is reliant on software and operating systems that are approaching end-of-life, which means replacement is critical. This is a cannot-fail, cannot-postpone, time-intensive project requiring momentous staff time across all departments. And it's the tip of the iceberg. In recent years, the applications for the discipline, admissions, and MCLE systems have all needed total replacements. Additionally, a top priority is continually escalating internal and external security measures (many of which are insurance requirements) to stay ahead of generic cyber threats and the growing number of targeted scams aimed at bar associations. The financial context for all this work is significant price increases for upgrades, updates, and subscriptions across the world of information technology; the cost in terms of WSBA staff time is significant for each and every one of these IT projects.

- **Challenges and opportunities.** Eliminating "legal deserts" in rural communities, providing cutting-edge assistance and guidance for using technology in legal practices, creating robust member wellness resources informed by best practices: These are among the most urgent issues facing the legal community, as reported by members statewide. The WSBA has responded by creating corresponding committees that are engaging with members to deeply understand the challenges and opportunities, researching and working with leading experts across the nation, and delivering concrete recommendations for action. The Small Town and Rural Council, for example, has many initiatives already underway including an annual stakeholder summit to share ideas and generate solutions, well-attended statewide rural job fairs, and grants to attract law students to rural internships.

- **Regulatory initiatives.** Part of the WSBA's duties include scanning the horizon for regulatory trends and

CONTINUED >

Photo © Getty / Fasai Budkaew

SIDEBAR

COMPARING 2018 TO 2025

Active-attorney license fee: **+2%**

2018	2025
$449	$458

Total membership size: **+7%**

2018	2025
39.8K	42.6K

WSBA Staffing (FTEs): **+4%**

2018	2025
141.5	147.5

Number of disability accommodation requests for the bar exam: **+80%**

2018	2025
56	101

Number of requests for license status changes: **+19%**

2018	2025
176	209

Number of admissions applications: **+7%**

2018	2025
2,495	2,677

Average number of days to process a case from filing of charges to imposition of discipline: **-36%**

Number of requests for disciplinary history certificates: **+34%**

innovations that might better serve the public and legal practitioners. One recent initiative illustrates how exciting, and prodigious, such projects can be. The Supreme Court-created Bar Licensure Task Force spent three years thoroughly researching the efficacy of the bar exam, resulting in the court's adoption in concept in 2024 of historic, far-reaching changes to Washington's lawyer admissions process.[3] WSBA expertise and representation were foundations of the task force, and the WSBA is now leading the work, guided by an implementation steering committee, to move the court order from theory to practice. The project will require numerous staff and volunteer hours to navigate the intricacies and relationships with partner organizations needed to evolve centuries-old bar admission traditions.

- **Complexity of work.** Consider one recent investigation conducted by the WSBA Office of Disciplinary Counsel. The grievant alleged that a lawyer had sent unsolicited, lewd, sexually explicit messages via social media. The grievant was frightened enough to file a police report. The responding lawyer insisted, under oath, that the social media account in question must have been hacked. The WSBA investigator relied on skills and resources that are fast becoming part of the modern forensic toolkit, although unheard of even a decade earlier: sourcing technology metadata and piecing together a lawyer's user history vis-à-vis the grievant. In this situation, the digital footprint helped prove what otherwise would have been unprovable—that the respondent was lying to the Office of Disciplinary Counsel—leading to a public discipline order.

The WSBA Budget and Audit Committee is coalescing around the idea of a 'soft landing' for members—gradual annual increases in the license fee to align with the true cost of doing business.

SIDEBAR

Member Benefits

Services that support you in your practice and are available to you as a member of the WSBA at no additional cost:

- Ethics Line
- Legal Lunchbox™ Series
- Legal Research Tool
- Lending Library
- Member Wellness Program
- Job Seeking Assistance
- Practice Management Discount Network
- WSBA Insurance Marketplace
- WSBA CLE
- Mentorship
- New Member Resources

... and others! To learn more, see www.wsba.org/membersupport.

LOOKING TO THE FUTURE: THE COST OF DOING BUSINESS

Recent WSBA treasurers, members of the Board of Governors, and staff are all proud of their commitment and strategic efforts to hold the license fee steady for almost a decade even while continuously growing and adapting to maintain high service levels.

It's respect for members' pocketbooks that has driven this budgeting philosophy since 2018. It's respect for members' pocketbooks that now has them looking to pivot to a more sustainable budgeting philosophy for the future. It is inevitable that license fees will need to increase—but how and when?

The WSBA Budget and Audit Committee is coalescing around the idea of a "soft landing" for members—gradual annual increases in the license fee to align with the true cost of doing business rather than remaining steady until there must be a substantial fee hike. (The latter, for example, is what is happening in California this year, with fees increasing $88 after remaining flat since 2020.) Toward that end, the Board of Governors approved the Budget and Audit Committee's proposal in November for a $10 net increase in fees for 2026.

In March, the Board of Governors will meet for a budget retreat where they will explore how to incorporate the "soft landing" approach into a longer-term budget philosophy. What might that look like? One idea under consideration is an automatic inflation factor built into the fee each year, which can be mitigated by use of reserves or other offsetting factors. Here's how that works out when applied, for example, to the recommended 2026 fee: $468 represents a $10 increase to the active lawyer license; this amount was arrived at by applying the Washington State Department of Labor & Industries Cost of Living Adjustment (COLA) for 2024-2025 of 5.9 percent resulting in a $27 fee increase, minus a $17 use of reserve funds. Looking to the future, this type of budgeting approach might allow us to be mindful of the "soft landing" we need to operate sustainably while creating a cushion to respect members' wallets.

We are going to expand these conversations to include *you* in the coming months as we continue to explore a long-term, sustainable license fee philosophy. Look for more information in *Bar News* in the months ahead. BN

NOTES

1. This includes an office-space lease renegotiation that saves almost $1 million a year compared to the previous agreement; *see* "Graphically Speaking: Strategic Fiscal Oversight Keeps License Fees Steady," in the November 2024 issue of *Bar News*, https://wabarnews.org/2024/11/12/graphically-speaking-strategic-fiscal-oversight-keeps-license-fees-steady/.
2. If license fees had mirrored inflation for the past decade, an active lawyer would pay $705 for the 2025 renewal cycle; *see* "Graphically Speaking: the Value of a Dollar and Creating a New License Fee Philosophy" in the December/January issue of *Bar News*, https://wabarnews.org/2024/12/17/graphically-speaking-the-value-of-a-dollar-and-creating-a-new-license-fee-philosophy/.
3. *See* www.wsba.org/connect-serve/committees-boards-other-groups/licensure-pathways-steering-committee.

FEATURE

TOPPLING THE BARRIERS TO SUCCESS FOR ASIAN AMERICAN FEMALE LITIGATORS

BY ADRIENA CLIFTON

NOTE: A version of this article first appeared in Volume 11 of the *Stetson Journal of Advocacy and the Law* (2024).

Law students are taught that appearance matters, especially when engaging in trial work and oral advocacy. Why? Because appearance itself can be hugely persuasive. Not only do law students learn how to craft strong legal arguments, they learn how to stand up straight when making them, to project and enunciate, to dress neutrally in order to convey rationality, to cover visible tattoos, to move confidently about the courtroom, and to use tone and body language strategically.

Unfortunately, litigators who do not fit the stereotypical idea of what an oral advocate "should" look like must fight harder to establish credibility because, as legal scholar and Columbia Law School Professor Kimberlé Crenshaw writes, "what is understood as objective or neutral is often the embodiment of a white middle-class world view."[1]

Physical appearance and implicit bias present a unique challenge to Asian American female litigators because they are members of a group that is often perceived to be more docile or meek than others. Drawing from my own challenges in fighting such stereotypes, I seek via this article to discuss the common—and often invisible—experiences of Asian American female litigators who face prejudice about both their race and gender.[2]

EXCLUSION OF ASIAN WOMEN

For Asian American women, race and gender cannot be separated, and they often face compounded discrimination as a result of their intersectional identities. These dangers are partly the result of harmful stereotypes about Asian women that persist to this day thanks to xenophobic legislation passed in the 1800s, World War II propaganda, and inaccurate portrayals of Asian women in popular media. They are also the result of the historic, violent, and continued subjugation of women as a social class.

In the United States, Asian men and women were denied citizenship under the Naturalization Act of 1790.[3] They were only allowed into the country as immigrants to provide cheap labor for sugar plantations, mines, railroads, factories, canneries, and farms.[4] Without the rights that come with citizenship, Asians were ostracized and prohibited from obtaining gainful employment, accessing white public classrooms, and owning property.[5] In 1882, the Chinese Exclusion Act suspended immigration of Chinese laborers altogether for 10 years and forbade Chinese immigrants from naturalizing.[6]

This pattern of excluding Asians from American society continued with the intern-

ment of Japanese Americans during World War II. President Franklin D. Roosevelt authorized the removal of more than 110,000 Japanese Americans from their homes and forced them to live imprisoned in isolated camps.[7] The United States also engaged in propaganda campaigns against Japanese people at this time in an effort to dehumanize the enemy. The barbaric and subhuman stereotypes that resulted were reinforced during the COVID-19 pandemic, and anti-Asian hate crimes in the U.S. increased 339 percent in 2021.[8]

In law, women have been historically prohibited from participating due to their perpetual characterization as "the weaker sex." In 1873, the U.S. Supreme Court denied a woman a license to practice law. The Court's opinion states that women are unfit for many occupations in civil society and that, "The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator."[9] With the same sexist mindset, the American Bar Association refused to admit women until 1935.[10] Harvard Law School refused to admit women until 1950, and other law schools kept the number of female students artificially low by admitting a far smaller percentage of qualified women than men. Women made up only 4 percent of the legal profession in 1970 and only 21 percent in 1991.[11] Today, they continue to lag behind their male counterparts, making up just 38.3 percent of U.S. attorneys while males make up 61.5 percent.[12]

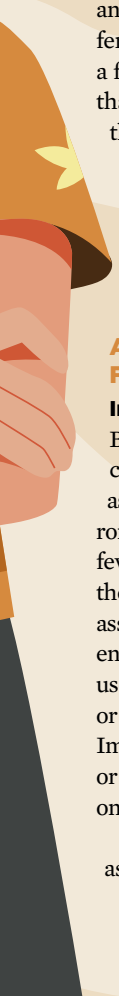


Illustration © Getty/Rudzhan Nagiev

HOW STEREOTYPES AFFECT THE SUCCESS OF FEMALE ASIAN LITIGATORS

Implicit Bias

Bias results from the human need to efficiently classify individuals into categories as people move quickly through their environment. Automatic classifications require few mental resources and little conscious thought, but snap judgments quickly become assumptions people use when faced with new encounters. When these assumptions are used to categorize people by age, gender, race, or other criteria, they are called stereotypes. Implicit bias involves an automatic positive or negative preference for a group, based on one's knowledge of stereotypes.[13]

Implicit bias can be just as problematic as explicit bias when producing discriminatory actions because the individual influenced by implicit bias may be unaware that stereotypes, rather than the facts of a situation, are driving their judgments.[14] This makes implicit bias more difficult to address because people can hold certain harmful beliefs based on inaccurate stereotypes but not feel responsible for changing those beliefs. In the context of oral advocacy, when neutrality is expected but judges and juries are essentially tasked with gauging credibility based on physical appearance, stereotypes are especially dangerous.

Asian American women are caught between two restrictive stereotypes: the sexualized ultra-feminine stereotype pushed by popular media and the model minority myth that has been weaponized against politically active African Americans.[15] Hollywood has pushed one prevailing sexual stereotype—the Lotus Flower trope—which depicts Asian women as subservient, submissive, docile, and helpless.[16] Simultaneously, the model minority myth posits that Asian Americans have overcome discrimination entirely because they are obedient, overly competent, hardworking, educated, intelligent, and ambitious, yet lacking warmth and social skills.[17] Accordingly, Asians, and especially Asian women, are not historically seen as leaders but perfect followers. These stereotypes portray Asian women as weak and antisocial and, as a result Asian women must often work much harder to be taken seriously in their careers.

> For Asian American women, race and gender cannot be separated, and they often face compounded discrimination as a result of their intersectional identities.

According to a survey conducted by the American Bar Foundation and the National Asian Pacific American Bar Association, Asian Americans appear to face significant obstacles in selection processes:

> that involve not only objective measures of ability, but also access to mentorship and subjective criteria such as likability, gravitas, leadership potential, and other opaque or amorphous factors that may inform whom judges, faculty members, or law firm partners regard as their protégés ... We conclude that Asian Americans would benefit greatly from more institutional supports that counteract stereotypes and facilitate relationship building, development of soft skills, and leadership opportunities.[18]

These factors also contribute to the notoriously difficult path for Asian American women to advance in the legal profession. The American Bar Association reported in 2020 that 2 percent of all United States lawyers are Asian.[19] According to the National Association for Law Placement, Asian women made up just 1.17 percent of partners at law firms in 2016.[20] In Washington specifically, Asian Americans make up an estimated 3.6 percent of all WSBA members.[21]

Oral Advocacy and Physical Appearance

Former Assistant U.S. Attorney Jonathan Shapiro writes that "[t]he practice of law is the business of persuasion."[22] Aristotle posits that the most potent element of persuasion is ethos, which depends on the personal character of the speaker.[23] Ethos concerns the persuasive effect that results from what the audience thinks of the speaker and is usually based on what the listener has previously seen or heard about the speaker.[24]

When Americans see trial lawyers on television shows, the characters are often credible because they are feisty, demanding, outspoken, and showy. Unfortunately, these ideas about what make an ideal oral advocate are at odds with the stereotypes about Asian American women. In one study of Asian American women who had experienced discrimination, 34 percent reported that others had assumed they were submissive or passive.[25] This is a problem

CONTINUED >

when clients believe a fiery "bulldog" attorney will be the most persuasive on their behalf, and it is an issue if a judge or jury assumes that an Asian American female litigator is weaker or submissive. How, then, can the legal community challenge the common belief that Asian American women are too soft-spoken and demure to stand their ground in the courtroom?

ALLEVIATING DISCRIMINATION AGAINST ASIAN AMERICAN FEMALE LITIGATORS

To combat racism and sexism in the legal field, particularly in the context of oral advocacy, the legal community must become aware of, and constantly challenge, implicit bias. This must take place on individual and systemic levels.

Mitigating Implicit Bias

Renee Nicole Allen and DeShun Harris, both lawyers and academics, posit that "[l]aw schools ... are in an opportune position to take the lead in confronting social justice." They suggest implementing law school training programs that treat implicit bias like a habit.[26]

Researcher Patricia Devine and colleagues tested a multifaceted prejudice habit-breaking intervention in a three-month study, comparing a group of people who completed the intervention to a control group who did not. Throughout the study, participants completed a Black–White Implicit Association Test (IAT) at three time points: just prior to the intervention manipulation (baseline) and four and eight weeks after the manipulation.

During the intervention, participants viewed a 45-minute narrated and interactive slideshow separated into education and training sections. The education section introduced the idea of prejudice as a habit and described how implicit biases develop and are automatically activated without intention. Participants were then taught about the prevalence of implicit race biases and how they can lead people to unwittingly perpetuate discrimination that results in a wide range of negative outcomes in domains such as health, employment, and everyday interpersonal interaction.

Overall, the results of the study provide compelling evidence of the effectiveness of multifaceted intervention in reducing implicit bias. Reductions in implicit bias that emerged by week four following the intervention persisted to week eight. The study also revealed an increase in participants' self-reported concern about discrimination and prejudice-relevant discrepancies.[27]

Increasing Diversity

Diversity—of race, gender, age, background, and more—is crucial to the legal field because it promotes teamwork, raises different perspectives, provides opportunities to learn from those who come from other environments, contributes to deeper understanding, and makes the legal field more accessible to future attorneys.

In April 2019, the Washington Supreme Court became the first court in the nation to adopt a court rule aimed at eliminating both implicit and intentional racial bias in jury selection. Under General Rule 37, objections to peremptory jury selection challenges will no longer be restricted to instances of purposeful discrimination but can also be used if an "objective observer" could view race or ethnicity as a factor in use of the peremptory strike. The rule defines an objective observer as someone "aware that implicit, institutional, and unconscious biases, in addition to purposeful discrimination, have resulted in the unfair exclusion of potential jurors in Washington state."[28]

As the Washington Supreme Court has recognized, diversity of people, cultures, and appearances gives birth to acceptance, not mere tolerance. In the courtroom, where justice is the ultimate goal, deeply ingrained acceptance of many different kinds of people and advocates will lead to a more equitable justice system.

Adriena Clifton is currently a second-year associate at Helsell Fetterman LLP. Her practice is focused on corporate and business transactions, as well as real-estate and land-use matters. She also sustains a pro bono juvenile parole rights practice, representing incarcerated individuals before the Indeterminate Sentence Review Board. Clifton is known for her intense focus and passion for justice and equity, and she currently serves as the chair of the LGBTQ+ Section of the WSBA.

Conclusion

I have lived the statistics this article has discussed. I have seen the effects of implicit bias firsthand. Before court, I have been asked if I am the translator. I have a mentor who is the first Asian American female partner in her law firm's 133-year history. As a Chinese adoptee raised in primarily white communities, I have felt the disapproval that comes with not being what people expect me to be. I have fought against stereotypes to be my strong-willed, outspoken, daring, bulldog self.

I have found it helpful to seek out mentors who look like me because there is healing in having one's struggles and victories validated, in hearing that you are not alone. The bulk of the advice I have received so far is to "be myself" and hope for the best, and while I have found this advice to be on point, I still believe it is the duty of the legal community as a whole to acknowledge and confront discrimination. We must all strive to become aware of our individual thoughts and behaviors and be brave enough to challenge them when we learn they are harmful. Only then can we achieve truer justice. BN

NOTES

1. Kimberlé Crenshaw, "Foreword: Toward A Race-Conscious Pedagogy in Legal Education," 4 *S. Cal. Rev. L. & Women's Stud.* 33, 35 (1994).
2. This article's discussion is limited to the barriers Asian women face in the legal field due to external forces like implicit bias and media stereotypes; it does not consider internal factors. This paper also acknowledges that, because American society often mistakes all Asian Americans as belonging to the same group, Asian American women share many experiences despite coming from varied cultural backgrounds. This author further acknowledges the limitations of using the words "female" and "women" to describe the subjects of this paper given that some people do not subscribe to the sex/gender binary. Accordingly, please read "female" and "women" as words inclusive of anyone who identifies with them.
3. Charles Gordon, "The Racial Barrier to American Citizenship," 93 *Pa. L. Rev.* 237, 238 (1945).
4. Chinese Immigration and the Chinese Exclusion Acts, Office of the Historian, *available at* https://history.state.gov/milestones/1866-1898/chinese-immigration.

5. Peggy Li, "Hitting the Ceiling: An Examination of Barriers to Success for Asian American Women," 29 *Berkeley J. Gender L. & Just.* 140, 151 (2014).
6. Chinese Exclusion Act, Ch. 126, 22 Stat. 58 (1882).
7. Donna K. Nagata, Jacqueline H. J. Kim & Kaidi Wu, "The Japanese American Wartime Incarceration: Examining the Scope of Racial Trauma," 73 *American Psychologist* 36, 36 (2019).
8. Kimmy Yam, "Anti-Asian hate crimes increased 339 percent nationwide last year," Feb. 14, 2022, NBC.
9. Bradwell v. State, 83 U.S. 130, 141 (1872).
10. Maria Laus, "A Short History of Women in the Law," May 21, 2023, Law Crossing.
11. History of the WLA, Harv. L. School Women's Ass'n.
12. ABA, Profile of the Legal Profession at 25 (2022).
13. U.S. Dept. of Justice, Understanding Bias: A Resource Guide at 1-2.
14. Patricia G. Devine, "Implicit Prejudice and Stereotyping: How Automatic Are They? Introduction to the Special Section," 81 *J. Personality & Social Psychology* 757, 759 (2001).
15. *Supra* note 5.
16. Isabella Oishi, "Where Sexism and Racism Meet: The Danger of Existing as an Asian American Woman," 23 *Geo. J. Gender & L.* (2022).
17. *Supra* note 5.
18. Tyler Dang, et al., A Portrait of Asian Americans in the Law, American Bar Foundation & National Asian Pacific American Bar Association 77 (2022).
19. ABA, Lawyers by Race & Ethnicity at 1.
20. Women and Minorities at Law Firms by Race and Ethnicity: New Findings for 2016, NALP, February 2017.
21. WSBA member licensing counts, as of Dec. 2, 2024: www.wsba.org/docs/default-source/licensing/membership-info-data/countdemo_20190801.pdf.
22. Jonathan Shapiro, *Lawyers, Liars, and the Art of Storytelling* (2016).
23. Aristotle, *Rhetoric*, Dover Pub. (2004).
24. Ronald J. Waicukauski, JoAnne Epps, & Paul Mark Sandler, "Ethos and the Art of Argument," 26 *J. of Personality and Social Psychology* 31, 31 (1999).
25. Christine Ro, "The Docility Myth Flattening Asian Women's Careers," Aug. 16, 2020, BBC.
26. Renee Nicole Allen & Deshun Harris, "#SocialJustice: Combatting Implicit Bias in an Age of Millennials, Colorblindness & Microaggressions," 18 *U. Md. L.J. Race, Religion, Gender & Class* 1, 1 (2018).
27. Patricia G. Devine et al., "Long-Term Reduction in Implicit Race Bias: A Prejudice Habit-Breaking Intervention," 48 *J. Experimental Soc. Psychology* 1267, 1268-1276 (2012).
28. ACLU, "Washington Supreme Court is First in Nation to Adopt Rule to Reduce Implicit Racial Bias in Jury Selection," April 9, 2018, at 37.

COVER STORY

NO REST FOR THE PROSECUTION

Why a hiring and retention watershed moment among prosecutor offices has many raising the alarm

BY COLIN RIGLEY

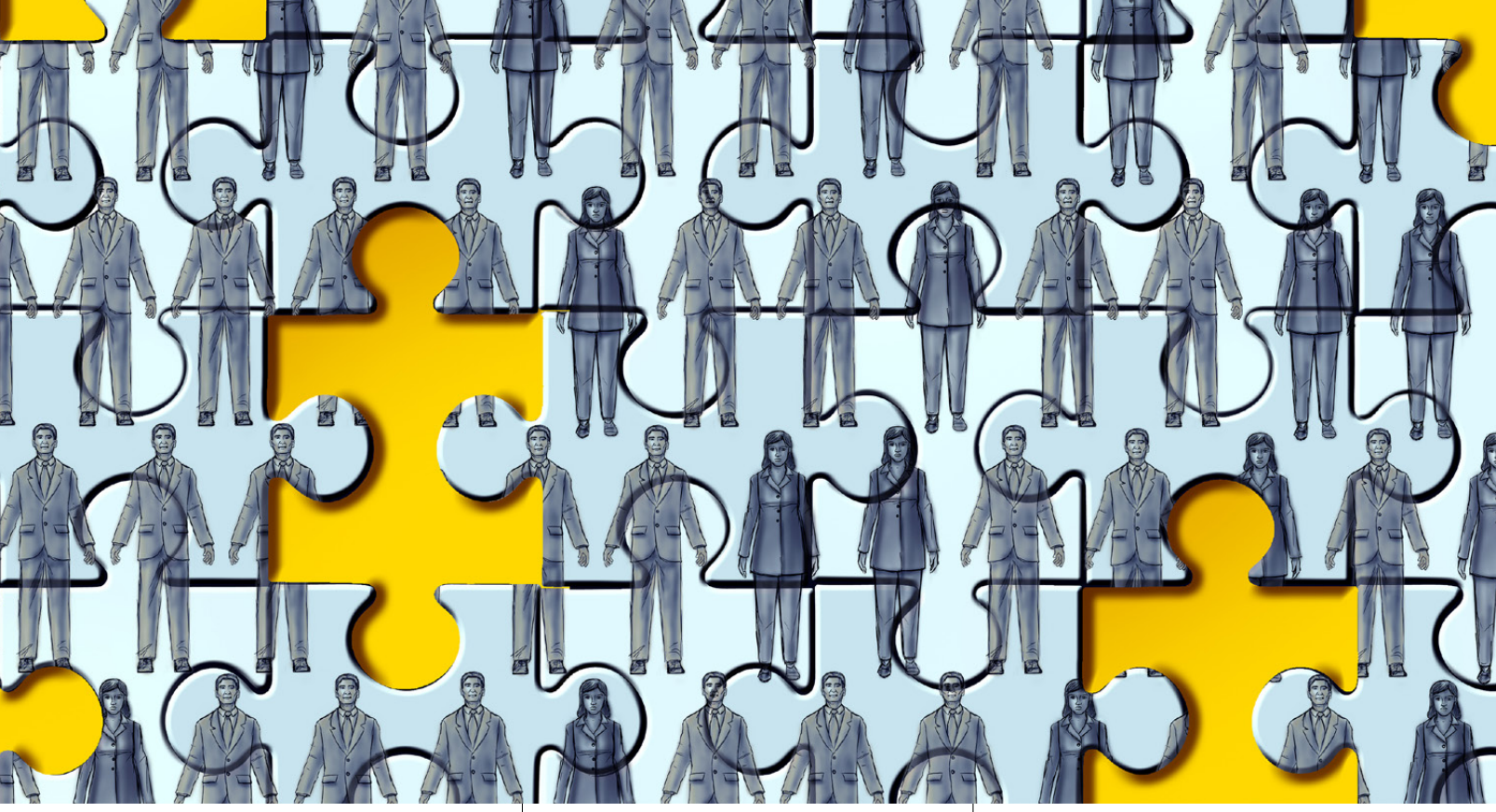
Across the country, prosecutor's offices are struggling. With many prosecutors saying they are underpaid and overworked, offices from Houston to Los Angeles to Yakima are experiencing the consequences of a mounting problem: People just don't seem to want the job anymore.

"Statewide, we have seen a reduction in new law school graduates applying to prosecutor's offices," said King County Prosecuting Attorney Leesa Manion.

In fact, it's a *national* problem. In January 2024, writing for *Slate,*[1] Adam Gershowitz, the James D. and Pamela J. Penny Research Professor at William & Mary Law School, said:

> There is a prosecutor hiring crisis in the United States. Prosecutors are quitting in droves and there are few applicants to replace them. If you believe America and its prosecutors are too punitive, your reaction might be "Great." Prosecutors drive the criminal justice system, so fewer prosecutors should mean fewer people going to prison, right? Not so fast.
>
> Fewer prosecutors do not translate into fewer defendants being charged. Instead, prosecutorial vacancies lead to existing prosecutors having impossibly high caseloads and making serious errors in those cases. Counterintuitively, huge vacancies in prosecutors' offices are actually bad news for criminal defendants.

In a research paper further documenting his findings,[2] Gershowitz reported that prosecutor office vacancy rates range from troubling to crisis-level: 15 percent in Hous-



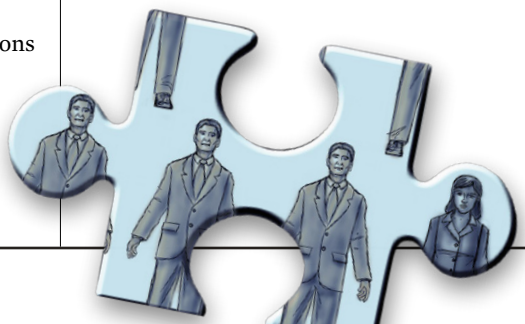
ton and Los Angeles, 20 percent in Detroit, 25 percent in Alameda, and as high as 33 percent in Miami. "The situation is equally dire in many large and small counties across the nation," Gershowitz wrote.

In Washington, Gershowitz only documented statistics for Yakima. As of November 2023, the office had six open positions among its total allocation of 37 prosecutors, a 16 percent vacancy rate. Additionally, the county cut the office's budget by $175,000, "which will force the district attorney to reduce the number of prosecutor positions from 37 to 35." Even when the office bumped its starting salary for an entry-level prosecutor significantly, from about $63,000 to about $80,000 (about a 27 percent pay increase), it still had little impact on the position vacancy rate. (Though not documented in the report, in 2024, the county increased starting pay for an Attorney I position to $100,000.[3])

"It's literally: we're not getting applicants," said Joseph Brusic, the Yakima County prosecuting attorney and president of the Washington Association of Prosecuting Attorneys Board of Directors. "If we don't get applicants in the door, then we're not hiring—we don't have a body."

So what's going on? The exact reasons are potentially many, varied, interconnected and, at this point, somewhat mysterious—but there are a handful of common suspected root causes that are stopping many lawyers from accepting jobs as prosecutors. Perhaps most pressing is that fewer law students are seeing the value of being a criminal prosecutor, Gershowitz and other prosecutors say, and in some cases are being actively dissuaded by shifting societal and cultural trends and, most notably, even their law school peers. Brusic can attest firsthand. His daughter—now a prosecutor for the city of Yakima herself—was "bullied" over her chosen career path by her fellow law students.

The crisis in public defense has been garnering more headlines and public attention recently, but prosecutors say they too are hurting badly.



"Talking to people who have just taken the bar, I've asked them how it is looked upon if they say they want to become prosecutors," Brusic said. "They said they're almost ridiculed because students don't see those positions as having value."

The issue has also been documented nationally. According to Gershowitz:

> The murder of George Floyd in the summer of 2020 created an 'astonishing [negative] shift in public opinion' toward law enforcement. The impact of the murder and the ensuing protests is often discussed in terms of the public's reaction to policing. However, some prosecutors have also noticed that law students and entry-level lawyers have begun to have negative attitudes toward prosecution work as well.

A senior prosecutor in Texas told Gershowitz that following Floyd's murder "'younger students increasingly seem to have the mindset that to work for justice that they have to do it as a defense attorney."[4] A prosecutor in Wisconsin told him, "There's been so much bad publicity, around policing and the whole criminal justice system, that it doesn't appear that there are as many students even … taking the criminal law courses and doing internships

CONTINUED >

in criminal law as there used to be.'"[5]

This shift has been sudden and unexpected, particularly because a job in prosecution has long been viewed favorably as a solid place to kick off a legal career. "Just a few years ago, entry-level jobs in prosecution were considered desirable," Gershowitz wrote. "While the salary for prosecutors has always been low, the tradeoff—exceptional training and courtroom experience—has been worth it for many entry-level lawyers. Within a few years, many prosecutors have more trial experience than they would get in a lifetime at a civil law firm."

Since 2008, the King County Prosecuting Attorney's Office "has been under the threat of perpetual budget reductions," Manion said. "We have been told that our office's 2026-27 budget may be reduced by as much as $15 million, which equates to the loss of 90 deputy prosecuting attorneys, in an office that is already stretched thin."

"I have an office where I have prosecutors with 50 homicide cases on their desk," Manion said.

The crisis in public defense, with its own well-documented budget and personnel shortages, has been garnering more headlines and public attention recently, but prosecutors say they too are hurting badly.

"My people work really hard," Manion said. "They work nights, weekends, late into the evening. They also don't get enough time with their family and loved ones."

And qualitative national data shows that most prosecutors are burning out and planning their exit strategies. According to a national survey of 4,500 prosecutors conducted by the National District Attorneys Association (NDAA), the 2024 "National Prosecutor Retention Survey,"[6] more than half of prosecutors enjoy their work; however, about 70 percent are thinking about leaving.

"It is no secret that effective recruitment and retention are dilemmas prosecutors' offices are facing nationwide," according to the NDAA survey introduction. "Prosecutors' offices must be staffed with qualified, capable, and passionate advocates for justice to fulfill the promises of our criminal justice system and to provide for the safety of our citizens." Of note among Washington prosecutors, as reported in the survey:

- 69 percent said they have given serious consideration to leaving their current employer. That's significantly higher than the national average of 57 percent.
- 48 percent said they have considered leaving within the last month.
- 20 percent said they have considered leaving within the last six months.
- The top two motivating factors that made them consider leaving were the potential for better pay (52 percent) and their current heavy caseloads (46 percent, which is considerably higher than the national average of 37 percent).
- The most important factors that led them to work for their current employer included "Doing justice for my community" (70 percent), "Opportunity for trial work" (39 percent), and "Belief in the mission of the agency" (35 percent).

In Washington, there are further concerns that new shifts in public defender caseloads will exacerbate the hiring and retention problems among prosecutors. In September 2024, following extensive discussion and study, the WSBA Board of Governors adopted recommendations of the Council on Public Defense to revise the caseload standards for indigent defense and reduce the workload for public defenders with the intent of keeping them from drowning in it. The standards were sent to the Washington Supreme Court, which maintains its own standards for indigent defense, with the hope that the court will make similar revisions.[7]

In Washington, there are further concerns that new shifts in public defender caseloads will exacerbate the hiring and retention problems among prosecutors.

Among public policy wonks, it's common to hear an analogy of a balloon—you squeeze one part of the balloon and another part bulges out. For prosecutors now, the concern is that the focus on public defense, while necessary and appropriate, could lead to problems in other parts of the criminal justice system. According to Manion, if her office were to adopt the same standards as those proposed for public defense, thereby lowering the caseload each attorney could take on, she would need 339 new deputy prosecuting attorneys to comply.

"I feel like we in the prosecuting attorney's office have always made do with the resources that have been assigned to us," Manion said. "Maybe, in hindsight, we have done a disservice to ourselves by making it look easy."

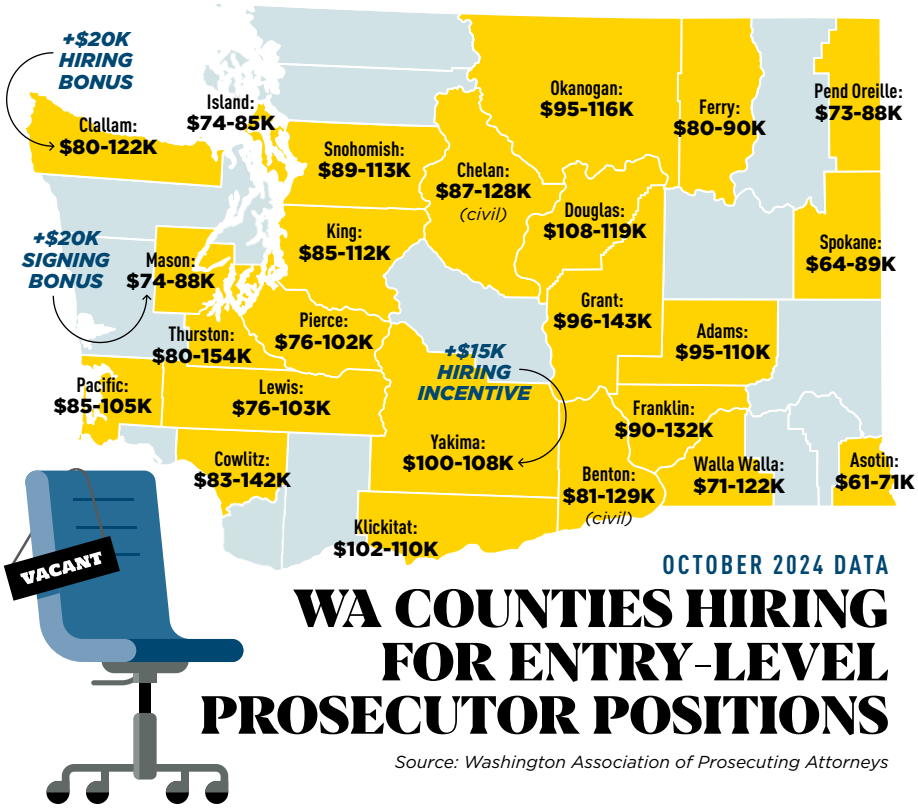
Brusic echoed these concerns, saying that prosecutors, public defenders, and the court are part of a three-legged stool. "If you change one aspect of the stool it obviously becomes unstable."

"The system has to be symbiotic; it has to work together," Brusic added. "We have to be included in the conversation, and we felt that we were not being included."

In Yakima, under the new public defense standards, Brusic said the county will need 20 to 30 more public defenders and "we would need easily 15 to 20 prosecutors."

In particular, Brusic and Manion take issue with the suggestion that prosecutors have as much control over the caseload as is sometimes claimed. While prosecutors have some discretion in what cases they charge—a point public defenders and others raise when discussing ways to rebalance the criminal justice system so public defenders aren't buried in an impossible pile of cases, their clients aren't left to languish in jail, and important cases aren't dismissed for lack of representation—they say that it isn't as simple as turning a valve.

"It is true that prosecutors have discretion ... but it is too simplistic to



OCTOBER 2024 DATA

WA COUNTIES HIRING FOR ENTRY-LEVEL PROSECUTOR POSITIONS

Source: Washington Association of Prosecuting Attorneys

say just don't charge cases," Manion said. "How do I sell that to the person whose family member was murdered? How do I say that to the person whose family member was maimed by a car because of a drunk driver?"

King County prosecutors do divert as many cases out of the court as they can, Manion said. "The things that we can divert out of the system, we do, and I repeatedly defend the effectiveness of our diversion programs to those who are critical [of them]."

Similarly, Brusic said you can't just increase public defenders without adding more prosecutors "because all of a sudden you're going to have the same problem on the prosecution side." At the same time, "it's not simple enough to say, 'Joe, have people in Yakima County not charge out crime.' I'm an elected official. People voted me in to keep people accountable, provide public safety."

"We cannot allow the system as a whole … to crumble because of the nature of looking at only one leg of the three-legged stool," Brusic said.

Council on Public Defense Chair Jason Schwarz noted that some members of the Council were prosecutors and participated in the discussions around indigent defense standards. The Council sent out surveys to public defenders and former prosecutors, who provided extensive feedback. For public defense, the biggest challenge was determining the local drivers of their workloads in order to craft relevant standards that would encourage existing public defenders to remain in the profession and recruit new lawyers to fill out the ranks. Public defense has been experiencing a workload crisis for years if not decades, Schwarz noted, so the Council focused on the causes of poor retention, burnout, and excessive workloads to, ideally, formalize new caseloads, but also develop better data collection and analysis for the future, which Schwarz said is reflected in the draft of Washington Senate Bill 5404.

"I personally believe that it would be very helpful for prosecutors to [also] have a study," Schwarz said. "I suspect they will learn, like we did, that workload is not as simple as the number of cases a lawyer touches in a year. It's a much bigger ecosystem that puts demands on lawyers, their staff, and the system."

The crisis in public defense is well known and the reasons for it seemingly understood, although the solution is complex. For prosecutors, however, the root of the problem may be less clear. Brusic said he and other prosecutors have been going to law schools to understand and perhaps change negative perceptions that are preventing new lawyers from joining the field. Simultaneously, prosecutors in Yakima and elsewhere are scrounging for extra dollars to beef up salaries so they can entice new lawyers and prevent existing ones from leaving. "We've discussed that in every meeting we've had as prosecutors for the past two years; we have to figure out why we're not getting applicants—we're not really sure," Brusic said.

What is certain is that without a concerted effort to highlight the issue, diagnose it, and start addressing it, these problems within the criminal justice system aren't going away on their own.

"I don't know how much time and effort it's going to take," Brusic said. "But it certainly will be worth it because the system as it is now is not working." BN

Colin Rigley is a communications specialist with the WSBA. He has nearly two decades of experience in journalism and communications. He can be reached at colinr@wsba.org.

NOTES

1. Adam Gershowitz, "The Surprising Downside of a Criminal Justice Trend Reformers Might Think They Love," *Slate*, Jan. 22, 2024, https://slate.com/news-and-politics/2024/01/prosecutor-crisis-criminal-justice-reform.html.
2. Adam M. Gershowitz, "The Prosecutor Vacancy Crisis," William & Mary Law School Research Paper No. 09-480, Dec. 15, 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4666047.
3. Yakima County Proposed 2024 Attorney Pay Plan, effective July 1, 2024, www.yakimacounty.us/DocumentCenter/View/38063/Attorney-Pay-Plan-Effective-July-1-2024.
4. Adam M. Gershowitz, "The Prosecutor Vacancy Crisis," William & Mary Law School Research Paper No. 09-480, Dec. 15, 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4666047.
5. *Id.*
6. National Prosecutor Retention Survey, National District Attorneys Association, June 2024, https://ndaa.org/wp-content/uploads/NDAA-National-Prosecutor-Retention-Survey-FINAL-June-2024-1.pdf.
7. "State Bar Adopts New Public Defense Standards," March 14, 2024, www.wsba.org/news-events/media-center/media-releases/state-bar-adopts-new-public-defense-standards.

EXPERIENCE
TENACITY
JUDGMENT
RESOLVE!

CHARLES S. BURDELL JR.
Former King County Superior Court Judge

JOHN P. ERLICK
Former King County Superior Court Judge

BRUCE HELLER
Former King County Superior Court Judge

LARRY A. JORDAN
Former King County Superior Court Judge

PARIS K. KALLAS
Former King County Superior Court Judge

PALMER ROBINSON
Former King County Superior Court Judge

STEVE SCOTT
Former King County Superior Court Judge

JdR
Judicial Dispute Resolution, LLC

Joshua Green Building · 1425 Fourth Avenue · Suite 300 · Seattle, WA 98101
206.223.1669 · **jdrllc.com**

FEATURE

Tackling IRS Disputes for Low-Income Washingtonians

One student's experience volunteering with the University of Washington School of Law Federal Tax Clinic

BY SARAH B. MURPHY

The University of Washington School of Law Federal Tax Clinic helps low-income individuals throughout Western Washington resolve disputes with the Internal Revenue Service. As a law student, I helped clients navigate their tax disputes and advocate on their behalf with the IRS. Students take on cases that focus on tax controversies through litigation and tax administrative appeals with the federal government.

GETTING INVOLVED

After nearly five years in New York City working in media and publishing, I returned to my home state of Washington to attend law school at Seattle University, graduating in May 2024. I entered law school with an interest in estate planning. I recall being at 1L orientation and learning about the different clinics students could participate in, including the University of Washington School of Law's Federal Tax Clinic. Immediately, I began planning my next three years and how it would include participating in that clinic. At the start of my 3L year, I was accepted into UW's tax clinic as one of two Seattle University School of Law students who participate every semester. I quickly took to the work and enjoyed problem solving for clients. Tax is an intimidating field, especially for someone like me who majored in English and did everything they could to avoid math. I quickly realized that being (highly) skilled in math is not required, but being savvy, determined, and seeing cases to completion is greatly valued. At the end of my fall semester at the clinic I had a conversation with managing director Ramón Ortiz-Vélez about coming back to the clinic in the spring as an advanced clinic student, which I quickly agreed to. Today, I am a law clerk at McGavick Graves, P.S., in Tacoma working in estate planning. I have been accepted to the University of Washington School of Law LL.M. program in tax, to start after the February 2025 bar exam. I will continue working with the tax clinic during my LL.M. studies, and after graduation I plan to contribute as a volunteer attorney.

WORKING IN THE TAX CLINIC

As a law student volunteer, I mainly worked on cases that were headed to the United States Tax Court. I successfully resolved a case for a couple in Hawaii who were denied their tax refund, including their Child Tax Credit (including the COVID-19-era

CONTINUED >

Illustration © Getty/Irina_Strelnikova

increase) and stimulus payments. The IRS denied their child tax credit and froze their refund because they claimed that the wages earned were fraudulent. To prove the wages were accurate, and that they had a son in the calendar year, I collected copies of pay stubs, birth certificates, Social Security cards, statements from accountants and employers on official letterhead, and other evidence to attach to the appeal. After unsuccessful negotiation with the IRS Independent Office of Appeals, the tax clinic filed a petition in Tax Court. Once the case was assigned to a trial judge, I was able to contact the IRS attorney directly and work together to submit a decision document to the Tax Court. Ultimately, the couple received their $7,000 refund. While working on this case, I was closely supervised by managing director Ortiz-Vélez, who provided guidance on each step of the appeals process, and staff attorney John Clynch, who connected me directly with local IRS attorneys and taught me the importance of speaking to opposing counsel over the phone to resolve a case.

In another case, the statute of limitations on collections (10 years) had expired, and it was exciting to make the call informing the taxpayer that they no longer owed the IRS $180,000.

In a third case, a Tribal fisherman was taxed in direct violation of the Treaty of Point Elliot. The client not only received his withheld funds of $700, but the decision by the IRS to abide by the Treaty was monumental and will support similar cases and individuals in the future.

The tax clinic, which was established in 2000 by current faculty director Scott Schumacher, is the only one of its kind in Western Washington and a vital part of the community. It receives referrals from the Taxpayer Advocate Service (an independent organization within the IRS), accounting firms, law firms, and through educational outreach. The clinic consistently has students and other volunteers who speak multiple languages and are able to assist taxpayers for whom English is not a first language. As part of the clinic curriculum, students do educational presentations on common tax issues—e.g., how to file taxes, what happens if you file late, how to get on "currently not collectible" status with the IRS—to communities including teens, refugees, incarcerated persons, and senior citizens. By offering this public service to the most vulnerable populations in Western Washington, students are not only reaching a broader population to get the word out about the clinic's services but are also networking with attorneys and programs that do great work in the community.

When students first start at the tax clinic, they are most likely to take over cases of other students who have graduated or left the clinic. Students write transfer memos that are kept in client files to help the next student volunteers get up to speed with the case and know where to pick up. Client files are kept organized with notes from previous meetings with clinic staff and directors, any client communications, and next steps. Although it can be intimidating to start working with clients immediately, students are mentored throughout the process by Ortiz-Vélez, Clynch, and Faculty Director Scott Schumacher.

The clinic works as a training ground for law students in tax practice, and students are frequently reminded to treat clinic office hours like work at a law firm. Almost any transaction an attorney will encounter can involve tax. Helping people during some of the worst times of their lives is rewarding, provides on-the-job learning opportunities, and teaches students the importance of being organized and following through. Working in such an environment increases students' confidence that they will be able to do research and ask the right questions in their own practice. Many lasting relationships have been created among tax clinic alumni across Washington who are more than happy to do informational interviews with students.

Volunteer attorneys, accountants, and enrolled agents are also extremely important to the clinic because they can provide assistance to clients under the supervision of the clinic directors based on the volunteers' experience. I look forward to coming back to the clinic as a volunteer attorney.

The clinic is always ready to train and mentor volunteers. If you are interested in volunteering, contact John Clynch at clyncher@uw.edu. BN

SIDEBAR

New Veterans Clinic

Ramón Ortiz-Vélez and John Clynch are now spearheading the opening of the University of Washington School of Law Veterans Clinic. The Veterans Clinic is designed to educate students in the practice of veterans law—particularly Title 38 U.S.C. (Veterans' Benefits), the Veterans Appeals Improvement and Modernization Act of 2017, the VA Mission Act of 2018, PACT Act expanded benefits, and other relevant statutory authorities—by affording them hands-on training and first-chair experience in military discharge upgrades and appeals regarding benefit claims under the supervision of the clinic's director and staff attorney. Students will advise and represent qualified veterans and family members in administrative and litigation procedures affecting their claims. Students will also engage in consultations and additional multidisciplinary legal work, identifying and undertaking representation on other issues as resources allow, to better assist and serve the clients. **For more information about the Veterans Clinic, contact 206-685-4084 or UW-VC@uw.edu.**

Sarah B. Murphy is a law clerk at McGavick Graves, P.S., in Tacoma. Prior to practicing law, Murphy lived in New York City and worked in children's publishing and marketing. She graduated from Seattle University School of Law in 2024 and will sit for the bar in February 2025. She will start her studies toward an LL.M. in tax law at the University of Washington in 2025. Murphy's focus areas include estate planning and federal taxation.

On Board

NEWS FROM THE BOARD OF GOVERNORS & THE WSBA

JAN. 17-18, 2025

A Summary of the Board of Governors Meeting

The WSBA Board of Governors determines the Bar's general policies and approves its annual budget.

TOP MEETING TAKEAWAYS

1 Congratulations to the WSBA's Newly Seated At-Large Governor. Christopher Bhang was appointed to fill a recently vacated at-large seat and sworn in by Chief Justice Debra Stephens. Governor Bhang's term will run through the end of the fiscal year (Sept. 30). Meanwhile, this at-large position will be included in the slate of Board positions up for election this spring, to be seated at the start of the next fiscal year (October). If you are interested in Board service, more information can be found at: **www.wsba.org/about-wsba/who-we-are/board-elections**.

WSBA President Sunitha Anjilvel and Governor-at-Large Christopher Bhang.

2 How are Legal Practitioners Using Technology—and How Can the WSBA Help? Leaders of the WSBA's Legal Technology Task Force provided an update focused on the results of a recent member survey. Top takeaways include: The vast majority of members are *not* using generative AI applications, and they have significant concerns about the reliability of such technology in legal practice and the ethics of its use; most are clamoring for training and tools to help them integrate new technologies into their practice; and fewer than 79 percent said they are using even the most rudimentary cybersecurity tools, such as multi-factor authentication. The survey results will guide the continuing work of task force members as they research and talk to national experts about what is most impactful and important to members. The task force is supporting a WSBA strategic goal to assess technology-related opportunities and threats to determine how to best support legal practitioners and protect legal-service consumers. The task force expects to submit an action-oriented report to the Board of Governors by this summer.

3 Setting a New Course for Equity and Justice. Leaders of the WSBA's Diversity, Equity, and Inclusion Council provided an update about their work to draft an Equity and Justice Plan, a roadmap for the next five years that will help the WSBA strengthen the legal profession to better represent and serve all Washingtonians. The Council planned to bring a first draft to the Board in January, but that has been delayed until March for a good and welcome reason: There was significant member and public feedback on the initial draft, so the Council is taking the necessary time to carefully review and consider the feedback. Once a new draft is complete, the Council will post it on the WSBA website and present it to the Board in March for a first reading. The Equity and Justice Plan will be a key component of the WSBA's strategic goal to improve the experience of belonging among legal professionals to foster a diverse profession where everyone is welcome and able to thrive, which promotes public confidence in the legal system and improves access to legal services. Learn more about the Equity and Justice Plan at: **www.wsba.org/about-wsba/equity-and-inclusion/equity-and-justice-plan**.

4 Support for Rural Practitioners in the Legislature. The Board authorized representatives of its Small Town and Rural (STAR) Council to write a letter to inform legislators considering Senate Bill 5027, establishing a loan repayment program for public defense attorneys and prosecutors. The letter will identify relevant concerns being researched by the STAR Council—including the critical need for lawyers in some rural areas, particularly public defenders and prosecutors—and how a loan repayment program could be part of the solution. The STAR Council arose from the WSBA's strategic goal to support rural practice and access to justice in small towns and rural parts of the state.

SAVE THE DATE

The next regular meeting is March 21-22, in the Olympia area. To subscribe to the Board Meeting Notification list, email barleaders@wsba.org.

THE BOARD ALSO:

- **Voted** to recommend adoption of amendments to RPC 1.16(a) (and accompanying comments 1 and 2) to the Washington Supreme Court, as advanced by the WSBA Committee on Professional Ethics. The amendments would bring the RPC in alignment with ABA Model Rule 1.16, which addresses declining or terminating representation. Adopted by the ABA in response to growing concerns that attorneys could unwittingly be caught up in money laundering, the amendments largely focus on the duty to inquire about a prospective or current client's objectives so that a lawyer will not inadvertently be drawn into a circumstance where the client is using a lawyer's services to commit a crime or fraud.
- **Considered** creating a Governance Committee to be responsible for regularly reviewing Board policies and WSBA Bylaws for consistency, accuracy, and efficiency; the committee would complete a rotating triennial review of bylaws, policies, and Board committees and entities. The Board will vote on whether to create this committee in March. BN

MORE ONLINE

The agenda, materials, and video recording from this Board of Governors meeting (held in Grand Mound), as well as past meetings, are online here: **wsba.org/bog.**

In Remembrance

This In Remembrance section lists WSBA members by Bar number and date of death. The list is not complete and contains only those notices of which the WSBA has learned through correspondence from members.

Please email notices to wabarnews@wsba.org.

Brian L. Comstock

#184, 11/15/2024

Brian Comstock attended Roosevelt High School in Seattle, graduating in 1950. He then attended the University of Washington, graduating magna cum laude and Phi Beta Kappa with a political science degree in 1954. Through the ROTC, Comstock served as a special agent of the U.S. Army Counter-Intelligence Corps in Washington, D.C., and then earned his law degree from Harvard in 1959. Comstock started his legal career with the Seattle firm Roberts & Shefelman, where he led the business practice group and served as managing partner. He later practiced with Foster Pepper & Shefelman, Short Cressman & Burgess, and finally with his son, John, at the Comstock Law Firm. Comstock served on the WSBA Board of Governors from 2008 to 2011, served as a Washington State Bar Foundation trustee from 2009 to 2011, and was heavily involved with the WSBA's Senior Lawyers Section, serving on its executive committee for more than a decade. He also taught as an adjunct professor at Seattle University School of Law and Albers School of Business and Finance. Comstock's passion for community service is evident in his many volunteer roles that included: commissioner of the Washington State Lottery, Rotarian, board member of Northwest Center, and board member of the South Seattle Community College Foundation. Comstock loved tennis and was an active member of the Seattle Tennis Club. He is described as adventurous—he obtained his pilot's license, skydived, ran marathons, and climbed Mt. Rainier, Mt. Everest Base Camp, and Mt. Kilimanjaro. In addition, he and his wife of over 64 years, Karen, enjoyed traveling together; their trip destinations included Europe, Russia, China, and India. Comstock died on Nov. 15, 2024, at age 92. He is survived by his wife, Karen; their sons, Mike and John; seven grandchildren; and his sister, Adele Strom.

MORE ONLINE >

When available, links to obituaries can be found in the online version of this article at **wabarnews.org**.

Richard Elliott

#5605, 12/21/2020*

Richard Elliott was born on Nov. 5, 1942, in Portland, Oregon. He attended Oregon State University, enrolled in the Naval ROTC program, and earned his undergraduate degree in 1964. After graduation, Elliott served four years as an engineering officer with the U.S. Navy aboard the nuclear submarine USS Stonewall Jackson. Elliott resigned with honors from the Naval Reserve in 1972, with a final rank of Lt. Commander, USNR. Elliott earned a master's degree in nuclear engineering from the University of Washington in 1970 and a J.D. from the UW School of Law in 1974. At UW, he met his future wife, Diane Godsey, who was also a student at the time. Elliott and Godsey married in 1972. After earning his law degree, Elliott joined the King County Prosecutor's Office, where he worked for several years, eventually becoming a senior deputy prosecutor. During that time, he was the primary advisor to the Kingdome. In 1983, Elliott joined Davis Wright Tremaine, specializing in environmental and natural resource law, and from 1995 to 2000, he served as the managing partner of Davis Wright Tremaine's Bellevue office. Elliott chaired Davis Wright Tremaine's Diversity Committee for several years, served as a board member and secretary for the Bellevue Philharmonic Orchestra from 1985 to 2000, and provided pro bono representation to Holocaust survivors seeking restitution from the German government. Elliott retired from the practice of law in 2014 due to the progression of Parkinson's disease. Outside of work, Elliott enjoyed golf, cycling, hiking, and, especially fishing on his Boston Whaler boat, the Puffin. He was fluent in German and loved traveling with his wife, who often spoke at fisheries conferences around the world. Elliott died on Dec. 21, 2020, of Parkinson's disease. He is survived by his wife, Diane, and many friends and colleagues.

**The WSBA learned of Richard Elliott's death in 2025.* BN

Denny Anderson,
#2404, 11/15/2024

James Barnecut,
#7571, 12/11/2024

Richard Donaldson,
#4347, 10/30/2024

Joseph Ganz,
#3318, 12/10/2024

Steven Hathaway,
#24971, 11/30/2024

Duane Lansverk,
#1070, 9/3/2024

Robert Larson,
#1385, 11/17/2024

Thomas Lemly,
#5433, 9/18/2024

James McAteer,
#1605, 12/26/2024

James McGuire,
#28454, 11/20/2024

Stephen Nemec,
#36817, 12/20/2024

Donald Powell,
#12055, 12/26/2024

Daniel Ritter,
#2234, 10/23/2024

Patricia Roberts,
#11163, 10/16/2024

Kurt Salmon,
#7870, 6/16/2024

John Tondini,
#19092, 4/1/2024

Need to Know

NEWS & INFORMATION OF INTEREST TO WSBA MEMBERS

WSBA NEWS

2025 License Renewal

Deadline was Feb. 3, 2025. If you have not completed all mandatory portions of your license renewal, you are delinquent and your license is at risk of administrative suspension. Depending on your license status, mandatory requirements include MCLE certification, trust account declaration, and disclosing professional liability insurance or financial responsibility. Licensing requirements, including MCLE certification, must be completed online at **www.licensing.wsba.org**. Visit **www.wsba.org/licensing** to learn more.

Interested in Being Interviewed for Appellate Court Vacancies?

On March 27, the WSBA Judicial Recommendation Committee (JRC) will interview attorneys and judges interested in being appointed by the governor to fill potential vacancies on the Washington Supreme Court and Court of Appeals. The JRC's recommendations are reviewed by the WSBA Board of Governors and forwarded to the governor for consideration when making appointments. To be considered for an interview, complete and submit the questionnaire posted on the JRC webpage at **www.wsba.org/JRC** by Feb. 21. For further information, visit the JRC webpage, **www.wsba.org/connect-serve/committees-boards-other-groups/JRC**.

THE BAR BUZZ

Comment on Court Rules

A variety of court rules have been published to the Washington State Courts website for comment. The comment period for many of the rules closes April 30. To view the proposed changes on the table for comment, visit **www.courts.wa.gov/court_rules/?fa=court_rules.proposed**.

New Equity and Justice Plan Presentation

The Diversity, Equity, and Inclusion Council will present the first draft of the new Equity and Justice Plan to the WSBA Board of Governors at their meeting March 21–22. The Council received significant feedback, so it postponed its presentation of the draft plan from January to March to allow sufficient time to review and incorporate feedback. Visit **www.wsba.org/about-wsba/equity-and-inclusion/equity-and-justice-plan** for more; send feedback on the plan to **diversity@wsba.org**.

Please Complete Your Confidential Demographics Form

Did you know that the WSBA regularly publishes a variety of demographic information about the broader WSBA membership? This information is essential to understanding the makeup of the profession, assessing the services the WSBA provides, and informing policymakers as they contemplate changes related to regulation of the practice of law. We highly encourage WSBA members to participate in this voluntary demographic information collection. Please answer the short form of demographic questions during your license renewal. If you have already renewed your license, you can still return to the license renewal page (**https://licensing.wsba.org/**) to complete the demographics section. Individual gender, race/ethnicity, sexual orientation, and disability information is kept strictly confidential, and is used only in the aggregate for demographic analysis. Thank you for your participation.

Spanish Language Access to the Lawyer Grievance Process

Please help spread the word: Information, directions, forms, and telephone interpreters are now available in Spanish for anyone who would like to contact the state Bar with a concern about the ethical conduct of a lawyer. Spanish speakers can click "En Español" on the top menu bar at **http://www.wsba.org** to learn more. This is a pilot project that the WSBA hopes to expand to more languages soon. **www.wsba.org/for-the-public/concerns-about-a-lawyer/preocupaciones-por-un-abogado**.

Engage With WSBA Leaders

The Member Engagement Council, which seeks member input and involvement in decision-making processes, wants to hear from you! The first agenda item of each meeting (the first Thursday of each month from 1-3 p.m. via Zoom) is reserved for member comments. All topics are welcome. Visit the events calendar at **www.wsba.org** for more information.

VOLUNTEER

WSBA CLE Volunteer Presenter

Want to volunteer with WSBA CLE? CLE programs are taught mainly by WSBA members and other professionals who have graciously volunteered their time, experience, and knowledge to further the legal profession. None of our work would be possible without the investment of time and skill from these generous volunteers. View the up-to-date list of volunteer openings at **www.wsba.org/for-legal-professionals/wsba-cle/about-wsba-cle**. Please email **rachelm@wsba.org** if you have any questions.

Legal Clinic Volunteers Needed

A free legal clinic put on by the Latina/o Bar Association of Washington, the King County Bar Association, and El Centro de la Raza is looking for attorney volunteers interested in doing pro bono work. The clinic takes place from 6-8 p.m. on the second Wednesday of every month at El Centro de la Raza in Beacon Hill (2524 16th Ave. S, Seattle, 3rd Floor). Volunteers provide general consultations in areas of the law including immigration, family law, auto accidents, personal injury, worker's rights/wage claims, tenant rights, and criminal law. For more information, email **clinics@lbaw.org** and **clinics2@lbaw.org**.

Be a Judge for UW In-House Competitions

The University of Washington School of Law hosts three in-house competitions during the school year and seeks local attorneys and judges to evaluate, score, and give feedback to the student competitors. If you are interested, please email **trialad@uw.edu**. Find out more at **www.law.uw.edu/academics/experiential-learning/moot-court**.

RESOURCES

vLex Fastcase Platform Upgrade

In October 2024, Fastcase 7, the WSBA's free legal research platform for members, transitioned to vLex Fastcase. The upgraded platform includes

CONTINUED >

Need to Know

CONTINUED >

everything Fastcase 7 offers plus unique features to enhance your productivity and provide you with greater insights into legal matters. For additional resources and information, please visit **https://vlex.com/vlex-fastcase**, or **www.wsba.org/for-legal-professionals/member-support/legal-research-tools/free-legal-research**.

IOLTA FAQs

Have questions about trust accounts? Check out the new IOLTA FAQs to learn important information about such topics as unidentified owners and unclaimed property, recordkeeping, disbursements, general banking, reconciliation, and more. Find the FAQs at **www.wsba.org/for-legal-professionals/member-support/practice-management-assistance/iolta-faqs**.

Virtual Career Guidance Group

This free group meets on the first Thursday of the month at 3 p.m. This is a chance to receive guidance on your résumé, informational interviewing, applying for positions, and where you see yourself in your legal career. This group is led by Dan Crystal, Psy.D. Sign up at **www.wsba.org/for-legal-professionals/member-support/wellness/group-sessions**.

Free Practice-Management Consultations

The WSBA offers free resources and education on practice management issues. For more

HAVE SOMETHING NEWSWORTHY TO SHARE?

Email wabarnews@wsba.org if you have an item you would like to place in Need to Know.

information, visit **www.wsba.org/pma**. You can also schedule a free phone consultation with a WSBA practice-management advisor. Visit **www.wsba.org/consult** to get started.

WSBA MEMBER WELLNESS

Washington Lawyers Assisting Lawyers

Washington Lawyers Assisting Lawyers is a new nonprofit that offers free and confidential services. WaLAL is separate from the WSBA and is not affiliated with any 12-step organization. WaLAL's trained lawyer volunteers serve as peer counselors to lawyers, judges, and law students facing substance use and other mental health challenges. WaLAL's Director of Peer Training and Intake Coordinator is Andy Benjamin, J.D., Ph.D. Dr. Benjamin is a licensed psychologist and University of Washington clinical professor of psychology and affiliate professor of law. To learn more about WaLAL, to seek assistance, or to volunteer as a peer counselor, see **www.WALAL.org** or email **info@walal.org**.

Share Your Story

The Member Wellness Program wants to hear your inspiring stories. We know there are many challenges you have faced and hardships you have overcome. Share your story anonymously (some stories may be published) at **https://tinyurl.com/c5c8frft**. Your story can make a difference in the lives of your fellow legal professionals.

Virtual Mental Health Support Group

The free group led by WSBA staff Adely Ruiz, LICSW, and Dan Crystal, Psy.D, meets the first Thursday of every month from 12-1 p.m. Learn more and sign up at **www.wsba.org/for-legal-professionals/member-support/wellness/group-sessions**.

DISCOUNTS AVAILABLE

Software & Services for Your Practice

As a member of the WSBA, you have access to the Practice Management Discount Network, a collection of discounts on products and services to help you improve your law practice. We offer discounts on conflict-checking, credit-card processing, encryption, cybersecurity, document editing, document management, e-discovery, marketing and website support, office supplies, practice management software, remote receptionists, and retirement planning. Learn more at **www.wsba.org/for-legal-professionals/member-support/practice-management-discount-network**.

SCAN TO LEARN MORE >

Telehealth is Here!

The Member Wellness Program is now offering hi-def, HIPAA-protected video consultations using the telehealth portal Doxy.me. Visit **www.wsba.org/for-legal-professionals/member-support/wellness** and click "Book Your Initial Consultation" to schedule time with our licensed providers.

Health Benefits

The WSBA Private Health Insurance Exchange offers members access to the most competitive group health insurance solutions on the market. Speak to a benefits counselor and request a free quote today at **www.memberbenefits.com/wsba**.

The 'Unbar' Alcoholics Anonymous Group

The Washington Unbar Alcoholics Anonymous group for legal professionals has been meeting regularly for almost 30 years. The group meets Wednesdays, 12:15-1:30 p.m. Currently, the group meets online via Zoom, and attorneys from all over Washington participate. For more information and Zoom credentials contact **unbarwa@gmail.com**.

ETHICS

Ethics Line

Members can talk with WSBA professional responsibility counsel for informal guidance. Learn more at **www.wsba.org/for-legal-professionals/ethics/ethics-line** or call the Ethics Line at 206-727-8284.

WSBA Advisory Opinions

WSBA advisory opinions are available online at **www.wsba.org/for-legal-professionals/ethics/about-advisory-opinions**. For assistance, call the Ethics Line at 206-727-8284.

WSBA COMMUNITY NETWORKING

Save the Date for Young Lawyer Social

The Washington Young Lawyers Committee (WYLC) cordially invites WSBA members—both new and experienced—to attend a networking social on Feb. 26. Whether you're celebrating the end of the bar exam or just looking to connect, this is the perfect chance to unwind, network, and meet fellow young lawyers in a relaxed setting. Visit **www.wsba.org/news-events/events-calendar/2025/02/26/default-calendar/wylc-new-and-young-lawyer-social**.

New Lawyers List Serve

This list serve is a discussion platform for new lawyers of the WSBA. To join, email **newmembers@wsba.org**.

ALPS Attorney Match

Attorney Match is a free online networking tool made available through the WSBA-endorsed professional liability partner, ALPS. Learn more at **www.wsba.org/connect-serve/mentorship/find-your-mentor**, or email **mentorlink@wsba.org**.

QUICK REFERENCE

Feb. 2025 Usury

The usury rate for February 2025 is 12.00%. The auction yield of the Jan. 6, 2025, auction of the six-month Treasury Bill was 4.256%. The interest rate required by RCW 4.56.110(3)(a) and 4.56.115 for February 2025 is 6.256%. The interest rate required by RCW 4.56.110(3)(b) and 4.56.111 for February 2025 is 9.50%. BN

Pursuing Justice. Changing Lives.

Sexual Abuse • Appellate & Post-Trial • Medical Malpractice
Serious Injury • Insurance Bad Faith • Wrongful Death

We appreciate referrals and welcome the opportunity to collaborate as co-counsel.

PFAU COCHRAN
VERTETIS AMALA
ATTORNEYS AT LAW

www.pcva.law

Seattle • 701 Fifth Avenue, Suite 4300 • Seattle, WA 98104
Tacoma • 909 A Street, Suite 700 • Tacoma, WA 98402
New York • 31 Hudson Yards, 11th Floor • New York, NY 10001

Notices

DISCIPLINE & OTHER REGULATORY NOTICES

THESE NOTICES OF THE IMPOSITION OF DISCIPLINARY SANCTIONS AND ACTIONS are published pursuant to Rule 3.5(c) of the Washington Supreme Court Rules for Enforcement of Lawyer Conduct. Active links to directory listings, RPC definitions, and documents related to the disciplinary matter can be found by viewing the online version of *Washington State Bar News* at **www.wabarnews.org** or by looking up the respondent in the Discipline Notice Directory at **https://mywsba.org/PersonifyEbusiness/DisciplineNoticeDirectory**.

As some WSBA members share the same or similar names, please read all disciplinary notices carefully for names, cities, and bar numbers.

Disbarred

Marc A Eckardt (WSBA No. 30690, admitted 2000) of Vancouver, B.C., was disbarred, effective 3/8/2024, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Hearing Division of the Law Society of British Columbia Tribunal. For more information, see *https://www.lsbctribunal.ca/hearing-documents/scheirer-(eckardt),-marc-andre/*. Henry Cruz acted as disciplinary counsel. Marc A Eckardt represented themselves.

Decision document: The Washington Supreme Court Order.

Frank Benjamin Inglis (WSBA No. 7080, admitted 1976) of Sequim, WA, was disbarred, effective 12/2/2024, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of California. For more information, see *https://apps.calbar.ca.gov/attorney/Licensee/Detail/66282*. Henry Cruz acted as disciplinary counsel. Frank Benjamin Inglis represented themselves.

Decision document: The Washington Supreme Court Order.

Resigned in Lieu of Discipline

Charles Wade Peach (WSBA No. 13744, admitted 1983) of Bainbridge Island, resigned in lieu of discipline, effective 11/21/2024. The lawyer agrees that they are aware of the alleged misconduct in disciplinary counsel's Statement of Alleged Misconduct and rather than defend against the allegations, they wish to permanently resign from membership in the Association. Sachia Stonefeld Powell acted as disciplinary counsel. Charles Wade Peach represented themselves.

The Statement of Alleged Misconduct reflects the following violations of the Rules of Professional Conduct: 1.7 (Conflict of Interest: Current Clients), 1.8 (Conflict of Interest: Current Clients: Specific Rules), 1.9 (Duties to Former Clients), 1.18 (Duties to Prospective Client), 8.4(a) (Attempt, Assist or Induce), 8.4(d) (Prejudicial to the Administration of Justice).

Peach's alleged misconduct includes: (1) sending W. (a client) sexually motivated text messages and pressuring the client to have sex with respondent, (2) attempting to have sexual relations with W., (3) discussing a dissolution matter with A.V., and previously representing A.V. in the dissolution matter, and then representing C.P. in the same dissolution matter against A.V. without A.V.'s consent, and (4) sending sexually suggestive texts to C.P. and A.V.

Decision document: Resignation Form of Charles Wade Peach (ELC 9.3(b)).

MORE ONLINE

Access further details by clicking the links in the online version: **www.wabarnews.org**.

Suspended

Ivan Culbertson (WSBA No. 30462, admitted 2000) of Vancouver, was suspended for 30 days, effective 12/26/2024, by order of the Washington Supreme Court. Henry Cruz acted as disciplinary counsel. Pamela Jo DeVet represented the respondent. Henry E. Farber was the hearing officer. Timothy J. O'Connell was the settlement hearing officer.

The lawyer's conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation), 8.1 (Bar Admission and Disciplinary Matters), and 8.4(d) (Prejudicial to the Administration of Justice, 8.4(l) (ELC Violation).

Culbertson stipulated to suspension for: (1) failing to perform the agreed-upon work in two divorce matters and unreasonably delaying both matters; (2) failing to promptly comply with reasonable requests for information and failing to communicate

CONTINUED >

with the clients regarding the status of the divorce matters; (3) failing to promptly refund unearned fees after the termination of representation; (4) failing to timely respond to ODC's multiple requests for information.

Decision documents: Disciplinary Board Order Approving Stipulation to Suspension; Stipulation to Suspension; and Washington Supreme Court Order.

Richard Charles Greiner (WSBA No. 13230, admitted 1983) of Yakima, was suspended for three years, effective 12/23/2024, by order of the Washington Supreme Court. Nate Blanchard acted as disciplinary counsel. Richard Charles Greiner represented themselves. Franz Laurent de Cannon was the hearing officer. Seth A. Fine was the settlement hearing officer.

The lawyer's conduct violated the following Rules of Professional Conduct: 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation); 8.4(d) (Prejudicial to the Administration of Justice).

Greiner stipulated to suspension for: (1) taking funds to which the respondent was not entitled, and (2) entering into an agreement with A. (respondent's former tenant under an office lease agreement, who was not and has never been respondent's client) which required A. to withdraw their grievance.

Decision documents: Disciplinary Board Order Approving Stipulation, Stipulation to Suspension, and Washington Supreme Court Order.

Colleen A. Hartl (WSBA No. 18051, admitted 1988) of North Bend, WA, was suspended for 21 months, effective 8/2/2023, by order of the Washington Supreme Court. Henry Cruz and Kirsten Schimpff acted as disciplinary counsel. Colleen A. Hartl represented themselves. Timothy J. O'Connell was the hearing officer. Eric T. Krening was the settlement hearing officer.

The lawyer's conduct violated the following Rules of Professional Conduct: 3.3 (Candor Toward the Tribunal), 8.4(c) (Dishonesty, Fraud, Deceit or Misrepresentation).

Hartl was found to have violated the Rules of Professional Conduct by making multiple false statements to a judge and the judge's judicial assistant.

MORE ONLINE

Access further details by clicking the links in the online version:
www.wabarnews.org

Decision documents: Hearing Officer's Decision; Disciplinary Board Order Adopting Hearing Officer's Decision; and Washington Supreme Court Order.

Benjamin David Kerr (WSBA No. 41442, admitted 2009) of Seattle, was suspended for 12 months, effective 12/2/2024, by order of the Washington Supreme Court. Francesca D'Angelo acted as disciplinary counsel. Todd Maybrown represented the respondent.

The lawyer's conduct violated the following Rules of Professional Conduct: 8.1(a) (Bar Admission and Disciplinary Matters), 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation).

Kerr stipulated to suspension for providing ODC with false information about a grievance investigation.

Decision documents: Disciplinary Board Order Conditionally Approving Stipulation; Consent to Conditional Terms Under ELC 9.1(e)(2); Stipulation to 12 Month Suspension; and Washington Supreme Court Order.

Terence Kain Wong (WSBA No. 24502, admitted 1994) of Newcastle, was suspended for 12 months, effective 12/23/2024, by order of the Washington Supreme Court. Francisco Rodriguez acted as disciplinary counsel. Terence Kain Wong represented themselves.

The lawyer's conduct violated the following Rules of Professional Conduct: 1.3 (Diligence), 1.4 (Communication), 1.5 (Fees), 1.7 (Conflict of Interest: Current Clients), 1.15A (Safeguarding Property), 1.16 (Declining or Terminating Representation), 3.2 (Expediting Litigation).

Wong stipulated to suspension for: (1) failing to act with reasonable diligence in a client's criminal and immigration matters and, in another client's criminal matter, (2) failing to promptly convey a plea offer to a client and failing to reasonably communicate with a client regarding their criminal matter, (3) representing clients in circumstances where the representation involved a concurrent conflict of interest without obtaining their informed consent, in writing or otherwise, (4) failing to provide a client with the agreed upon legal services in their immigration matter and failing to refund unearned fees after the representation ended, and failing to provide a client with the agreed upon legal services in their criminal matter and failing to refund unearned fees within a reasonable time after the representation ended.

Decision documents: Disciplinary Board Order Approving Stipulation; Stipulation to Suspension; and Washington Supreme Court Order.

Interim Suspension

Matthew Philip Goldman (WSBA No. 54657, admitted 2019) of Tigard, OR, is suspended from the practice of law in the state of Washington pending the outcome of disciplinary proceedings, effective 1/2/2025, by order of the Washington Supreme Court. ***This is not a disciplinary sanction.***

Matthew John Ley (WSBA No. 46074, admitted 2013) of Belfair, WA, is suspended from the practice of law in the state of Washington pending the outcome of supplemental proceedings, effective 9/13/2024, by order of the Washington Supreme Court. ***This is not a disciplinary sanction.*** BN

NEW YEAR PARNALL LAW Hurt? Call BERT.®

NEW OPPORTUNITY

Calling Experienced **Senior** Attorneys and Enthusiastic **Junior** Attorneys!

Relocation Assistance

Reimbursement of up to $10,000 for senior attorneys, or up to $3,000 for junior attorneys

Competitive Compensation

Performance-based Ranges from 200k to 400k or more

Dedicated Support Teams

Over 100 employees in Intake, Case Management, Investigation, etc.

Apply Online at: HurtCallBert.com/Attorney-Careers

ALBUQUERQUE BUSINESS FIRST
BPTW
2019-2024
BEST PLACES TO WORK

Start 2025
by joining the
LARGEST
and ***Most Highly Reviewed***
Personal Injury Law Firm in New Mexico!

TOP WORK PLACES 2020-2024
ALBUQUERQUE JOURNAL
Parnall Law is a 2024 Top Workplace! 5 Years Running

$25,000 *hiring bonus**

**for senior attorney candidates; $10,000 hiring bonus for junior attorneys*

Scan to Apply!

Marketplace

PROFESSIONAL LISTINGS OF INTEREST TO ATTORNEYS IN WASHINGTON

ACCIDENT RECONSTRUCTION

Mecanica Scientific Services Corporation

John Isbister
2290 SW 2nd St., Suite B
McMinnville, Oregon 97128
PH: +1 (971) 318-4176
EMAIL: info.pnw@mecanicacorp.com

Specialties:

The Mecanica team has provided technical services within the western U.S for over 30 years; providing expertise in the following areas: Accident (crash) reconstruction & analysis; including, passenger vehicle, commercial vehicle, tractor, trailer, bus; motorcycle, pedestrian, bicycle; Event Data Recorders (EDR) & Heavy Vehicle Event Data Recorders (HVEDR); Fleet Telematics (GPS) data analysis; Collision Mitigation Systems (CMS) including Lidar, Radar, and Cameras; Mechanical Inspections & System Performance Analysis; Commercial Fleet Operations, Traffic Signal Timing, Vehicle Maintenance, Automotive Systems Evaluation, Driver Standards of Care, and Fire Origin and Cause Investigations; Forensic 3D Simulations, Animations and Captured Site Video Analysis. Mecanica provides Vehicle, Component, and Systems Testing as well as Chip Swapping/Transfers at our on-site laboratory.

Consulting/Expert Witness Experience:

We provide forensic analysis in the areas of transportation, construction, agricultural, industrial and product liability. Our experts are qualified in state, criminal, federal, and military courts. We provide engineering services, continuing education, research and peer-reviewed published authors.

www.mecanicacorp.com

MECANICA SCIENTIFIC SERVICES

ACCOUNTING

Truepoint Analytics

William N. Holmes
CPA, CFE, CVA, ABV

Licensed in WA, OR, AZ, CA.

- **Accounting and Tax Malpractice**
- **"Big Data" Science**
- **Business Valuation**
- **Commercial Litigation**
- **Economic Damages and Lost Profits**
- **Expert Testimony**
- **Fraud and Forensic Accounting**
- **Intellectual Property**
- **Maritime Damages (Jones Act)**
- **Shareholder Disputes**
- **White Collar Financial Crime**
- **Former 5-Year Oregon Board of Accountancy BOACC (Ethics and Complaints Panel)**

Forensic Accounting

Robert Loe, CFE, CPA
Licensed in WA, AK, & DC

2400 NW 80th St, #302, King County
Seattle, WA 98117
PH: 206-292-1747
EMAIL: robert@loecpa.com

- **Certified fraud examiner**
- **Forensic accounting**
- **Litigation support**
- **Expert witness testimony**
- **Experienced peer reviewer**
- **Former investigator for state board of accountancy**
- **Licensed in Washington**

www.loecpa.com

BUSINESS VALUATIONS

Silverpine Group, LLC

Richard Reynolds, CVA, MAFF
2009 F Street, Vancouver, WA 98663
PH: 360-600-4968
EMAIL: reynolds@silverpinegroup.com

- **Business Valuation**
- **Forensic Accounting**
- **Minority Discounts**
- **Shareholder Disputes**
- **Litigation Support**
- **Economic Damages and Lost Profits**
- **Personal Goodwill**
- **Intellectual Property**

We provide expert opinions and valuations for corporate planning, litigation, financial reporting, gift and estate planning, tax compliance, divorce, and intellectual property matters. Our team delivers accurate, defensible valuations backed by rigorous analysis and clear documentation. Silverpine Group offers quality valuations and expert testimony that withstand challenge and scrutiny.

www.silverpinegroup.com

SILVERPINE GROUP
VALUATION OPINIONS AND CONSULTING

CONSULTANTS

Investor Claims

Courtland Shafer
Llewellyn & Shafer, PLLC
4847 California Ave. SW, Ste. 100
Seattle, WA 98116
PH: 206-923-2889
EMAIL: courtland@llllaw.net

- Former NASD Series 7, 66 and life/annuity insurance licensed broker/investment advisor.
- Available for consultation and referrals in claims involving broker/dealer error, fraud, and investment suitability.

www.llllaw.net

MORE LISTINGS >

MORE ONLINE > Check out our featured Marketplace listings online at **wabarnews.org/marketplace.**

SERVICE CATEGORIES

- Accident Reconstruction
- Accident Reconstruction—Biomechanics
- Accountants
- Accountants—Litigation Support
- Appraisers—Residential Appraisal
- Bar-Focused Issues
- Business Valuations
- Computer and Network Support
- Computer Forensics
- Consultants
- Court Bonds
- Court Reporters
- Estate Planning—Automated Document Drafting & Assembly
- Estate Planning Templates
- Financial Services
- Forensic Accounting
- Handwriting Experts—Handwriting & Document Forensics
- Investigative Services—Surveillance Investigations
- Investigative Services
- Litigation Support
- Litigation Support/Trial Consulting
- Marketing
- Mediation
- Practice Management Services & Software
- Professionals
- Telephone Receptionists
- Video Services
- Virtual Receptionists/Answering Services
- AND MORE

WANT TO PLACE A LISTING IN THE MARKETPLACE?

To learn how, please see the information box on page 53

Marketplace

PROFESSIONAL LISTINGS OF INTEREST TO ATTORNEYS IN WASHINGTON

CONSULTANT-FORENSIC MENTAL HEALTH

Develop Minded Therapies

Forensic Mental Health Evaluation

DJ Lane
4040 S Tyler St, #8, Tacoma, WA 98409
PH: 253-750-2664 • 253-365-8989
FAX: 253-215-4426
EMAIL: info@developmindedtherapies.com

- **Mental health evaluations**
- **Parenting assessments**
- **Parental coaching**
- **Trauma analysis**
- **GAL duties**
- **Immigration evaluations**

www.developmindedtherapies.com

COURT REPORTERS

Puget Sound Reporting

13516 Meridian East, #732188
Puyallup, WA 98373
PH: (800) 576-7129
EMAIL: psr@pugetsoundreporting.com

Puget Sound Reporting is a premier and trusted provider of court reporting services located in Tacoma. We serve the local Puget Sound area, as well as clients nationwide. We understand that precise court reporting is crucial to legal proceedings, which is why our expert staff is dedicated to delivering accurate transcripts to clients in a prompt and professional manner. We assist with class action lawsuits, serving first responders, paralegals, and lawyers with excellence and accuracy.

www.pugetsoundreporting.com

ERISA/RETIREMENT PLANS

ERISA Cavalry PLLC

Thomas Veal
1106 168th Street East, Spanaway, WA 98387
PH: 253-316-7812
EMAIL: TomVeal@ix.netcom.com

Have your clients' retirement plans (or your own) encountered design, administration, tax or litigation issues? Summon the ERISA Cavalry! Tom Veal has over 40 years of ERISA experience. See our website for details.

www.ERISACavalry.com

ERISA Cavalry PLLC

FORENSIC ACCOUNTING

Silverpine Group, LLC

Richard Reynolds, CVA, MAFF
2009 F Street, Vancouver, WA 98663
PH: 360-600-4968
EMAIL: reynolds@silverpinegroup.com

- **Forensic Accounting**
- **Lost Profits**
- **Economic Damages**
- **Intellectual Property**
- **Shareholder & Minority Disputes**

Silverpine Group specializes in forensic accounting for complex cases involving lost profits, economic damages, post-acquisition disputes, intellectual property, patent infringement, contract disputes, and shareholder disputes. Our team produces defensible insights, providing critical support in litigation and financial resolution. We provide quality testimony and financial clarity that withstand challenge and scrutiny.

www.silverpinegroup.com

INSURANCE

ALPS Corporation

Malpractice, Law Firm Insurance

ALPS Team
111 N. Higgins Ave, Missoula, MT 59802
PH: 1-800-367-2577
EMAIL: learnmore@alpsinsurance.com

Washington's lawyers put themselves on the line every day to help people and build successful practices. That's why ALPS offers comprehensive malpractice and business insurance solutions making it easy for you to protect your entire firm. Founded by lawyers for lawyers in 1988, ALPS is the insurance carrier of choice for solo and small law firms. As The Washington State Bar's endorsed carrier, they understand how valuable your time is and are dedicated to making insurance easy so you can get back to doing what you do best, practicing law.

Coverage features provided by ALPS, but not always available through other carriers, include:

- Flexible malpractice coverage choices to fit the varying protection needs of different law firms.
- Business Insurance Coverage options available, including:
  - **Business Owner's Policy (BOP)**
  - **Workers' Compensation**
  - **General Liability**
  - **Cyber Liability**
  - **Employment Practices Liability**
  - **Commercial Auto**

Custom malpractice coverage options for new lawyers with minimum limits of $100,000/$300,000

www.alpsinsurance.com/washington

MORE ONLINE >

Check out our featured Marketplace listings online at **wabarnews.org/marketplace.**

QDRO SERVICES

Law Offices of Tresa A. Sadler, PLLC

Tresa Sadler
16708 Bothell-Everett Hwy, Ste 104
Mill Creek, WA 98012
EMAIL: reception@sadlerpllc.com

Does your client need a QDRO drafted? Contact our office! Our team has over 20 collective years drafting and filing all types of QDROs, including deferred comp, labor union, and military orders.

sadlerlawpllc.com

LAW OFFICES OF
TRESA A. SADLER, PLLC.

Please support the advertisers seen here in our new and improved Marketplace of Professionals.
Check out our featured listings online at wabarnews.org

WANT TO BE FEATURED IN THE MARKETPLACE?

Placing an ad is easy!

To learn more, contact Ronnie Jacko at Big Red M at **503-445-2234** or **ronnie@bigredm.com**

TELEPHONE RECEPTIONISTS

Ruby

Ellie Miller
PH: 844-914-0291
EMAIL: partners@ruby.com

Unlike staff at typical answering services, Ruby's receptionists engage in real, unscripted conversations while referencing custom information provided by the businesses we represent. The result is exceptional customer and client experience that sounds like it's in-house.

Ruby acts as a seamless extension of your business, delivering unforgettable experiences online and over the phone—24/7, 365 days a year. Through a unique combination of technology, training, and talent, we make it easy for anyone to reach a friendly, helpful representative in seconds.

With the Ruby dashboard and mobile app, you can stay on top of all your communication with callers and website visitors, change your call handling instructions in seconds, set up custom call forwarding, and view your usage. Our platform integrates with tools such as Zapier, Clio Grow and Clio Manage, MyCase, and Grasshopper. Find out how to receive an exclusive 7% discount!

www.ruby.com/campaign/wsba/

ruby

Classifieds

POSITION-AVAILABLE ADS ARE ONLINE

Job seekers and job posters, position-available ads can be found online at the WSBA Career Center. To view these ads or to place a position-available ad, go to **https://jobs.wsba.org**.

A SPECIAL DISCOUNT has been extended to Dec. 31, 2025, for nonprofit, government, and small-firm (10 or fewer attorneys) employers to post position-available ads on the WSBA Career Center. Please contact Michael Lis at 860-544-5833 or michael.lis@communitybrands.com. Free 30-day postings of jobs for legal professionals in "rural" areas are also available. To determine eligibility for a free posting, please contact memberbenefits@wsba.org with "RURAL EMPLOYMENT OPPORTUNITY" in the subject line.

TO PLACE A PRINT CLASSIFIED AD

RATES, DEADLINE, AND PAYMENT:

WSBA members: $50/first 50 words; $1 each additional word.
Nonmembers: $60/first 50 words; $1 each additional word.

Email text to classifieds@wsba.org by the first day of each month for the following issue (e.g., March 1 for the April/May issue). Advance payment required. For payment information, see **http://bit.ly/WABarNews**. For questions, email classifieds@wsba.org.

SERVICES

Contract attorney for legal research, analysis, and writing, including technical, scientific, and engineering subjects. Legal research, discovery analysis, and legal argument development. Drafting persuasive letters, memoranda, and briefs. B.S./M.S. Engineering, LL.M. IP Law, M.S. Physics. Leslie English, 206-552-8321, Leslie@LeslieEnglishLaw.com.

Insurance expert witness – Neal Bordenave, J.D., CPCU, RPLU, ARM, AIC. 530-891-8100/530-864-6407, nealbordenave@gmail.com, WAInsuranceExpert.com. Extensive expert experience since 2009, 500+ retentions, 100+ testimonies.

Marketing solutions for attorneys and law firms. Our services include website design and development, content marketing, blog and social media management, SEO help, and AI marketing. Licensed attorneys, legal marketers, and web-savvy professionals ready to help. Contact LegalLuster Media, LLC, now: 206-678-5532, dustin@legallustermedia.com, www.Legallustermedia.com.

Attorney websites is all we do! At Defacto-Digital, LLC, we've been helping law firms around the country create more eye-catching and engaging websites and relative content for 20 years. Contact us today at info@defacto-digital.com or 206-678-5532. Please visit www.defacto-digital.com.com for more information.

FOR SALE

Busy Tukwila personal injury firm looking to sell or merge. Great chance for young attorney to have a turn-key practice or an established firm to grow by merger. Retiring lawyer willing to advise, mentor, or be p/t employee into 2026. Serious inquiries to: Seahurst7@comcast.net.

Retiring law firm selling clean set of Washington Appellate Reports complete from WA 1 through WA2nd Vol. 18 (2002). Price is negotiable if buyer pays or arranges shipping to a good home. Henry & Allen, Attorneys, Port Townsend. 360-301-3175 or chenryatty@gmail.com.

SPACE AVAILABLE

Southcenter Tukwila, Class B space. Conference rooms, free Wi-Fi, kitchens, 100 to 6,000 SF available, starting at $800/month, contact Angie@chaelawfirmps.com.

Downtown Seattle, 1111 3rd Ave., Class A space. Receptionist included, conference rooms, copiers, scanners, gym, showers, bike rack, light rail across the street, several offices available, starting at $1,200/month. Contact 206-294-5060.

VACATION RENTALS

PARIS APARTMENT—at Notre Dame. Elegant 2-bedroom, 2-bathroom apartment, in the heart of Paris. **PROVENCE HOUSE**—in Menerbes. 4-bedroom, 3.5-bathroom house. Incredible views. 503-227-3722 or 202-285-1201; angpolin@aim.com. BN

LIGHTNING ROUND

Amanda DuBois

BAR NUMBER: 16759

Amanda DuBois is the founder and managing partner of DuBois Levias Law Group, a woman-owned family law firm in Washington. Formerly a labor and delivery nurse, she also writes the Camille Delaney mystery series. Her third novel, *Unshackled*, will be published in February 2025.

What is the most interesting case you have handled in your career so far and why? One of the most memorable cases I took to trial was when I represented a man being sued for a committed intimate relationship by a former partner. They had lived together as a couple for a few years in the early 80s. Years after their romantic relationship had ended, the former partner showed up at my client's home with AIDS. My client, a compassionate, generous person, had responded to the AIDS crisis by inviting AIDS patients who had been abandoned by their families into his home to care for them in their final months. My client took his former partner in as a friend and cared for him as well. (They never resumed their romantic relationship.) To both of their great surprise, the antiviral meds worked and the former partner, now friend, gained his health back. The two friends spent the next few decades living in my client's home; the former partner lived in the basement apartment. They traveled and socialized together. Eventually, after a disagreement, my client's former partner filed a lawsuit claiming they had a committed intimate relationship spanning 25 years, seeking half of my client's assets—which totaled in the millions!

It was a fascinating and emotionally complex case, not only because of the legal issues around committed intimate relationships, but also the history and social consequences of the AIDs epidemic. Adding to the unpredictability of litigation, we were assigned to a brand-new judge overseeing his first-ever trial. He made it very clear that he'd need lots of educating on the legal issues in the case. Thankfully, he saw things our way and found in my client's favor, but it sure felt touch and go all throughout that trial.

What is an example of something you've done to make the legal field more accessible to legal professionals from marginalized backgrounds? I've worked to create a "second-chance" culture within my firm by hiring people impacted by the criminal legal system. We've had paralegals, legal assistants, and a law clerk who were formerly incarcerated. We also have staff whose loved ones are or have been incarcerated. Being called a "second-chance employer" is actually a misnomer because for many justice-involved people, this is their first chance at creating a career for themselves.

How would you be earning a living if you weren't a lawyer? I'd most likely pursue a career in storytelling, either as a writer (which I'm fortunate to already be!) or as a TV/ film producer. It's powerful to reach people by tapping into their emotions in order to convey stories of injustice and human resilience. BN

If you had to give a 10-minute presentation on one topic other than the law, what would it be and why?
The impact on society of incarcerating mothers. Between 1980 and 2022, the number of incarcerated women in the U.S. skyrocketed by over 585 percent, with many needing treatment for trauma and/or addiction. A mother's incarceration frequently results in children losing stable parental care, fueling a cycle of trauma.

What is one thing your colleagues may not know about you?
Many of my colleagues in the legal world might not know that I write legal thrillers about the inequities in the legal system. I bring my experience as a nurse and as a lawyer to write medical-legal stories that focus on the justice system.

How do you unwind or recharge after a difficult day?
My morning workout routine is sacred to me. I've been working out with the same trainers every morning at the same time for over 20 years. During COVID-19, we went to FaceTime workouts and never looked back. I am convinced that exercise is the best way to recharge and stay strong and healthy.

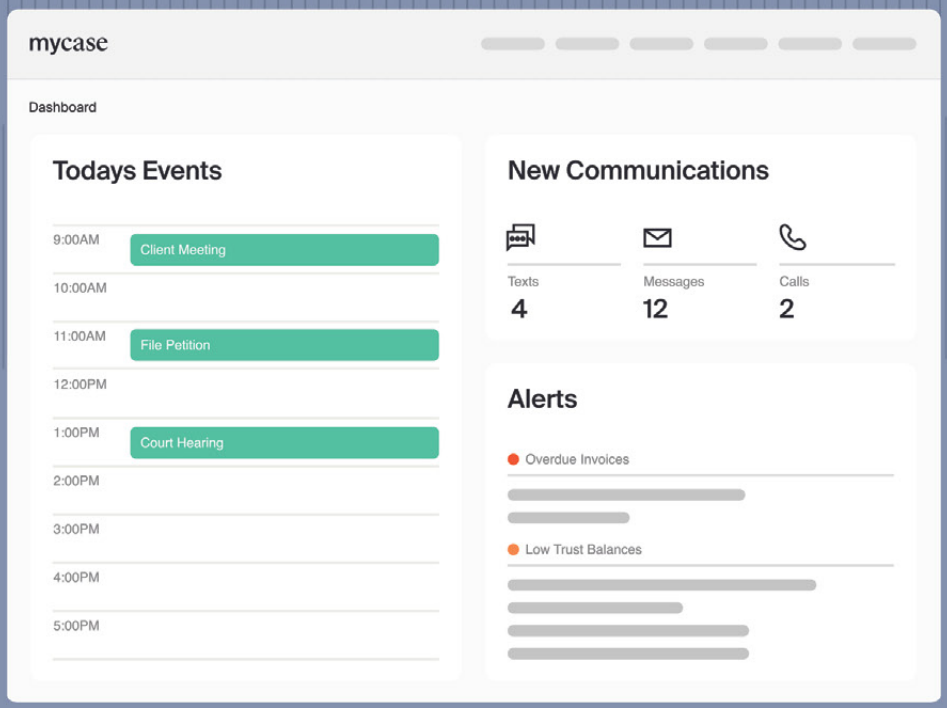
Staff illustration

> **WE'D LIKE TO LEARN ABOUT YOU!** Email wabarnews@wsba.org to request a questionnaire and submit materials to be used for a hand-drawn portrait.

mycase

The #1 Rated Law Practice Management Software

Streamline your cases, track more time, communicate with clients quickly, and get paid faster with MyCase

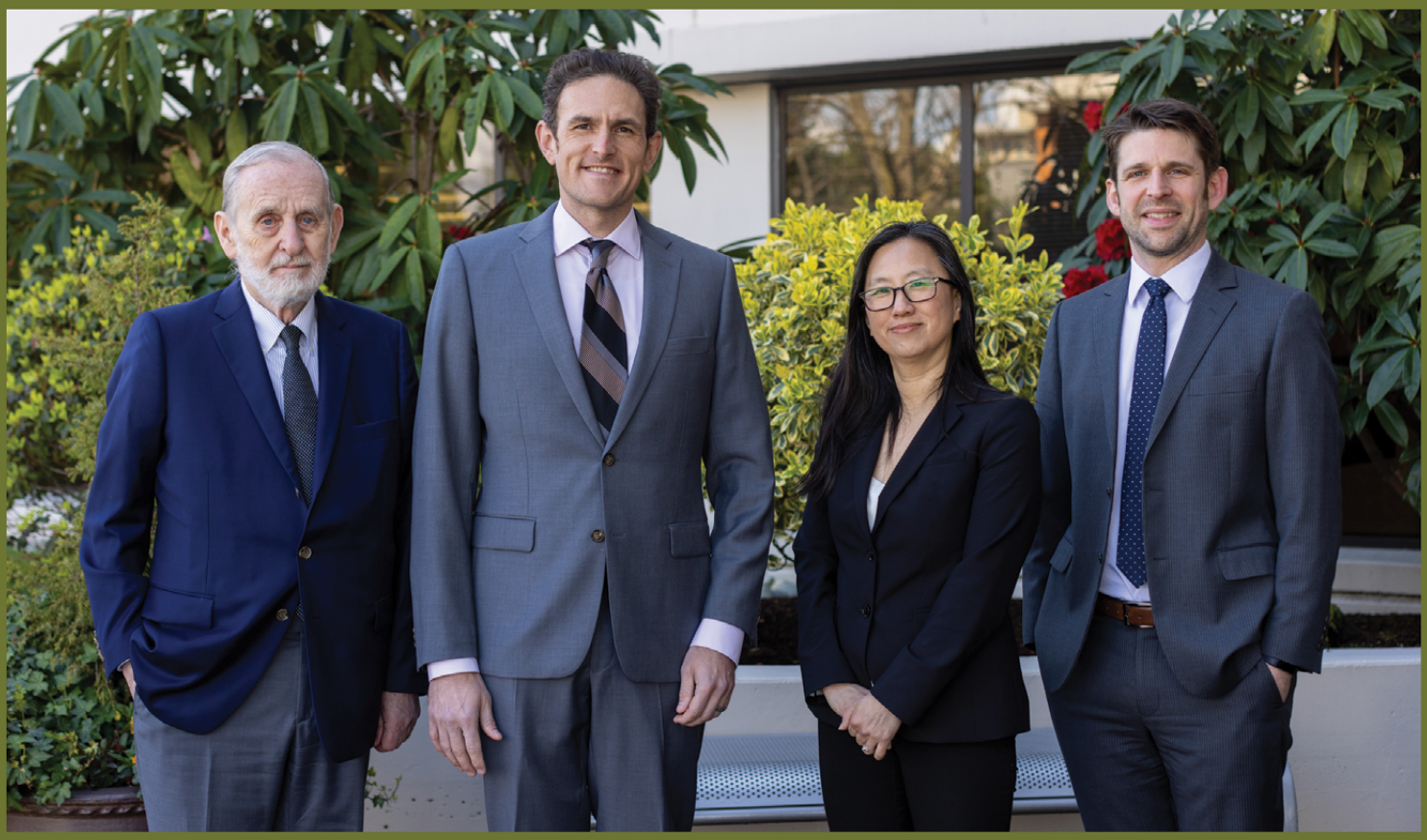


"As a business owner, the impact it has had on clients paying on time is tremendous."

Michelle Diaz
Managing Attorney, The Law Office of Michelle E. Diaz

Learn More **Visit MyCase.com** **800-571-8062**

VOL. 79 • NO. 2 — FEB. 2025



Wishing You a Happy and Healthy 2025!

Medical Malpractice

It's All We Do.

CMG LAW

206-443-8600

cmglaw.com