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WASHINGTON STATE
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Meeting Justice Melody

Learn what drives new Washington Supreme Court Justice Colleen Melody in our Q&A / **p. 40**

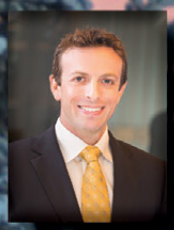
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Photo courtesy of Washington Supreme Court

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CALLOUT TO READERS

Answer Our Q&A

If you'd like to see yourself on the last page of an issue of *Bar News*, let us know! We would love to send you a questionnaire. **wabarnews@wsba.org**.

Editor's Note

Emphasizing the Basics

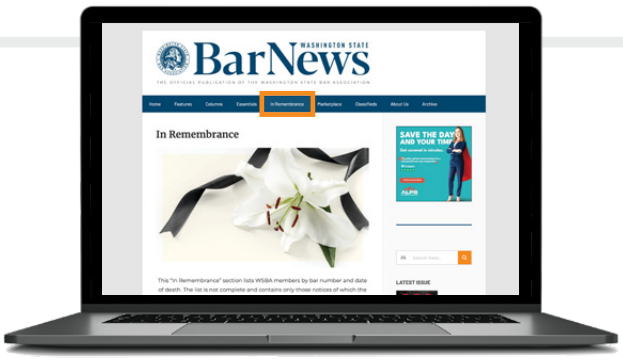
This issue's cover story is an interview with Washington's newest Supreme Court justice, Colleen Melody. Justice Melody shares her thoughts on the state's legal system, what it's like to transition from an advocacy role to a judicial one, and how to help restore trust in the judicial system. "The best response to the current crisis of credibility in courts as institutions is to behave in ways we *already know* promote faith in the rule of law," Justice Melody told *Bar News*. "... Sometimes the best path forward is to emphasize the basics." Read more on page 40.

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



ON THE COVER
Photo courtesy of Washington Supreme Court

Also in this issue, short interviews with four recipients of the WSBA's 2025 Rural Practice Internship Grants (page 34); an overview of what Washington lawyers should know about state laws governing homeschooling (page 29); a cautionary tale from an estate planning lawyer (page 46); a spotlight on Filipino Lawyers of Washington (page 26); an ethics column on the "hot potato" rule (page 16); a Q&A with Vivian Lee, director of Eastside Legal Assistance Program (page 24); and a Write to Counsel column on legal typography (page 21). BN



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Longer obituaries for recently deceased WSBA members are now available online at **wabarnews.org/in-remembrance/**.

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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 and grammatical accuracy.

Kudos to Past APEX Award Winner

In early February, *The Seattle Times* showcased attorney Adam Ballout and the nonprofit he co-founded, FIRST Legal Clinic, which helps parents in trouble keep their families together before children are removed to foster care ["From CPS and crisis to a family again: Everett attorney finds a new way," by Claudia Rowe]. Reading the article, it dawned on me how attorneys like Adam, instead of simply taking on cases, recognize a systemic repeated problem and work to propose a big-picture solution by taking the initiative and gathering the necessary stakeholders to get it done. His team has worked with more than 1,600 families, 79 percent of whom were able to stabilize without losing their kids to the state.

In 2023, FIRST Legal Clinic won the WSBA's APEX Award for Pro Bono and Public Service for a group. (I was beyond humbled to receive the Pro Bono and Public Service Award for an individual that year.) It is very gratifying to see coverage and recognition of lawyers and legal organizations who look at the big picture and work to propose solutions.

Michael B. Goldenkranz
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Handling Investigations in High-Risk Workplace Situations



BY PAM HOWLAND

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Alaska and Oregon Speak to 'Actual Innocence' Requirement for Malpractice Claims



BY MARK J. FUCILE

The "actual innocence" requirement in legal malpractice claims against criminal defense attorneys necessitates plaintiffs to prove they did not commit the crime linked to alleged negligence. Jurisdictions like Washington, Alaska, and Oregon have their variations, complicating malpractice [...]

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Parade of Horribles: Federal Court in Oregon Surveys Sanctions for AI Fake Citations



BY MARK J. FUCILE

The Medford Division of the U.S. District Court for Oregon recently imposed a sobering list of sanctions against both the attorneys and their client responsible for multiple instances of AI-generated fake citations and quotes in summary judgment briefing. The court noted that both the [...]

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Minneapolis and Unity: The Meaning Behind the WSBA Statement

On Jan. 7, Renée Good was shot and killed in Minneapolis. On Jan. 24, Alex Pretti was shot and killed in Minneapolis. On Jan. 28, WSBA President Francis Adewale and Executive Director Terra Nevitt issued a joint statement calling for unification.

"An escalating cycle of fear, grief, and rage is rippling through communities throughout our state and nation," they wrote in a statement titled *Minneapolis Is a Call to All Legal Professionals to Uphold the Legal System* (see page 14). "And—because the killing and harm of civilians by government authorities is not a new phenomenon—we are outraged anew about those prior tragedies. Legal professionals admitted to practice law have an obligation to ensure accountability under the rule of law."

Whomever you are, you likely have an opinion—a strong opinion—about these killings and the political climate surrounding them. Their statement is not about swaying your opinion, according to Adewale and Nevitt, but instead it serves as a call for reunification around the thing that binds all legal professionals to each other and ties communities back to the legal system: confidence in the rule of law. What follows is a brief interview in which Adewale and Nevitt explain why they wrote the statement, what they hope to accomplish alongside other Washington legal professionals, and what all legal professionals can do.

Q. Why was it important to speak now as Bar leaders?

Nevitt: That is always a big question because there are tragedies and injustices happening all the time, everywhere, and we could easily try to find justification to speak about each one, especially as we react on a human level. But as leaders of the State Bar, we are not speaking as Terra and Francis. When we issue organizational statements, they must be tied to our mission—to the integrity of the legal profession and the quality of justice in Washington. I would love to have a clear framework like, "if X and Y, then you issue a statement on behalf of the WSBA," but it's a complex decision. In the aftermath of the shootings, what struck me was an overwhelming sense from the public that they do not trust that a transparent and just legal process will follow. This is yet another inflection point in what is already a crisis of confidence in our legal system. And this is the serious problem that our Rule of Law Ambassador Program was created to address—so this is a moment where we felt a statement was necessary and absolutely aligned with our core mission at the WSBA and our core responsibilities as legal professionals. We must all be present in our communities fostering trust in the legal system through our words and actions.

Adewale: As lawyers, we look to rules, laws, and policies. So when I was considering what to do here, I looked for guidance from court rules and I took guidance provided by the Board of Governors. Whether the State Bar can speak or not is circumscribed by GR 12.2, which provides purpose and authority for the Bar to do things like promote an effective legal system and to create programs of public information about the legal system. Furthermore, the Board of Governors made it clear that we should be promoting the rule of law. We started the Rule of Law Ambassador Program precisely to be a voice for the legal profession—for the defense of the law. There is nothing political or partisan in the work of the ambassador program or call to action in the statement we just issued. This is a role the Bar Association has always taken very, very seriously, and we have also been meticulous about aligning how and when we speak. I came from a country where confidence in the law is shattered; I came to a country where I believe that there is hope that the law will be respected. We are not issuing a statement because of political beliefs or even an assumption about what *should* be legal outcomes in Minneapolis. We're saying that for the sake of the law, for the integrity of the legal system, we *all* have to protect the integrity of the rule of law.



Terra Nevitt
WSBA Executive Director

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



Francis A. Adewale
WSBA President

Francis A. Adewale is the 2025-2026 WSBA president. He can be reached at francisadewalebog@gmail.com.

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Q. What reaction would you like Bar members to have when they read this statement?

Adewale: I want our readers to see why defending the rule of law, upholding the integrity of the legal profession, and promoting an effective legal system accessible to all is important. That is why we made this statement.

Nevitt: Fundamentally, the purpose of the statement is to speak to the legal community about what is going on right now and to provide some unity, inspiration, and clarity about the role and responsibility for anyone with a legal license. We all have a special and unique obligation, and the WSBA is going to support that work, that is our role.

Adewale: Like every speech or statement, people are going to agree or disagree. What we want to do as a Bar Association is provide resources to our members so they can go into their communities and provide education—education that is about the legal process and legal rights. If any member wants to call me or write a letter to the editor to *Bar News* in response, I want to hear those viewpoints. But I also want to hear from those who support the statement. Overall, I

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want balance, and I want to understand all sides. Not everyone is going to agree with every sentence in the statement, but can we keep talking until we get to agreement about this fundamental value, which is embedded in the oath we take to receive a legal license: We uphold the rule of law and the Constitution.

Nevitt: I am so painfully sincere when I say that I really want the statement to be unifying.

We could have drafted it in any number of ways, and we used a lot of care and intention to solicit different viewpoints and to *not* draw conclusions about any legal outcomes in Minneapolis. I know that some people will not agree. It is the nature of our society right now to be deeply cynical and skeptical. I wholeheartedly align with Francis—I want to hear from all members; I want to hear all perspectives. Being divided as a legal community is not going to serve anybody and it certainly will not strengthen the public's trust and confidence in our legal system. Ultimately, I hope my legal colleagues will feel proud about the role that they have and will feel empowered because there is something they can do right now with what they're feeling about our divided nation.

Q. What is our call to action here?

Nevitt: The call to action is for every legal professional to be informed and to act with the highest level of integrity so they can serve as community leaders. We should understand the legal issues of the day so we are prepared for questions from neighbors and family members. Toward that end, we are developing an ongoing resource to equip legal professionals to be ambassadors, a lunch-and-learn series responsive to the most pressing legal questions of the day. If we are visible and upstanding, we can all play a part in supporting the rule of law. I also think that we should be working to make a legal system that deserves people's confidence.

Adewale: A call to education, a call for lawyers to go into their communities and educate them about the importance of the rule of law and why it matters. First of all, you have to educate yourself. You have to learn. You have to read up on what is going on. Come to our ambassador trainings. This profession is among the best in the world, in the whole universe—we are privileged. And that privilege should be recognized and used for good purpose. There is a respect and regard for lawyers in the community. When we speak, we have an advantaged position to be able to educate people about peace and order. We have a responsibility to serve as a mouthpiece for that. The Constitution cannot speak for itself. Lawyers speak for the Constitution. The rule of law cannot defend itself. Lawyers defend the rule of law. The primary goal is not to divide us as a legal community; it is to unite us.

Nevitt: We understand in the climate we're in, everyone's bringing their own context to the statement, and that's why we spent so much time poring over the approach, intention, and wording. At the end of the day, it's not possible to craft a statement that is going to appeal to everyone and still say something worth saying. I really want to emphasize what the attempt here is: Any political belief can be welcomed by the statement. We're not trying to cast judgment or make claims about what has happened or what should happen. We're saying that we have a legal system for resolving disputes, for holding people accountable, for protecting people. However you view the issues, hopefully as legal professionals we can all agree that we want the legal system to function well for the people we serve.

Minneapolis Is a Call to All to Uphold the Legal System

A Statement from the WSBA President and Executive Director

Recent events in Minneapolis surrounding federal immigration enforcement have shocked and saddened us. We have seen videos

of immigration authorities killing Renée Good and Alex Pretti. We have witnessed violence against people exercising their constitutional rights. We have questioned why people are being arrested and detained without clarity regarding legal processes. An escalating cycle of fear, grief, and rage is rippling through communities throughout our state and nation. And—because the killing and harm of civilians by government authorities is not a new phenomenon—we are outraged anew about those prior tragedies.

Legal professionals admitted to practice law have an obligation to ensure accountability under the rule of law. As a concept, "the rule of law" is so overly invoked that it has become meaningless, at best, or weaponized, at worst. But as legal professionals in Washington, we should be united and clear, no matter our political views: The rule of law means that the same laws apply to everyone, that even government power is bound by the law, and that civil and human rights are guaranteed to all.

The rule of law does not defend itself. Lawyers must. Judges must. Legal professionals must. Whether in Minnesota or Washington or anywhere in the United States, our work is to reinforce the public's trust in our legal system as the mechanism for peaceful and just resolution of society's most serious and institutional wrongdoings. That means all accused are innocent until proven guilty and the guilty are held responsible for their crimes. That means that all parties engage in a good-faith effort to preserve and present facts and evidence. That means safeguarding people who are exercising their Constitutional rights.

At a time when trust and confidence in our democratic institutions is badly shaken, we call on legal professionals to stand as leaders in their communities, to build confidence in legal institutions, and to act with the highest level of integrity and courage in upholding the rule of law.

At a time of escalating violence and hostile threats against courts and judicial independence, we call on legal professionals to unite to make it safer for all of us to do our jobs.

WSBA leaders created a Rule of Law Ambassador Program several years ago to support legal professionals in these efforts—to educate about, build trust in, and promote the rule of law; we will continue to use the ambassador program to provide tools so legal professionals can be leaders in their communities. Our Constitution is a promise, a set of ideals and a roadmap, that we must preserve and perfect or it will cease to exist. If legal professionals do not vigorously step up to do this work right now, who will?

This statement is made by the WSBA president and executive director, not on behalf of all individual WSBA members. BN

GUEST COLUMN

Heroes of Justice

In each issue of *Bar News*, WSBA President Adewale will ask one Washington legal professional, one "Hero of Justice," to share how they came to practice law.



Albert Lin

Okanogan County prosecuting attorney

I am Albert Lin, the elected Okanogan County prosecuting attorney since 2022. My office consists of eight attorneys who represent the State of Washington in criminal matters and represent the county in civil and appellate matters.

Okanogan County is the largest geographic county in the state, with an area of about 5,200 square miles and a population of about 47,000. Okanogan life is centered around agriculture and tourism. The people are open and kind, with a deep commitment to common sense values of family and community.

I wanted to become a lawyer ever since I was in grade school. My parents taught me the importance of being a good citizen and to contribute to civic society. The path to becoming a lawyer and career prosecutor was simple. I was fortunate to have friends and mentors who believed in learning from hard work, practice, team play, doing the right thing, and professionalism. Mentorship by seasoned professionals provided the foundation of knowledge needed to go to court, represent clients, and ultimately, help the people in the communities in which I have lived. I was fortunate to have mentors with the passion and time to lead and teach by example. These are values I share with my deputies.

Having practiced law for 28 years, I have spent most of my professional career in Eastern Washington trying cases involving crimes such as murder and child abuse. The legal profession in rural areas has changed so much. Young lawyers just starting out used to seek practical experience in smaller towns, which is not the case today.

Rural communities face a shortage of lawyers. This must change in order for rural communities to survive and prosper. I want to help promote culture, develop lawyers seeking justice, protect victims, and promote safe communities where families can thrive. BN

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Forty Years of Clean Audits

Every year, the WSBA hires an independent auditor to review financial statements, and for at least the last 40 years, the auditor has issued a "clean" audit report.

The WSBA hires independent auditors primarily to ensure financial transparency, accountability, and accuracy in financial reporting. Audits also help identify weaknesses in internal controls, reducing the risk of fraud or financial misstatements. It is best practice for large bar associations like the WSBA, especially associations with regulatory authority, to have an independent audit annually.

Per fiscal policy, at least once every six years, the WSBA undertakes a formal process of seeking competitive bids from accounting firms to perform the annual audit. The most recent auditor selection process occurred in 2021 when the WSBA hired Clark Nuber, a large regional accounting firm based in Bellevue. For fiscal year 2025, Clark Nuber performed a financial statement audit of all WSBA funds (General, CLE, Sections, and Client Protection) and the affiliated Washington State Bar Foundation. In FY 2025, the WSBA had a net loss of $96,204 from the General Fund and a net loss of $110,731 from the CLE Fund, while the Client Protection Fund added $547,740 to reserves and the Section Fund added $40,866 to reserves.

The overall result of the audit is an unqualified "clean" opinion on WSBA FY 2025 financial statements. Clark Nuber did not recommend that the WSBA make any adjustments to the statements, did not note any material weaknesses in the statements or in financial internal controls, and did not issue a management letter.

This is the best outcome that any association can hope for from an independent audit, and the WSBA has achieved this result (a "clean" audit) for at least 40 consecutive years. The full audit report is available on the WSBA website. BN



Nam Nguyen
WSBA Treasurer

Nam Nguyen is the WSBA treasurer and District 10 governor and can be reached at nam.wsba@gmail.com.

LEARN MORE

< Scan to view the full audit online.

www.wsba.org/docs/default-source/about-wsba/fy-2025-wsba-audited-financial-statement.pdf?sfvrsn=f5de4f1_5

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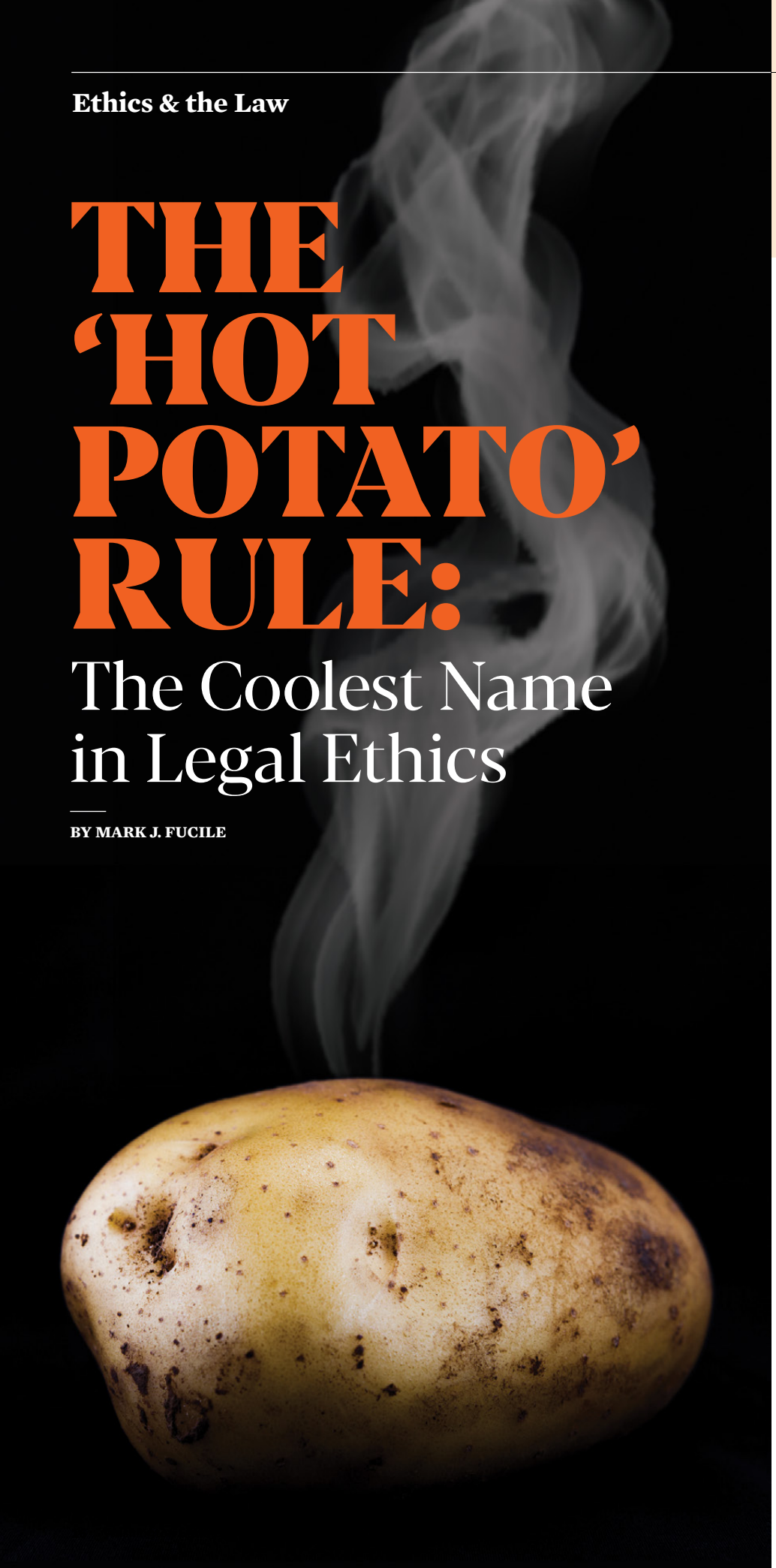
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THE 'HOT POTATO' RULE:

The Coolest Name in Legal Ethics

BY MARK J. FUCILE



Litigators can find themselves in uncomfortable spots if conflict checks are missed or ignored. This discomfort is magnified if a law firm discovers it is on the other side of a current client without a waiver. Depending on the circumstances, the client involved may grant a waiver after the fact even though it is under no legal obligation to do so. In other situations, however, a client may be understandably displeased to find "its" lawyers on the other side and decline to grant a waiver. In this latter situation, the lawyers involved will ordinarily need to withdraw—or seek leave to withdraw if the local rule of the court concerned requires approval.

Occasionally, firms may instead be tempted to "fire" the client creating the conflict—which in this context is usually either the newer of the two clients now adverse or the one the law firm views as less "favorable" in economic terms. The reasoning usually goes something like this: If we "fire" the client creating the conflict, it will then be a former client and, because the matters we handled for it are unrelated to the current case, we will be free to continue to handle the matter opposing it because there is no conflict under the former client conflict rule. This reaction, however, runs headlong into the "hot potato" rule. Under that judicially created precept, a law firm cannot drop a client "like a hot potato" to avoid a conflict. Invoked most often in the disqualification context, courts—including those in Washington and the Ninth Circuit—cite the rule to disqualify law firms from continuing in the case where they are opposing a current client. Courts invoking the rule typically look past the effort to "fire" the client creating the conflict and continue to hold the firm involved to the current client conflict rule—which requires a waiver to oppose a current client regardless of whether the matters involved are related or not.

In this column, we'll first look at the contours of the "hot potato" rule. We'll then survey the exceptions. Finally, we'll conclude with a discussion of the risks involved if a law firm finds itself on the wrong end of the rule and practical steps available to avoid the situation in the first place.[1]

CONTOURS

The name "hot potato" rule is usually attributed to *Picker Intern., Inc. v. Varian As-*

sociates, Inc., 670 F. Supp. 1363 (N.D. Ohio 1987), *aff'd*, 869 F.2d 578 (Fed. Cir. 1989).[2] In *Picker*, a law firm withdrew from representing a less economically attractive client in favor of a more lucrative one when a conflict arose. The "fired" client moved to disqualify the law firm in the matter involving the conflict. The court agreed—using the memorable line: "A firm may not drop a client like a hot potato[.]"[3]

Although *Picker* provided the name, the concept was not new. The Ninth Circuit, for example, had spoken to the idea six years before *Picker* when it noted that a law firm could not avoid a current client conflict simply by withdrawing from what the Ninth Circuit described as a "disfavored client."[4] As noted earlier, current clients under ABA Model Rule 1.7 and state counterparts such as Washington RPC 1.7 have a broad ability to "veto" any adverse representation—by declining to grant a waiver—regardless of whether the matters creating the conflict are related or not.[5] Further, clients are generally under no legal obligation to grant a waiver and can decline for a good reason, a bad reason, or no reason at all.[6] This broad "veto" power goes hand-in-hand with the principle that lawyers generally owe their current clients a duty of "undivided loyalty."[7] That "veto" right, by contrast, is much narrower with former clients under ABA Model Rule 1.9 and state counterparts such as Washington RPC 1.9 and is generally limited to situations where the new matter is either the same or substantially related to the matter the lawyer or law firm handled for the former client.[8] The "hot potato" rule essentially prevents a law firm from withdrawing from a current client to turn that client into a former client and then arguing that because the matters creating a conflict are unrelated, there is no former client conflict under Model Rule 1.9 and state counterparts. Rather, courts applying the rule disregard this artifice and continue to analyze the situation as a current client conflict under Model Rule 1.7 and state counterparts.

Some have debated whether the hot potato rule is truly a principle of professional ethics or simply a judicial remedy drawing from the common law fiduciary duty of loyalty.[9] Regardless of this theoretical debate,[10] the rule has important practical risk management consequences for lawyers and their law firms. A decision from the federal court in Seattle illustrates the risk.

Atlantic Specialty Insurance Co. v. Premera Blue Cross, 2016 WL 1615430 (W.D. Wash. Apr. 22, 2016), involved a law firm with offices in Seattle and Portland. A partner in the Portland office took on an insurance coverage case for a subsidiary of a large carrier. The Portland partner entered the name of the subsidiary into the firm's conflict system, but not the parent. The subsidiary sent the Portland partner a set of "corporate counsel guidelines" that said essentially "If you represent any part of our corporate family, you represent the entire family"—but the Portland partner still did not enter the names of either the parent or the other affiliates into the firm's conflict system. Later, the firm's Seattle office took on a coverage case for a long-time client against another subsidiary of the same carrier. The carrier moved to disqualify the law firm in Seattle. The law firm tried to avoid the conflict in Seattle by withdrawing in Portland—and then argued in Seattle that because the two matters were unrelated under the former client conflict rule, the firm should be allowed to continue. The court in Seattle rejected that argument and disqualified the firm—citing the hot potato rule.

SOME HAVE DEBATED WHETHER THE HOT POTATO RULE IS TRULY A PRINCIPLE OF PROFESSIONAL ETHICS OR SIMPLY A JUDICIAL REMEDY DRAWING FROM THE COMMON LAW FIDUCIARY DUTY OF LOYALTY.

EXCEPTIONS

Although exceptions to the hot potato rule go by varying names, the two most common are the "thrust upon" conflict and the "mere happenstance" conflict.[11]

The easy example of a "thrust upon" conflict is a situation where a law firm's corporate client acquires a company that the law firm is litigating against for another client.[12] Comment 5 to Washington RPC 1.7, which is based on its ABA Model Rule counterpart, speaks to this point and generally permits the law firm to choose which client it will continue to represent in the matter concerned:

> Unforeseeable developments, such as changes in corporate and other organizational affiliations or the addition or realignment of parties in litigation, might create conflicts in the midst of a representation, as when a company sued by the lawyer on behalf of one client is bought by another client represented by the lawyer in an unrelated matter. Depending on the circumstances, the lawyer may have the option to withdraw from one of the representations in order to avoid the conflict.[13]

"Mere happenstance," by contrast, is a more elastic notion. Most often, it is applied when a law firm files an appearance not realizing there is a conflict and quickly withdraws when it discovers one.[14] While not a model of analytical clarity, this genre of cases usually turns on the lack of "fault" by the law firm and the lack of "harm" to the client.[15]

CONTINUED >



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.

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RISK AND ALTERNATIVES

By far and away, the most common application of the hot potato rule is in the disqualification context—with the "fired" client arguing that the law firm should be disqualified in the matter in which the law firm is representing a litigation opponent.[16] In venues requiring court approval, a "fired" client may also oppose withdrawal in the matter in which the law firm is representing the client.[17] Although regulatory discipline can result, it is for the unwaived conflict rather than the hot potato rule.[18] Finally, because the hot potato rule is couched in terms of the fiduciary duty of loyalty, civil claims for breach of that duty can theoretically follow if client harm results.[19]

Lowering the risk of finding yourself in a "hot potato" situation begins with thorough conflict checks at the outset of all representations. That means training law firm personnel from senior partners to non-lawyer assistants to both use the firm's conflict system and input complete information. Albeit not in a hot potato case, a local federal judge memorably observed in disqualifying a law firm that had not run a conflict check: "The Court notes that appearing in court and giving notice of representation before a conflicts check has been run is not advisable on any level."[20] In *Atlantic Specialty*, the court expressed surprise that the partner involved had not entered complete information into his large firm's sophisticated conflict system.[21]

Thorough conflict checks should alert the firm to the issue before a new matter is taken on. In some instances, the firm may have anticipated the situation and obtained an advance waiver from the client concerned.[22] In others, a conflict check will allow the law firm to approach the clients about the possibility of waivers rather than unceremoniously "dumping" one of the clients involved.[23] In still others, it may be possible to limit the scope of a potential representation to avoid a conflict with another client.[24] As the court in *Atlantic Specialty* also reminded the disqualified law firm: "[T]he Rules of Professional Conduct impose duties on lawyers, and not their clients, to identify potential conflicts of interest and obtain informed consent, if necessary."[25]

A CONFLICT CHECK WILL ALLOW THE LAW FIRM TO APPROACH THE CLIENTS ABOUT THE POSSIBILITY OF WAIVERS RATHER THAN UNCEREMONIOUSLY "DUMPING" ONE OF THE CLIENTS INVOLVED.

Finally, routinely closing files for clients who are unlikely to use the law firm again can avoid conflicts in the first place.[26] Closing a client's file and informing the client of that will generally turn them into a former client (assuming all work for that client has been completed).[27] If a new matter adverse to that former client is unrelated to the work that the law firm did for the former client, no former client conflict should ordinarily exist under RPC 1.9 and the firm will be free to take on the new matter without needing waivers.[28] BN

NOTES

1. Although in theory a "hot potato" scenario could also arise in a non-litigation context, as a judicially created standard the rule typically plays out in a litigation setting.
2. *See generally* Geoffrey C. Hazard, Jr., W. William Hodes, and Peter R. Jarvis, *The Law of Lawyering* 21-38 n. 45 (rev. 4th ed. 2021) (citing *Picker*) (Hazard); William T. Barker, "The 'Hot Potato' Doctrine and the Model Rules of Professional Conduct: the Limits of a Lawyer's Duty of Loyalty," 32 *Geo. J. Legal Ethics* 327, 329 n.4 (2019) (same) (Barker); John Leubsdorf, "Conflicts of Interest: Slicing the Hot Potato Doctrine," 48 *U. San Diego L. Rev.* 251, 252 (2011) (same) (Leubsdorf); ABA Formal Op. 516 at 6 (2025) (same). For a national compilation of hot potato cases, *see* William M. Freivogel, *Freivogel on Conflicts* at: www.freivogelonconflicts.com/hotpotato.html.
3. Picker Intern., Inc. v. Varian Associates, Inc., *supra*, 670 F. Supp. at 1365.
4. Unified Sewerage Agency of Washington County, Or. v. Jelco Inc., 646 F.2d 1339, 1345 n.4 (9th Cir. 1981) ("The [current client] standard continues even though the representation ceases prior to the motion to disqualify. If this were not the case, the challenged attorney could always convert a present client into a 'former client' by choosing when to cease to represent the disfavored client.").
5. *See generally* In re Egger, 152 Wn.2d 393, 408-412, 98 P.3d 477 (2004) (discussing multiple client conflicts under RPC 1.7).
6. *See generally* Bird v. Metropolitan Cas. Ins. Co., 2011 WL 149861 (W.D. Wash. Jan. 18, 2011) (unpublished) (law firm disqualified when it continued adverse representation after client declined to grant waiver); Commercial Development Co. v. Abitibi-Consolidated, Inc., 2007 WL 4014992 (Wn. App. Nov. 15, 2007) (unpublished) (same).
7. *See, e.g.,* Angelo v. Kindinger, 2022 WL 1008314 at *10 (Wn. App. Apr. 4, 2022) (unpublished) ("Attorneys owe clients a duty of 'undivided loyalty[.]'").
8. *See generally* Plein v. USAA Casualty Insurance Company, 195 Wn.2d 677, 463 P.3d 728 (2020) (discussing former client conflicts under RPC 1.9). For a former client conflict to exist, the interests of the current and former clients must also be "materially adverse." ABA Formal Opinion 497 (2021) includes a detailed discussion of the phrase "materially adverse."
9. In ABA Formal Opinion 516 (2025), for example, the majority took the position that the "hot potato" rule is a judicial remedy derived primarily from the common law fiduciary duty of loyalty (at 7) while the dissenters argued that it is consistent with rule-based standards (at 9-10).
10. Barker, who undertook an extended comparison, concluded that they are congruent: "[This article] concludes that in most circumstances, the Model Rules support the same result as the flat 'hot potato" rule.'" Barker, *supra*, at 330. Barker focuses on the general proposition under Comment 4 to ABA Model Rule 1.3 that a lawyer should generally complete agreed upon work for a client and the notion under ABA Model Rule 1.16(b)(1) that a lawyer should generally not withdraw when doing so will cause material harm to a client. *Id.* at 330-33. *See also* Leubsdorf, *supra*, 48 *U. San Diego L. Rev.* 251 (analyzing the hot potato rule against the backdrop of the ABA Model Rules).
11. These are not intended to be an exclusive list. Leubsdorf, for example, discusses varying outcomes involving situations where the client fired the lawyer first and scenarios involving so-called "accommodation" clients (such as a co-defendant employee of a corporate client). 48 *U. San Diego L. Rev.* at 264-67, 281-82.
12. *See generally* New York City Bar Op. 2005-05 (2005) (surveying "thrust upon" conflicts); Orange County Bar Formal Op. 2012-01 (2012) (same); ABA, *Annotated Model Rules of Professional Conduct* 214 (10th ed 2023) (same).

13. It is important to keep in mind that the "thrust upon" exception applies to conflicts arising from, for example, client mergers rather than law firm mergers. The later are generally not included within the "thrust upon" exception and, in fact, the paradigm hot potato case—*Picker*—was painted against the backdrop of a law firm merger.

14. *See* Sabrix, Inc. v. Carolina Cas. Ins. Co., 2003 WL 23538035 at *3-*4 (D. Or. July 23, 2003) (unpublished) (surveying the "mere happenstance" exception).

15. *Id.*

16. *See generally* Hazard, *supra*, at 21-39 (noting most common application).

17. *See, e.g.,* Truckstop.net, L.L.C. v. Sprint Communications Company, L.P., 2006 WL 8447685 at *2-*4 (D. Idaho Jan. 3, 2006) (unpublished).

18. *See, e.g.,* In re Johnson, 84 P.3d 637 (Mont. 2004) (lawyer disciplined under Montana RPC 1.7); *see* also Schuff v. A.T. Klemens & Son, 16 P.3d 1002 (Mont. 2000) (appeal after denial of disqualification on procedural grounds but referring the lawyer to state regulatory agency to investigate the conflict and resulting in the later Johnson disciplinary decision).

19. *See generally* Ronald E. Mallen, *Legal Malpractice* § 17.24 (rev. ed. 2021) (surveying the hot potato rule in the context of lawyer liability and overall risk management); *see* also Eriks v. Denver, 118 Wn.2d 451, 824 P.2d 1207 (1992) (analyzing lawyer conflicts under the fiduciary duty of loyalty); *see also Restatement (Third) of the Law Governing Lawyers* § 132, cmt. c (2000) ("A premature withdrawal violates the lawyer's obligation of loyalty to the existing client and can constitute a breach of the client-lawyer contract of employment[.]").

20. Jones v. Rabanco, Ltd., 2006 WL 2237708 at *1 n.1 (W.D. Wash. Aug. 3, 2006) (unpublished).

21. 2016 WL 1615430 at *12-*13.

22. *See* RPC 1.7, cmt. 22 (advance waivers); ABA Formal Op. 05-436 (2005) (same).

23. *See generally* Philadelphia Bar Op. 2009-7 (2009) (surveying the hot potato rule and alternatives).

24. *Id. See also* RPC 1.2(c) (scope of representation).

25. 2016 WL 1615430 at *12.

26. *See* Hazard, *supra*, at 21-40 (hot potato rule does not apply to situations involving former clients); Barker, *supra*, at 335 (same).

27. *See generally* Oxford Systems, Inc. v. CellPro, Inc., 45 F. Supp.2d 1055 (W.D. Wash. 1999) (discussing current and former client conflicts in disqualification context).

28. In rare circumstances, a former client's confidential information alone may prevent taking on a new matter without a waiver from the former client. *See generally* RPC 1.9(c); In re Cross, 198 Wn.2d 806, 500 P.3d 958 (2021) (surveying the duty of confidentiality to former clients).



LEADERSHIP IN FAMILY LAW

McKinley Irvin proudly congratulates partners Mark Arend and Brent Bohan for their election to leadership positions within the American Academy of Matrimonial Lawyers.

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Tapping Into Legal Typography

BY JACLYN C. CELEBREZZE



In the past two decades, Microsoft Word has changed its default font three times: Times New Roman to Calibri to Aptos.[1] Aptos began its reign in mid-2023.[2] Yet, an informal survey of Washington Supreme Court briefs seems to indicate that we are still defaulting to Times New Roman when drafting legal documents. I'd say we're overdue for a style update.

1 WHAT IS LEGAL TYPOGRAPHY?

Typography is "the style, arrangement, or appearance of typeset matter."[3] One graphic designer describes it as "word art."[4] In short, it is the visual appearance of a legal document, encompassing everything from type font and size to layout.

As attorneys, we write to persuade. To do that effectively, we need to make our documents reader-friendly in both substance *and* style. This requires knowing our audience, their reading habits, and how to grab their attention.

Typically, our audience is an overworked judge with a punishing reading list. As U.S. Court of Appeals Judge Frank Easterbrook noted in a recent opinion, "Judges are long-term consumers of lengthy texts. To present an argument to such people, counsel must make the words easy to read and remember."[5]

"Making a textual document visually effective means making the document as readable as possible. The more readable the document, the more likely the reader will remember the content."

How do we do that? Effective document design. As Ruth Anne Robbins, professor of law at Rutgers Law School, explains in her comprehensive article on legal typography, "Painting with Print: Incorporating Concepts of Typographic and Layout Design into the Text of Legal Writing Documents," "[m]aking a textual document visually effective means making the document as readable as possible. The more readable the document, the more likely the reader will remember the content."[6]

2 CHOOSING A TYPEFACE AND SIZE

Readability starts with font and font size. First, consider your audience and how they will consume the document. Then, if your audience is the court, you'll need to review your filing requirements to ensure your choices comply with local filing rules. And remember, selecting a font is also a reflection of an attorney's credibility. "A default font is often the first impression we make; it's the visual identity we present to other people via our résumés, documents, or emails."[7] So choose wisely.

A. Fonts and Font Sizes

Fonts are simply a set of type or characters in one cohesive style. Two varieties of fonts

CONTINUED >

Jaclyn C. Celebrezze is an assistant teaching professor at the University of Washington School of Law, where she teaches first-year legal analysis, research, and writing.



Photo illustration © Getty/Deagreez

exist: serif and sans serif. Serif fonts have tails or wings.[8] Sans serif fonts do not.[9]

The font you choose impacts the readability of the document. And readability changes depending on how your reader consumes your document—print or digital. Serif fonts make print documents easier to read.[10] Sans serif fonts are best for digital documents.[11]

So, what's an attorney drafting for a judge who will initially read a brief in print and then later review it electronically to do? Compromise.

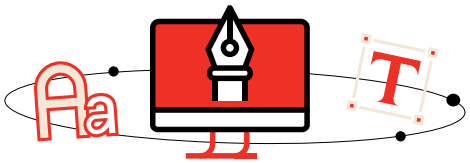
It's a judgment call, but the consensus seems to be to err on the side of using serif fonts.[12] Why? Improvements in screen-resolution design are minimizing the print and digital divide.[13] In other words, serif fonts work in both contexts, but sans serif fonts do not.

Once you've decided upon your font, you'll need to select a standard font size for your brief's headings and for the body text. And, again, you'll need to consult your local court rules before making a final decision. So let's take a look at Washington state court rules and Ninth Circuit filing rules on font and font size before I offer my font and font size recommendations.

B. State and Federal Court Guidance on Font and Font Size

> *Washington Courts*

When filing in a Washington appellate court, attorneys can select any 14-point font of their choice. A serif font choice should be equivalent to Times New Roman. A sans serif font choice should be equivalent to Arial.[14] Washington's superior courts tend to allow even greater latitude, simply requiring filings to be "legibly written or printed."[15] However, best practice is to pick a font and font size and stick with it.



It's a judgment call, but the consensus seems to be to err on the side of using serif fonts.

ASK US > *If you have a question about legal writing that you'd like to see addressed in a future "Write to Counsel" column by UW Law writing faculty, please submit it to wabarnews@wsba.org, with the subject line "Write to Counsel."*

> *The Ninth Circuit*

The Ninth Circuit provides attorneys with considerable choice when selecting a font. The court allows attorneys to draft in any serif font and use any sans serif font for headings. This court also allows proportionally spaced or monospaced fonts. Proportionally spaced fonts must be in 14-point or larger. Monospaced fonts must be in 10.5-point or larger.[16]

What's the difference? Proportionally spaced fonts are just that: proportional. Different letters are different sizes. Monospaced fonts use the same width for all letters.[17]

Here's my ultimate recommendation on font and font size for Washington attorneys: Skip the headache and use a proportionally spaced serif font such as Century Schoolbook in 14-point for content and a sans serif font such as Avenir or Franklin Gothic in 16-point font for headings. But if you want to explore your options a bit more, typographer and lawyer Matthew Butterick has helpfully ranked various system fonts and provided his candid thoughts on each in his book, *Typography for Lawyers*.[18]

> *Text Formatting*

Before moving on, let's do a quick rundown on text formatting: italicizing, bolding, underlining, and capitalization.

- *Italicize* or **bold** text within your document to draw attention to it and increase its memorability as each of these formats will slow the reader down and make them take note.[19] But you have to be judicious, or you risk negating your efforts. And only use one formatting technique at a time. Butterick recommends "[w]ith a serif font, use italic for gentle emphasis, or bold for heavier emphasis."[20]
- Underlining is a non-starter. It makes the text harder for the reader to process.[21]
- Finally, avoid using all-caps; it tires your reader out.[22] While many believe this formatting choice signals importance, resist the urge—it reads like a scream.

3 LAYOUT

Finally, let's talk about layout. To optimize the readability and memorability of any legal document, attorneys should focus on four key components of document layout: contrast, alignment, repetition, and proximity.[23]

- **Contrast:** Use contrasting fonts and sizes in your headings and body to project the hierarchy of documents.[24] See my earlier recommendations.
- **Alignment:** Court rules may limit your options, but if given the choice, left-align your brief's text to maximize readability.[25]
- **Repetition:** Be consistent in your formatting choices throughout the whole document.[26] Unexpected typography changes are jarring for the reader.
- **Proximity:** Keep related items close together on the page. If you want to separate issues, give them some distance from each other.[27]

4 CONCLUSION

Document design is a subtle, yet substantial technique for improving your written advocacy. Stick to the basics outlined in this article, and you'll have a new template for briefs in no time. Let's refresh our legal typography and say a fond farewell to Times New Roman. BN

NOTES

1. *See* Si Daniels, "Beyond Calibri: Finding Microsoft's Next Default Font," *Medium*, (April 28, 2021), https://medium.com/microsoft-design/beyond-calibri-finding-the-next-microsoft-365-default-font-5ef83f028be2.
2. *See* Si Daniels, "A Change of Typeface: Microsoft's New Default Font has Arrived," *Medium*, (July 13, 2023), https://medium.com/microsoft-design/a-change-of-typeface-microsofts-new-default-font-has-arrived-f200eb16718d.

3. *Merriam-Webster's Dictionary*, www.merriam-webster.com/dictionary/typography (last visited Jan. 1, 2026).
4. Dylan Todd & Madeline DeCotes, "Serif vs Sans Serif Fonts: When to Use Which," www.adobe.com/creativecloud/design/discover/serif-vs-sans-serif.html (last visited Jan. 1, 2026).
5. AsymaDesign, LLC v. CBL & Associates Mgmt., Inc., 103 F.4th 1257, 1261 (7th Cir. 2024).
6. Ruth Anne Robbins, "Painting with Print: Incorporating Concepts of Typographic and Layout Design into the Text of Legal Writing Documents," 2 *J. ALWD* 108, 113 (2004).
7. *See* Si Daniels, "Beyond Calibri: Finding Microsoft's Next Default Font," *Medium*, (April 28, 2021), https://medium.com/microsoft-design/beyond-calibri-finding-the-next-microsoft-365-default-font-5ef83f028be2.
8. Ruth Anne Robbins, *supra* note 6, at 119.
9. *Id.* at 119.
10. *Id.* at 119-20.
11. *Id.* at 127.
12. *Id.* at 119-20.
13. Matthew Butterick, *Typography for Lawyers: Essential Tools for Polished & Persuasive Documents* (Thomson Reuters, 2d ed 2018), https://typographyforlawyers.com/screen-reading-considerations.html (last visited Jan. 1, 2026).
14. RAP 18.17.
15. Wash. GR 14.
16. FRAP Rule 32 (5).
17. Butterick, *Typography for Lawyers: Essential Tools for Polished & Persuasive Documents* (Thomson Reuters, 2d ed 2018), https://typographyforlawyers.com/monospaced-fonts.html.
18. Butterick, *Typography for Lawyers: Essential Tools for Polished & Persuasive Documents* (Thomson Reuters, 2d ed 2018), https://typographyforlawyers.com/system-fonts.html.
19. Butterick, *Typography for Lawyers: Essential Tools for Polished & Persuasive Documents* (Thomson Reuters, 2d ed 2018), https://typographyforlawyers.com/bold-or-italic.html.
20. *Id.*
21. See Bryan Garner, "Law Prose Lesson 271: Ban Underlining in Your Legal Documents," *Law Prose*, Jan. 17, 2017, https://lawprose.org/lawprose-lesson-271-ban-underlining-legal-documents/.
22. Butterick, *Typography for Lawyers: Essential Tools for Polished & Persuasive Documents* (Thomson Reuters, 2d ed 2018), https://typographyforlawyers.com/all-caps.html.
23. Ruth Anne Robbins, *supra* note 6, at 126.
24. *Id.* at 126-8.
25. *Id.* at 130.
26. *Id.* at 131.
27. *Id.* at 128.

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The Lodestar Method for Calculating a Reasonable Attorney Fee in Washington, 52 Gonz. L. Rev. 1 (2017)

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James and Tonya Lowe v. Ace Hardware Corp,
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(summary judgment overturned in personal injury lawsuit)

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35 Wn. App. 2d 1052 (2025), 2025 WL 2779961 (2025)
(Court rejects argument that state courts lacked jurisdiction over pension class takings claim)

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4 Wn. App. 2d 1066, 2025 WL 1625553 (2025) (determining that UW had no Covid-related property insurance coverage)

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31 Wn. App. 2d 1077, 2024 WL 3567363 (2024) (affirming summary judgment dismissal of construction lawsuit)

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3 Wn.3d 793, 556 P.3d 132 (2024) (Court upholds rejection of County ordinance expanding commercial activities in agricultural/rural zones)

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32 Wn. App. 2d 900, 558 P.3d 157 (2024) (Court finds insurer was deprived of due process in reasonableness hearing on settlement)

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(overturning $1,288,620 jury verdict in a construction lawsuit)

Selim v. Fivos, Inc.,
2024 WL 3423716 (2024) (concluding that Washington, not Egyptian, law applied in employment case)

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PRO BONO ORGANIZATION OF THE MONTH

In Conversation with Eastside Legal Assistance Program

Q&A WITH VIVIAN LEE, ELAP LEGAL DIRECTOR

Q. Tell us a bit about the history of your organization. What is your organization's philosophy? Why do you do what you do?
The Eastside Legal Assistance Program (ELAP) believes that everyone deserves access to legal help. For 35 years, we have been a nonprofit dedicated to working with people facing domestic violence, housing, financial, health care, immigration, and other issues that need a legal solution. We also educate communities about their legal rights. We work for free to solve legal issues and provide resources for our community members because not everyone can afford a lawyer.

Q. Where is your organization located? Do volunteers participate remotely, in person, or both?
We serve people in King County, especially the east and south parts of the county. Our volunteers participate primarily remotely, with the exception of our in-person wills/estate planning clinics.

Volunteer attorneys significantly increase the number of people ELAP can help every year. We offer volunteer opportunities at our multiple monthly clinics and opportunities to provide more extensive services including full representation.

Vivian Lee, J.D., MPH, is ELAP's legal director. She can be reached at vivian@elap.org.



Q. Who does your organization serve?
We work with individuals and families in our region who can't afford a lawyer, including domestic violence survivors, tenants, veterans, seniors, people with disabilities, and immigrants. We provide legal services through our staff attorneys and through our clinics, which are staffed entirely by pro bono volunteers.

Q. What are the biggest barriers your clients face in accessing legal assistance?
The high cost of market rate legal services and difficulty navigating the legal system.

Q. What area(s) of law do you provide services in?
- Debt and bankruptcy
- Domestic violence
- Employment and workplace issues
- Family law, guardianship, divorce, and custody
- Housing and eviction
- Immigration
- Wills and estate planning

Q. Does your organization provide training, CLE credit, or other benefits to volunteers?
Yes, we provide training for volunteers and occasional CLE credit courses. We also regularly share resources about other trainings and pro bono-related resources.

Q. Please provide an (anonymous) client story—an example of someone who was helped and how.
Sandy (name changed to protect privacy) already had a lot on her plate. She was caring for her disabled husband, overseeing the well-being of her sister in a nursing facility, and ensuring her adult autistic son's needs were met with his caregiver.

When she needed to get her son out of an unhealthy living situation, she was surprised to end up in a dispute with her son's landlord, who had been a good and honest landlord.

"I never even thought that I needed legal assistance until I realized that the landlord did not intend to refund me the $6,400 that was due to me," Sandy says.

Sandy had paid the first and last month's rent plus security deposit when her son and his caregiver had moved into the rental. She gave notice three months prior to the end of the lease and her son and his caregiver vacated two weeks later. Out of the security deposit, Sandy paid for professional house cleaning, grounds maintenance, and other costs the landlord asked for. Sandy accepted the security deposit refund amount without any argument, even paying some back utilities that were not her responsibility.

Sandy paid the second to last months' rent on the 1st, as

the landlord told her she must, before learning that the house had already been re-rented. After discovering this, Sandy asked for the two months' rent refund ($6,400). The landlord responded that she "might" give Sandy $1,500 after the new tenant paid his second month's rent.

Frustrated, after waiting three more weeks, Sandy searched online for legal services and found ELAP. She connected with ELAP housing stability attorney, Cloie, who started reviewing all the documents.

> We have a high need for pro bono volunteers! Please visit www.elap.org/pro-bono to learn more.

"It was such a huge relief," Sandy says about finding ELAP. "Even though I can read the lease and I thought I had a decent grasp of what the law said, I didn't know for sure. I didn't want to be the person who was not following the law or the terms of the lease. So, having an attorney say, 'Yes the landlord owes you,' was a tremendous help."

The landlord paid promptly after receiving Cloie's email that affirmed Sandy's legal rights to the $6,400 rent refund.

Sandy adds, "She was a good landlord, and I felt bad having to break the lease, but my son's health and well-being come first."

"I was extremely surprised that there was an organization such as ELAP that was available. I thought it was going to cost an arm and a leg to dig my way out of this one. I feel very, very grateful—and Cloie was an extraordinary help."

Q. What does a typical weekly or monthly commitment look like for a volunteer? How many hours? How many clients?
Between one and three hours per month, serving an average of one to three clients.

Q. What do volunteers say they enjoy most about serving clients through your organization?
"In a lot of cases, knowledge is power. Knowledge of the law can allow people to find direction or solve a problem. As an attorney in an ELAP clinic, you have 45 minutes with a client and can often address their issues and put their mind at ease. It's good to see people being able to check off a worry. Sometimes you can answer a critical question that is in the way of them moving forward."
~ Ken Davidson, *ELAP pro bono volunteer*

"A lot of times people just want to be heard. They just want to be listened to, to feel like someone is taking the time to understand where they're coming from."
~Max Goins, *ELAP pro bono volunteer*

Q. Are you currently in need of volunteers? If so, how can legal professionals reach out to get involved?
Yes, we have a high need for pro bono volunteers! Please visit www.elap.org/pro-bono to learn more and fill out our easy online application.

Q. What gaps in our existing system(s) does your organization fill?
ELAP is filling a huge gap in the need for legal aid services in King County. We are one of the only nonprofits in the region that provides free services for a variety of legal issues.

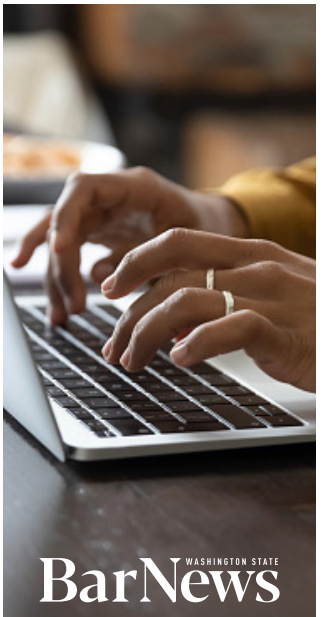
Q. What would you most want readers to know about the type of work your organization does and the type of people who need your services?
The majority of people ELAP serves are BIPOC (Black, Indigenous, and people of color), women, veterans, people with a disability, seniors, and people under age 35. Nearly half are domestic violence survivors. ELAP's work touches thousands of people in King County every year. BN

LEARN MORE

To learn more about the work done by the Eastside Legal Assistance Program (ELAP) and to get involved, visit **www.elap.org**.

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AFFINITY BAR ASSOCIATION SPOTLIGHT

Filipino Lawyers of Washington (FLOW)

Q&A with Mario M. Cava, president; Odette Polintan, immediate past president; and Eric de los Santos, director and founding member

Q. How and when did your bar association get started?
The Filipino Lawyers of Washington (FLOW) began as a series of informal gatherings of Filipino American attorneys at a dining spot on Jackson Street in the Seattle International District, organized by Abigail Daquiz, the group's first president. These early meetings marked the first time many Filipino American attorneys had come together in one room and sparked momentum to form a formal organization. Motivated by a shared desire to support one another, strengthen their professional lives, and address common issues, the group continued to meet and, by around 2007, formally incorporated as FLOW. Founding members include the following: Asser Aldana, Lisa Apsay, Bernadette Bulacan, Mimi Castillo, Abigail Daquiz, Rommel E. de las Alas, Eric de los Santos, Elaine Pascua, Gail Manuguid, Jerilynn Gonzales, Skylee Robinson, Victor Torres, and Katrina Zafiro.

Q. What are some of the core goals and/or purposes of your bar association?
FLOW's core goals are to unite and amplify Filipino legal professionals through advocacy, mentorship, and collaboration; promote member growth and leadership; and advance diversity, equity, and inclusion within the legal profession. We foster engagement with the judiciary and broader community, collaborate with other affinity bar associations, provide community service, and offer a forum for dialogue on issues affecting our members—while celebrating and advancing Filipino heritage, culture, and identity.

Q. What need does your bar association fill that is unmet elsewhere?
FLOW fills an unmet need by providing culturally grounded community, leadership development, and advocacy for Filipino American attorneys. We create trusted spaces for members to share lived experiences shaped by immigration, multigenerational identity, and cultural context—perspectives often absent in other settings. FLOW also bridges the legal profession and Filipino and immigrant communities across Washington, advancing access to justice through education, policy engagement, and coalition-based advocacy. By centering cultural competence alongside professional excellence, FLOW complements and strengthens the work of the broader legal community.

WSBA members can actively support FLOW by attending and promoting our programs, partnering with us on legal education and community initiatives, and serving as mentors, speakers, or sponsors.

Q. What are some of the opportunities or benefits that your members receive?
FLOW members benefit from networking, mentorship, and leadership development through FLOW and its affiliate memberships with National Filipino American Lawyers Association (NFALA) and the National Asian Pacific American Bar Association (NAPABA). These affiliations provide access to a national network, conferences, CLEs, leadership and mentorship programs, and career resources beyond Washington state, while amplifying members' voices in national advocacy and impact litigation for Filipino American and AANHPI communities, and strengthening cross-bar collaboration.

Q. Does your bar association offer any mentorship or scholarship opportunities? If so, please describe.
Yes. FLOW provides culturally grounded mentorship and leadership development for Filipino American attorneys at all career stages, connecting members with experienced attorneys, judges, and legal leaders. Through partnerships and national affiliates, FLOW also facilitates access to scholarships, conference sponsorships, and pipeline programs that support professional growth and advancement within the legal profession.

Q. What is a recent bar association accomplishment,

current project, or event that you are excited about?
FLOW is excited about its recent community-centered advocacy and leadership efforts addressing urgent immigration issues affecting Filipino and immigrant communities. In June 2025, FLOW partnered with the Filipino Community of Seattle (FCS) to host a Know Your Immigration Rights forum that provided timely, practical legal guidance to more than 40 community members on immigration enforcement, travel risks, criminal and family law intersections, and LGBTQ+ considerations. The panel featured immigration attorneys Jerilynn Gonzales Abrams, past president of FLOW and NFALA, and Jonathan "JJ" Gonzales, alongside family law attorney Katrina Zafiro. FLOW Advocacy Chair Margaret Duñgo Gritten moderated the discussion. The program reflected FLOW's commitment to accessible legal education and responsive community leadership.

FLOW also demonstrated its advocacy leadership by co-authoring a joint public statement with FCS in response to federal immigration enforcement actions in 2025, elevating community concerns through a legal and civil rights lens. As a specialty bar association, FLOW contributed legal context regarding the consequences of immigration actions on long-standing residents with deep family and community ties, while working collaboratively with FCS to ensure the statement reflected both legal principles and lived community experience. The joint statement underscored the role of attorneys in educating the public, supporting affected individuals, and promoting policies that are consistent with constitutional protections and fundamental fairness. FLOW's participation reflects its broader mission to serve as a bridge between the legal profession and the Filipino community on issues of significant legal and civil rights importance.

FLOW also participated as an endorsing organization in a national amicus curiae brief defending birthright citizenship under the 14th Amendment to the United States Constitution. The brief was submitted as part of a broad coalition led by the NAPABA and joined by dozens of affiliate bar associations from across the country. Through its endorsement, FLOW lent the perspective of Filipino American legal professionals to a collective effort opposing attempts to narrow the long-standing constitutional interpretation of the Citizenship Clause. The amicus brief emphasized settled Supreme Court precedent, historical understanding of the 14th Amendment, and the disproportionate impact that restrictions on birthright citizenship would have on immigrant communities. FLOW's involvement highlights its engagement in national legal advocacy through coalition-based efforts that elevate the voices and concerns of its members while reinforcing constitutional norms, the independence of the judiciary and upholding the rule of law.

Q. How can WSBA members support the work of your affinity bar association?
WSBA members can actively support FLOW by attending and promoting our programs, partnering with us on legal education and community initiatives, and serving as mentors, speakers, or sponsors. Attorneys of all backgrounds are encouraged to engage in cross-cultural mentorship and collaborative programming that strengthens pathways into and advancement within the legal profession. By showing up as allies—sharing expertise, amplifying community-focused efforts, and supporting access-to-justice initiatives—WSBA members help advance equity, professional development, and a more inclusive legal community statewide.

Q. Is there anything else you would like WSBA members to know about your bar association?
FLOW's work is deeply rooted in serving and uplifting the Filipino community. Our events intentionally integrate community service, cultural celebration, and economic support—most recently through fundraising for the Filipino Community of Seattle Food Pantry at our 2025 general membership meeting and holiday celebration. Our annual Barrio Fiesta further celebrates Filipino culture through performances by local artists while supporting Filipino-owned businesses through community partnerships, catering, and fundraising activities. Through these efforts, FLOW not only builds professional community, but also invests directly in the people, culture, and local businesses that sustain and strengthen our broader community. BN



Mario M. Cava is president of FLOW and an AVP, corporate counsel, and manager in Liberty Mutual's Global Legal & Compliance department, where he leads a team of attorneys overseeing strategic outside counsel relationships. He previously served on the WSBA Board of Governors and was a Washington Leadership Institute fellow.



Odette Polintan is director of Legal Affairs at T-Mobile USA, Inc., one of the nation's largest telecommunications companies. She brings decades of experience in commercial transactions law, with deep expertise in the telecommunications sector. Polintan began her legal career at Davis Wright Tremaine in Seattle. She is the immediate past president of FLOW, a past president of the Asian Bar Association of Washington and its Student Scholarship Foundation, serves on the UW School of Law Alumni Leadership Council, and is a board member of the YWCA Seattle | King | Snohomish.



Eric de los Santos serves as assistant general counsel at Emergent BioSolutions, Inc., headquartered in Gaithersburg, Maryland. Before joining Emergent, de los Santos worked at Meta and at TrueBlue, Inc. Deeply committed to advancing the Filipino American and broader Asian American legal community, de los Santos is a founding member and former president of the National Filipino American Lawyers Association. He also cofounded FLOW, where he likewise served as president. De los Santos is a former member of the WSBA Board of Governors. He currently serves as the Northwest Regional Governor of the National Asian Pacific American Bar Association.

MORE ONLINE >

To learn more about The Filipino Lawyers of Washington (FLOW), visit their website: **https://filipinolawyers.wildapricot.org/.**

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FEATURE

LEARNING OUTSIDE THE BOX (LEGALLY) IN WASHINGTON STATE

BY KATHLEEN CASPER REED, M.ED., J.D.

When Ella (not her real name) started kindergarten in a small town in Washington in 2020, the world was in a holding pattern and everyone was more or less a homeschooler, as even public school students attended class online. This worked for Ella, who had serious trauma from years as a foster child and had a hard time sitting still and paying attention to rote learning activities.

In first grade, Ella went back to in-person classes at a public school and by second grade, she was labeled as needing special assistance and struggling with behavior issues. She was out of class in the counseling office more often than in class, she had

CONTINUED >

Photo © Getty Images/subjug

multiple calls home about inappropriate behavior, and she was considered below grade level in most subjects.

By third grade, Ella was taken out of public school and became part of a "microschool" that was registered as a private school. It had a certified teacher and other students who also were not able to succeed in the public school system. Several homeschool students also joined the microschool part-time, and they all worked toward excelling on state learning standards through the school's nature-based adventures including play, games, independent challenges, and occasional worksheets that emphasized assorted skills.

By the middle of fourth grade, after just a year in the microschool, Ella was back on grade level; and by the middle of fifth grade, she was reading at a seventh-grade level and doing sixth grade math. Attending the home-based microschool was not only an alternative to public school for Ella and the other students—it was an innovative doorway to learning and success.

WASHINGTON LAW

Washington state prides itself on its public education system, with just over 1 million students enrolled statewide (Office of Financial Management [OFM], 2024).[1] Yet a growing contingent of over 6 percent (about 30,000 K–12 students) has turned to homeschooling instead.[2] This shift has created significant legal and policy implications, particularly for families and educators navigating the boundaries between home-based instruction, learning pods, child care centers, and private school regulation. For attorneys, understanding these dynamics is not only professionally relevant but increasingly necessary as families seek guidance in an evolving legal landscape.

A SIGNIFICANT TREND

The rise in homeschooling in Washington has been significant since the onset of the COVID-19 pandemic. Between 2019 and 2022, the number of homeschooled students increased by approximately 43 percent, from 20,844 in the 2019–20 school year to 29,798 in the 2022–23 school year.[3] This surge was notably higher than the national average of 27 percent over the same period.[4] This trend indicates that homeschooling has become a more prominent educational choice in Washington state, reflecting broader national patterns of increased interest in alternative education options.



Kathleen Casper Reed is an attorney and educator with extensive experience in education law in Washington state and Georgia, consulting for startup microschools and established educational programs as well as providing services for private and public schools. Reed earned her B.A. and teaching certificate from the University of Washington, her J.D. from Seattle University School of Law, and her M.Ed. and principal certification from Eastern Washington University. She currently runs a K–6 nature-based homeschool program in Maine and advises clients in family, real estate, and estate law through her law firms The Law Offices of L. Kathleen Casper in Washington and Legacy Law GA in Georgia.

Programs that resemble schools risk being classified as private schools (triggering approval, instructional hours, and teacher certification requirements) or as child care centers (triggering licensing obligations).

A LEGAL SYSTEM ROOTED IN PUBLIC SCHOOL PRIORITY

Washington's constitution defines public education as the state's "paramount duty" (Wash. Const. art. IX, § 1). This commitment has been reinforced repeatedly, including in the landmark *McCleary v. State* (2012)[5] and subsequent rulings that mandated increased state funding for public schools. While these decisions strengthened public education, they also reinforced a policy culture where alternatives—such as homeschooling—remain tightly regulated. Washington's Home-Based Instruction Act of 1985 (Wash. Rev. Code § 28A.200; RCW 28A.225) formalized homeschooling rights and implemented accountability mechanisms such as mandatory declarations of intent, annual assessments, and record-keeping requirements.

Attorneys advising families seeking flexibility and educational entrepreneurs must therefore understand the constitutional and statutory framework that keeps Washington among the stricter homeschool states.

HOMESCHOOL LAW AS A COMPROMISE

Washington's homeschool statute, negotiated in the 1980s as a compromise between school districts and homeschool advocates, reflects a "trust but verify" model. Parents must demonstrate qualifications to homeschool, file annual intent forms, and provide proof of student progress through standardized testing or certificated teacher review (RCW 28A.200.010). Specifically, this means parents must file an intent to homeschool form on time and make sure their children are tested with a standardized test or by a certified teacher each year. Parents must either be certified as teachers themselves, have at least 45 college-level credits, or have training from a state-approved home-based education program. They must also be well-versed in a variety of content areas or find someone who is to supervise their children and ensure they have adequate lessons and time spent in the required subject areas. The state requirements (RCW 28A.225.010(4)) specify that instruction must be provided that "consists of planned and supervised

instructional and related educational activities"[6] and goes on to list 13 major subject areas that must be taught. In some cases, the superintendent of the school district may determine whether a parent is qualified, leaving some gray areas and possible fairness issues. Washington also requires that students make "adequate progress," a phrase that is not specifically defined. If a school district claims a child has not made adequate progress and a parent disagrees, it may be up to a court of law to determine that as an issue of fact. For families, all of this means added oversight, scrutiny, and potential pitfalls if they don't follow the rules. For lawyers, it means clients need clear advice on compliance—and sometimes protection when districts push beyond statutory requirements.

THE LEGAL GRAY ZONE: LEARNING PODS AND ENRICHMENT CENTERS

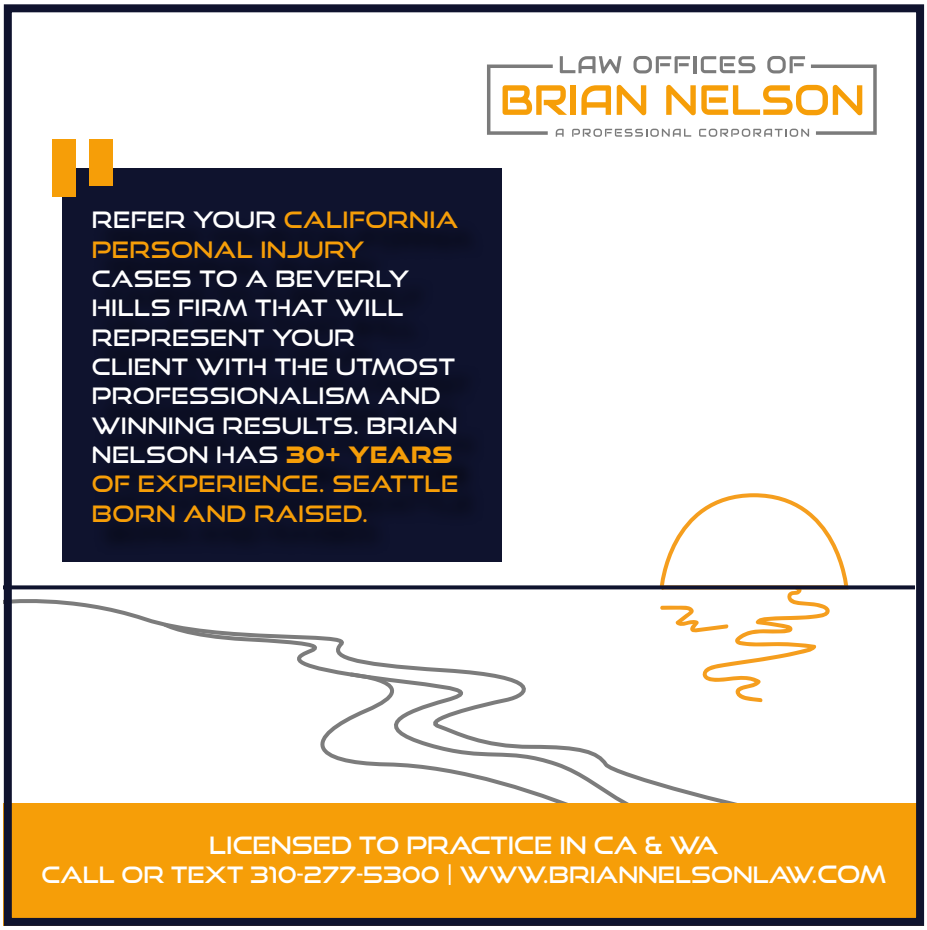
Perhaps the greatest legal uncertainty lies in the rise of "learning pods," hybrid programs, and enrichment centers. Families often seek small group instruction for academic, social, or child care reasons. Yet Washington law does not recognize pods as distinct entities. Instead, programs that resemble schools risk being classified as private schools (triggering approval, instructional hours, and teacher certification requirements) or as child care centers (triggering licensing obligations) (RCW 28A.195; RCW 43.216). Washington courts have followed the provisions of RCW 28A.225.020(1)(c), emphasizing in cases such as *Bellevue School District v. E.S.* (2011),[7] that school districts may "take steps to eliminate or reduce the child's absences" through compulsory education laws, reinforcing that families must comply with statutory requirements. Truancy cases under the "Becca Bill" (RCW 28A.225.030) further demonstrate the risks when parents fail to file declarations of intent or provide annual assessments. However, homeschool advocates still rely on the U.S. Supreme Court ruling in *Pierce v. Society of Sisters* (1925),[8] a case that started from the Oregon government appealing a lower court decision on the state's Compulsory Education Act of 1922 that required all children to attend public school. The Court in *Pierce*[9]

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held that parents have the right and duty to decide on their children's education, which provides a basis for parental choice regarding educational options to this day.

Lawyers advising pods, co-ops, or enrichment providers must therefore help clients draw legal boundaries carefully. The instructional format could be carefully created within a hybrid of homeschool, child care, and private school laws.

For example, a learning pod for homeschoolers in Washington would likely need to be created in partnership with parents (as RCW 28A.225.010(4) requires the certified supervisor and parent to create the lessons) and a certified teacher who is deemed to be supervising the child. The parent would have to submit an intent to homeschool form. The teacher would only be able to provide such instructional support and supervision for up to 30 students, per state rule, and would need to cover all 13 subject areas as listed in RCW 28A.225.010(4). The instruction would have to be in person at least one hour per week with each student being supervised. The students would need to be educated at least the total amount of hours required by state private school statutes (according to Washington's "Pink Book," an advisory document from the Office of the Superintendent of Public Instruction, *Washington State's Laws Regulating Home-Based Instruction* (2017)).[10] And at the end of the year, the certified teacher would either give the students standardized tests or do written evaluations, showing adequate progress for each student.

Such a program could instead be registered with the state superintendents' office to run under state private school laws, RCW 28A.305.130, if it maintains minimum approval requirements pursuant to RCW 28A.195.010 and Wash. Admin. Code ch. 180-90. Being a private school means parents can skip the requirement of submitting the homeschool intent form and allow the teacher to have more control over the learning process. But it also means stricter adherence to health and safety issues than in the personal residence of a parent and child, and could cause issues with obtaining

liability insurance, as schools are considered different than learning pods or child care programs, and insurance can be much more expensive and possibly prohibitive if coverage is not available for the program's location.

Private schools or homeschool learning pods still likely require child care licensing if the teacher is providing care without a parent present, which means also having to meet state child care licensing standards. While these standards seek to promote consistency, it should be noted that their enforcement can vary in practice and have financial and time-related impacts on program implementation. For example, one inspector may define a safe play area as a fenced space with age-appropriate toys, while another inspector may decide the whole fence has to be sanded to remove any splinter-causing textures. Another inspector may determine a building with a swinging door at the entrance and a sliding glass door in the main child care area is not sufficient for egress per state child care rules that require swinging doors, and require the sliding glass door be replaced with an additional swinging door.

All of these issues and decisions highlight how integral an attorney's role can be in supporting the families and educators who pursue these "out of the box" types of learning opportunities.

HOW OTHER STATES HANDLE HOMESCHOOLING

A handful of states have recently changed their laws to allow for new educational models. Georgia's Learning Pod Act (Ga. Code Ann. § 20-2-690, 2024) exempts pods from child care and private school regulations if they meet safety standards, while Texas and Louisiana allow parental choice in education with few restrictions (HSLDA, 2024).[11] Washington, by contrast, has resisted such change. Bills like HB 1615 (2023–24), proposing Education Savings Accounts, and HB 2042 (2021–22), affirming parental rights in education, failed to pass.

Attorneys advising clients in this arena should pay attention to potential new legislation in the future.

FUNDING AND LEGAL STRUCTURES

Because Washington lacks funding mechanisms for homeschoolers and pods, families often self-finance enrichment programs. Attorneys may assist clients in forming nonprofits to access grants (e.g., VELA, YASS Prize, Child Care Partnership Grants) or structuring for-profit entities that can still pursue limited funding opportunities. The legal formation chosen—nonprofit, LLC, cooperative—directly impacts eligibility, liability, and long-term sustainability.

IN SUMMARY

Washington's constitutional and statutory framework places public education at the center of its legal identity, often to the frustration of families seeking alternatives. While homeschooling is legal, it is tightly regulated, and newer models such as pods remain in a legal gray zone. Attorneys practicing in education, nonprofit, or family law must pay close attention to this evolving landscape. As other states expand freedoms, Washington families will continue to seek legal support to navigate statutes and avoid liability. BN

NOTES

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2. "Washington State's Homeschooling Is Up," *Seattle Medium,* Sept. 22, 2023, https://seattlemedium.com/washington-states-homeschooling-is-up/.
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4. Fiscal. Pol'y Inst. of Wash., "What's Behind Washington's Homeschooling Boom?" (May 28, 2024), https://fpiw.org/whats-behind-washingtons-homeschooling-boom/.
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6. Wash. Rev. Code § 28A.225.010(4) (2024).
7. Bellevue Sch. Dist. v. E.S., 171 Wash. 2d 695, 257 P.3d 570 (2011).
8. Pierce v. Soc'y of Sisters, 268 U.S. 510 (1925).
9. *Id.*
10. Wash. Office of Superintendent of Pub. Instruction, *Washington State's Laws Regulating Home-Based Instruction*, 2–3 (2017).
11. Home Sch. Legal Def. Ass'n, Homeschool Laws by State (2024), https://hslda.org/legal.

SIDEBAR

Why Attorneys Should Pay Attention

The growing number of homeschoolers and alternative education providers in Washington is not a passing trend. Families increasingly want personalized, flexible, and community-based education. At the same time, they must comply with state law, navigate regulatory ambiguity, and develop their own funding and resources.

Lawyers are uniquely positioned to:

- Interpret and apply RCW 28A.200 and related statutes for clients.
- Defend families in truancy or compliance disputes.
- Help pods and learning centers structure legally sound organizations.
- Navigate funding and nonprofit formation to secure sustainability.



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FEATURE

Q&A WITH RURAL PRACTICE GRANT RECIPIENTS



In 2024, the WSBA's Small Town and Rural (STAR) Council launched a program to provide grants to law students participating in summer internships in rural parts of Washington. During the first year of the program, two grants were awarded to interns working in the Tri-Cities area. In 2025, 10 grants were awarded to interns working in Wenatchee, Yakima, Davenport, Granger, and Coupeville. The purpose of these grants is to assist in building a pipeline of rural attorneys who will help narrow the legal services gap in rural communities throughout the state. What follows are interviews with four of the 2025 grant recipients.

Jacob Papritz

Gonzaga University School of Law, 3L

Q. What was your internship role and where was it located?
I worked as a Rule 9 intern at the Douglas County Office of Public Defense in East Wenatchee.

Q. What kind of work did you do during your summer internship?
I tell my family and friends that I spent most of my summer in jail. It's a joke, but it's also true. I was pleasantly surprised to find that I enjoyed visiting the jail because that was where I got lots of face-to-face time with clients, and where I got to stand next to them and argue on their behalf. It was really intimidating at first (I have never loved public speaking), but I thought the

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APPLY NOW

RURAL PRACTICE SUMMER INTERNSHIP GRANTS

The WSBA is now accepting applications for its 2026 Rural Practice Summer Internship Grants. The internship is open to law students (1Ls, 2L, and non-graduating 3Ls) who:

- Will be participating in a summer internship for an organization providing legal services in a nonprofit, government, or private setting located within a rural community in Washington as defined by the WSBA Small Town and Rural Committee.
- Interns working in a private firm setting must primarily serve individuals from underserved and underrepresented groups. These groups may face economic, geographical, cultural, or language barriers to legal services.
- Demonstrate commitment to practicing in a rural community.
- Articulate a desire to practice within a rural community upon graduation from law school.

Contact **memberbenefits@wsba.org** with questions, and visit the STAR Council webpage for requirements, application instructions, and employer acknowledgement forms. *Please note the application deadline April 13, 2026.*

SCAN THE QR CODE TO LEARN MORE

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benefits outweighed the initial discomfort.

Q. What motivated you to pursue this particular internship?
My internship was administrated through the state Office of Public Defense, which recently started up a program that places law students in rural communities that are often understaffed. When I found out about this opportunity, I was interested because I was raised in a rural community—on South Whidbey Island, where attorneys are few and far between. I loved where I grew up and wanted to try and give back to other similar communities in the state.

Q. How did the grant money help you?
The grant money helped me for many reasons. I am mostly interested in public interest law. Because of that, my prior internships and work experiences had rarely paid much (or anything). As a result, I went into my 2L summer in somewhat dire financial straits. Also, I come from a family where my parents expect me to pay for school myself. This has made me especially grateful for whatever outside funding I've been fortunate enough to find!

Q. How did your internship help you grow as a law student and future legal practitioner?
At my internship, I had the opportunity to argue in court every day. I was really sweating the first couple times, but it was an invaluable learning experience and one I came to really enjoy. I'm grateful to my bosses and clients for allowing me to be imperfect on my way to becoming competent.

Q. Did the experience make you more or less likely to practice in a rural community after graduation?
More likely. My first summer I worked on Whidbey Island and enjoyed getting to know the legal community there. Working in Wenatchee reinforced for me that I enjoy working in smaller towns where you get to know other people, judges, and clients on a first-name basis.



Jacob Papritz grew up on Whidbey Island and attends Gonzaga University School of Law. Papritz became interested in the law while living abroad in Southern Italy and working with African refugees. In his spare time, he enjoys fixing cars and playing with his dalmatian, Dot.

Q. Where do you plan to practice after graduating from law school, and what interests you about working in a rural community?
I am interested in working in a rural community because I grew up in one, and because I think small communities make for healthier legal communities. In small communities there is great incentive to be cordial with people because chances are you'll see them again soon! It's just not practicable to be a jerk to opposing counsel or snooty to other attorneys in your practice area. Small towns reward collaboration, good manners, and lending others a hand.

Q. What are some of the challenges you foresee of practicing law in a rural community?
As a young person, it can be socially intimidating to strike out on your own and move to a rural community, especially if it's not the one you grew up in.

Q. What would you say to other law school students or graduates who are on the fence about moving to and working in a rural part of Washington?
Don't knock it till you try it! Living in a smaller town has a lot of advantages that you might not fully appreciate until you're in one. Also, I think fears of access to common amenities are somewhat overblown. People in small towns find ways to get access to everything they need and so will you!

Alejandra Bonilla

Seattle University School of Law, 2L

Q. What was your internship role and where was it located?
Intern at Northwest Justice Project's (NJP) Farmworker Unit in Yakima.

Q. What kind of work did you do during your summer internship?
This summer I had the privilege of doing cross-Washington rural outreach at H-2A and migrant farmworker housing. During outreach we provided folks with the NJP newspaper that informs workers about their rights and resources they can access. We reviewed and answered their questions about their jobs and their rights (reaching out to professionals when needed). I also worked on a memorandum assignment with supervising attorney David Morales.

Q. What motivated you to pursue this particular internship?
I chose this opportunity because it allowed me to work closely with farmworkers. I come from a family of farmworkers, and their rights are extremely important to me. I also have loved ones living in the valley, so this opportunity allowed me to spend the summer with them during my time off. I also appreciated being able to travel through Washington and learn more about the state and its rich agricultural production.

Q. How did the grant money help you?
The grant helped me in relocating for the summer. I had to pay my rent in Seattle and in Yakima. It also helped me buy a bike to travel to and from work in the summer. And I was able to use the funds to buy books during my 2L fall semester.

Q. How did your internship help you grow as a law student and future legal practitioner?
This internship helped me apply what I had learned during my 1L year. I was able to learn how attorneys like David Morales apply contracts and property law on a daily basis. This allowed me to imagine what lawyering really looks like. Overall I came out feeling excited to continue learning in my doctrinal classes after witnessing the material being applied in practice.

Q. Did the experience make you more or less likely to practice in a rural community after graduation?
This experience made me more likely to practice in a rural community after graduation. I loved getting to know the community and seeing the need for my labor and commitment to the community.



Ale Bonilla (she/they, ella/elle) is the eldest of six to a single mother and was born and raised in San Jose, California. Outside of law school Bonilla enjoys spending time with her loved ones and her cat friend, Sr. Kitty. Bonilla is a social butterfly and loves to be in community.

Q. Where do you plan to practice after graduating from law school, and what interests you about working in a rural community?
I cannot anticipate where I will be once I graduate. However, I enjoyed my time in Yakima with NJP and could see myself working with the Farmworker Unit with David Morales's team.

Q. What are some of the challenges you foresee of practicing law in a rural community?
Challenges like access to resources and to a large legal community. I witnessed this in real time while being there this summer and can imagine myself reaching out to my legal community across the state and even seeking resources outside my rural community if needed.

Q. What would you say to other law school students or graduates who are on the fence about moving to and working in a rural part of Washington?
Community needs you! It is beautiful and there is delicious food. There is so much funding for new lawyers to relocate and start their careers in rural communities because they are in need of us.

Tori Ashley

University of Washington, 2L

Q. What was your internship role and where was it located?
Summer legal intern at the Yakima County Department of Assigned Counsel.

Q. What kind of work did you do during your summer internship?
I worked with supervising attorneys at nearly every stage of criminal cases, both

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felonies and misdemeanors. I particularly enjoyed the opportunity to build client skills by assisting in client intakes and first appearance consultations. I utilized the research skills I had been developing and was able to contribute to positive outcomes for clients I'd worked with.

Q. What motivated you to pursue this particular internship?
I'm a lifelong Tri-Cities resident and plan to return home to practice public defense, so I was really intentional about how I spent my 1L summer. I wanted experience in Eastern Washington and in a community similar to my own, but with a different structure and approach. Yakima County's Department of Assigned Counsel offered a rare opportunity for 1L students to get meaningful exposure to public defense, and learning from new attorneys in a similarly situated rural community felt like the perfect way to broaden my training.

Q. How did the grant money help you?
The Rural Practice Internship Grant made it possible for me to take a summer position in a rural area without being limited by the cost of relocating. Because Washington's law schools are concentrated in two cities, working elsewhere often means paying for temporary housing while still covering rent near campus. The grant removed that financial barrier and allowed me to gain experience in a new community rather than being restricted to opportunities close to my law school.

Q. How did your internship help you grow as a law student and future legal practitioner?
This internship gave me the chance to see how public defense actually works day to day in a smaller community. Working in a system with fewer resources pushed me to think creatively and stay focused on what really matters for clients. It helped bridge the gap between classroom learning and real-world practice and made me more confident in my ability to step into a public defense role.



Tori Ashley is a University of Washington School of Law student and lifelong Tri-Cities resident. Her experience with the Benton County Prosecuting Attorney's Office and local therapeutic courts shaped her commitment to public defense. She plans to return to Eastern Washington to address the shortage of public defenders in rural communities.

Q. Did the experience make you more or less likely to practice in a rural community after graduation?
Definitely more likely. I really valued the hands-on experience and the close working relationships I had with supervising attorneys. Being part of a smaller legal community allowed me to feel connected to the work and to the people I was serving, which reinforced that rural practice is where I want to be.

Q. Where do you plan to practice after graduating from law school, and what interests you about working in a rural community?
I plan to return to the Tri-Cities to practice public defense. I've seen firsthand how the public defender shortage affects rural communities, and how delays in representation impact both defendants and the broader justice system. Working in a rural area gives me the opportunity to make a tangible difference where the need is greatest.

Q. What are some of the challenges you foresee of practicing law in a rural community?
One of the biggest challenges is limited resources, which can mean higher caseloads and fewer support services. Rural practitioners also have to be flexible and ready to handle a wide range of issues, including conflicts. These challenges require adaptability and efficiency but also create opportunities for meaningful advocacy and leadership.

Q. What would you say to other law school students or graduates who are on the fence about moving to and working in a rural part of Washington?
I'd encourage them to seriously consider it. Rural communities offer incredible learning opportunities, meaningful client relationships, and a chance to see the direct impact of your work. The WSBA Rural Practice Summer Internship Grant is a great way to gain new experiences.

Emmalee Johnson

University of Washington School of Law, 2L

Q. What was your internship role and where was it located?
Legal Intern at Northwest Immigrant Rights Project (NWIRP) in Granger.

Q. What kind of work did you do during your summer internship?
I worked on a variety of projects at NWIRP over the summer, including asylum applications for a family of four and a response to a request for evidence for a U-visa applicant. I also worked on a parenting plan for the state court portion of a special immigrant juvenile case, and I was able to observe two asylum individual case hearings at the immigration courts in Seattle and Tacoma.

Q. What motivated you to pursue this particular internship?
I have always been interested in immigration law, especially because I grew up in Walla Walla where there is a significant immigrant population. I previously worked for a small immigration firm in Walla Walla, and I wanted my summer job to be one where I could make a positive impact in a community closer to home.

Q. How did the grant money help you?
Since I was unable to work during my 1L year, the STAR grant helped me save up for living costs and tuition for my 2L year. I was able to dedicate my summer to working at a nonprofit in a rural community without feeling financially stressed about the coming school year.

Q. How did your internship help you grow as a law student and future legal practitioner?
I gained more practical experience in an area in which I am interested in practicing in the future. I'm thankful for the opportunity to work in a different legal environment and new community, and I believe that experience prepared me to serve a larger and more diverse population. It was also exciting to use the skills I had developed over my first year of law school during my summer internship.



Emmalee Johnson graduated from George Fox University in 2024 with degrees in communication and Spanish. At UW Law, she competes on the NY Bar National Moot Court team, supports 1Ls as an Academic Success Fellow, and is a student attorney in the Immigration Clinic. She is also a member of the Public Interest Law Association and often volunteers at local asylum clinics.

Q. Did the experience make you more or less likely to practice in a rural community after graduation?
More likely! I loved working in a smaller community where the work I was doing felt like it was making a tangible impact on people's lives in that area.

Q. Where do you plan to practice after graduating from law school, and what interests you about working in a rural community?
My plans directly after graduation aren't finalized, but next summer I will be working in Olympia as a Rule 9 in the prosecutor's office. I would eventually like to practice in a rural community, potentially back home in Walla Walla. I enjoy living in a smaller town, and I want to use my strengths to increase access to justice in those areas. Having strong connections with the people in my community has always been important to me.

Q. What are some of the challenges you foresee of practicing law in a rural community?
I think one of the challenges of practicing law in a rural community is the lack of resources and potentially feeling disconnected from the larger legal community. However, I think there is value in forming close connections in a small legal community and with the people you serve in that rural area. I also appreciate the STAR Council's work in supporting attorneys who want to practice in rural communities.

Q. What would you say to other law school students or graduates who are on the fence about moving to and working in a rural part of Washington?
I would encourage them to try it! Living in a rural area may not be for everyone, but if someone is on the fence, I would encourage them to use the resources that are available to them, like the STAR grant, to try it out and use their skills and abilities to serve others in rural communities. BN

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COVER STORY

Let's Get Technical

What makes the newest Washington Supreme Court justice tick

AN INTERVIEW WITH JUSTICE COLLEEN MELODY

BY COLIN RIGLEY

Colleen Melody is a total nerd who keeps baseball scores by hand during games. The word "nerd" isn't a dig; in fact, it's the word she uses. As the newest member of the Washington Supreme Court, this numerical sports nerdiness speaks to the type of person Melody is—and the type of judge she will likely become.

Above: Justice Melody at her swearing-in ceremony on Jan. 21, 2026.

When I first spoke with now-Justice Melody—after her appointment was announced by newly elected Gov. Bob Ferguson, but before her swearing-in ceremony on Jan. 21—I wanted to find out why *she* thinks Ferguson selected her for the vacant seat—Melody said that was a question better left to the governor. But if you ask her about the legal system in Washington, where it gets hung up, how it can improve, and what's needed to improve it, she lights up. In short, if you want to talk to Melody, it helps to focus on the technical, focus on the law, and don't focus on her.

"I work hard on the actual structure of legal arguments," she explained. "I love to

research and to write—I do it *a lot*."

At the time, Melody was in the thick of it. Hers was the newest face broadcasted out to the Washington public and the state's community of legal professionals, and she was still absorbing the ins and outs of her new role.

"There's a steep learning curve that I am encountering right now," she said. Topping the list of things to learn are the general business of the court, rules of the road when working for a state institution, and other administrative realities that you don't get to experience until you've gone through it. "If I have even 30 percent of it learned in the first year I might count that as progress," she joked.

So what drives her?

"The thing that I am motivated by is this desire to see Washington courts just be so good, so excellent, and independent from anything going on in the federal court system."

Melody has taken over the seat of Justice Mary Yu, who retired at the end of 2025. In a press release[1] announcing Melody as the newly selected justice, Ferguson said:

> Colleen Melody has devoted her career to standing up for those who often don't have a voice in our justice system. As Attorney General, I worked extremely closely with Colleen, where I had a front row seat to her immense legal skills, prodigious work rate, and passion for justice. Her public service has made our state and nation a more equitable place. She will make an excellent justice.

From the time since it was created in 2015 and up until her appointment to the court, Melody led the Attorney General's Office (AGO) Wing Luke Civil Rights Division. According to Ferguson, she has "helped make Washington state a national leader in defending civil rights. Over the past decade, she has led some of the state's highest-profile and most impactful cases, including blocking President Donald Trump's first Muslim travel ban."

Prior to the AGO, Melody served four years with the U.S. Department of Justice Civil Rights Division, earning the U.S. Attorney General's Award for Outstanding New Employee and the Assistant Attorney General for Civil Rights' Special Commendation for Outstanding Service. She has worked on litigation involving the Deferred Action for Childhood Arrivals Program and challenged the White House's courthouse arrests of non-citizens.

Melody has also received awards including the Legal Foundation of Washington's Charles A. Goldmark Distinguished Service Award, the American Immigration Lawyers Association Jack Wasserman Memorial Award, and the AGO's Steward of Justice Award.

'I work hard on the actual structure of legal arguments. I love to research and to write—I do it *a lot*.'

Q: How has the learning curve been thus far as you now prepare to take the bench?

A: I was officially sworn in by Chief Justice Stephens on Zoom on Jan. 1, 2026, and I can tell you that the learning curve has been steep. I am learning about the court's internal processes and procedures at the same time that I work on substantive matters, including merits cases, petitions for review, motions, and a whole variety of

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Below: Justice Melody's family and other supporters at her swearing-in ceremony on Jan. 21, 2026.

Photos courtesy of Washington Supreme Court



Justice Melody with Gov. Bob Ferguson at her swearing-in ceremony on Jan. 21, 2026.

other types of matters.

An early priority was staffing up my chambers, and I've now hired two law clerks and a judicial administrative assistant. They are fantastic additions, and we are busy developing our processes for assignments and workflows within our small team. And outside my chambers, I'm getting to know my new colleagues in the court system—justices and judges at all levels of the state court system and the expert staff who work in the various courts and in the Administrative Office of the Courts. And many evenings, I've been attending events in the legal community, which have been a great way to meet people across the state and hear about the issues affecting the courts and their legal practice. All told, it's been quite a busy start to 2026.

Q: Your background is primarily in advocacy, yet a judge must be neutral. How do you feel about transitioning into this new type of role?

A: The difference in role between advocate and judge is night-and-day, as all lawyers and judges well know. For me, the requirements of impartiality and fairness are solemn and also energizing. I feel energy because, as a judge, every case begins brand new. When I turn to a new appeal and pick up the decision below for the first time, I'm starting from a place of curiosity and openness. As an advocate, some of the legal issues I worked on tended to repeat themselves, such that I navigated the same legal issues multiple times across many cases. Now, because of the impartial role and the generalist nature of our appellate work, no case so far has been anything like any previous one.

'I like working on rules-related issues because, in my experience, procedural rules have as much to say about case outcomes as do substantive rules of decision.'

Q: Do you still see opportunity to continue that advocacy as a Supreme Court justice? What about the state legal system would you like to change/improve?

A: Of course Supreme Court justices should advocate! They can and must advocate for the court system itself, including looking for ways to make courts more transparent and accessible to Washingtonians from all walks of life who pass through their doors. I'm particularly interested in thinking about ways courts can use technology to improve access to justice, and in continuing to examine and reduce barriers related to language access and poverty. And I am now a member of the Washington Supreme Court's Rules Committee, where one of our tasks is to think about court rules from an access-to-justice perspective. I'm happy that Chief Justice Stephens assigned me to the

Rules Committee because it allows me to continue work I did for the five years prior to joining the court: serving on the Access to Justice Board's Rules Committee. I like working on rules-related issues because, in my experience, procedural rules have as much to say about case outcomes as do substantive rules of decision.

Q: As you prepare for this role, what issues do you believe are most pressing for Washingtonians and the state's legal system?

A: Apart from the need to reinforce the credibility of courts as impartial institutions, which your later questions cover, we need to continue to confront the access-to-justice challenges that have persisted in Washington despite decades of work to address them. Justice in our state courts is too often slow, expensive, and difficult to access. And there is a persistent justice gap for minority, poor, and rural communities. We need to continue to identify the barriers that exist—understanding that those barriers are often county- or region-specific and require county- or region-specific solutions. Once we've worked to map those, we should tackle them in partnership with local judges, lawyers, legal professionals, and community members. Washington's courts can be national models of access to justice. To achieve that, we'll need to be clear-eyed about the barriers we still face and then row together toward solutions.

Q: What are you most excited about?

A: I'm excited about digging into new areas of law that I've not previously studied in-depth. State law is vast and touches nearly all aspects of our lives. As a civil rights lawyer, I brought many different kinds of cases, but they were all civil suits and most of them alleged a violation of federal or state anti-discrimination law. Now, I get to dive deep into areas that I have not previously spent as much time with, like family law and criminal procedure. As

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Photo courtesy of Washington Supreme Court

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someone who loves learning new legal doctrines and reading the lines of cases that developed them, I'm thrilled by this part of the job.

Q: There is widespread data indicating that the public is losing trust in the judicial system. Have you witnessed such a decline in trust? If so, how do you plan to help restore that trust as a Washington Supreme Court justice?

A: I have certainly seen, heard, and read about the public decline in trust in the judicial system. Most often, I hear that concern expressed about federal courts rather than state courts. The problem, of course, is that many people don't know the difference—federal and state court systems operate side by side in our country and hear many of the same types of cases. So, for an average person, both court systems are of a piece. As a result, some of the current public concern with the federal courts, and the U.S. Supreme Court in particular, bleeds over and impacts the credibility of state courts, too. I'm thinking here of the orders issued on the emergency docket with minimal or no explanation, the increasing politicization of confirmation hearings, and the public concern about potential conflicts of interest.

At the Washington Supreme Court, I think we can help maintain and reinforce trust in state courts by talking to these issues directly. We should be transparent about our own practices, explain our rulings and do so in plain language whenever



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.

QUICK BIO



Justice Colleen Melody began serving as the 100th justice of the Washington Supreme Court on Jan. 1, 2026, following her appointment by Gov. Bob Ferguson.

- Justice Melody was born and raised in Spokane and now lives in rural Western Washington with her husband and two daughters.
- Justice Melody is a graduate of the University of Washington and the University of Washington School of Law.
- Prior to joining the Washington Supreme Court, Justice Melody served for 11 years as chief of the Civil Rights Division in the Washington State Attorney General's Office. In that role, Justice Melody enforced federal and state laws protecting the rights of Washingtonians, with an emphasis on civil rights and anti-discrimination work.
- Prior to joining the Attorney General's Office, Justice Melody served as a trial attorney in the Civil Rights Division of the U.S. Department of Justice in Washington, D.C. There, she brought civil lawsuits to remedy discrimination on the basis of race, color, national origin, sex, religion, and disability.

possible, and avoid conflicts of interest. And, of course, we can travel the state engaging community partners, civic groups, and students, explaining the role of state courts and highlighting our independent role. I've been doing some events like that in my first few weeks in this role, and they are rewarding (and fun) conversations.

Q: In times when the public is losing trust in public institutions like the law, and political institutions are battling with the courts, what do you believe courts can do to reinstill confidence and ensure independence?

A: Over the summer, I watched a presentation given by U.S. Supreme Court Justice Elena Kagan at the Ninth Circuit Judicial Conference. Justice Kagan was asked a version of this question. I agreed with the upshot of her answer, which, without purporting to quote it, was essentially that courts seeking credibility and respect today should do what credible courts have always done: adjudicate cases impartially and with integrity, provide reasoned explanations for our decisions, and make clear through our personal and professional conduct that politics does not drive case outcomes.

That answer is not much of a silver bullet, but I agree with Justice Kagan that the best response to the current crisis of credibility in courts as institutions is to behave in ways we *already know* promote faith in the rule of law. This means treating similar cases similarly, so that the outcome does not appear to depend on the wealth or popularity of the party bringing any particular case. It means avoiding politicizing judicial elections and appointments. And for individual judges, it means following the law even if the outcome is not the one we personally favor. I acknowledge that all of this is little more than Courts and Judging 101, but I have yet to hear any better method of responding to the truly difficult moment we are in. Sometimes the best path forward is to emphasize the basics.

'The best response to the current crisis of credibility in courts as institutions is to behave in ways we *already know* promote faith in the rule of law.'

Q: What's one thing about you, which has nothing to do with the law, that others might be surprised to learn about you?

A: I am a dedicated Seattle Mariners fan and keep score by hand during games. It's pretty nerdy—and my friends don't hesitate to tell me so—but it keeps me focused on every pitch. I have a whole stack of completed scorebooks at home. And, I have gone to every Opening Day game since I was a teenager. Even when I lived in Washington, D.C., for several years while working at the U.S. Justice Department, I would fly back to Seattle every March for Opening Day.

The playoffs last year were a great ride, and 2026 is going to be the year we go to the World Series. I'll see everyone at the ballpark! BN

NOTE

1. "Governor Ferguson appoints Spokane native Colleen Melody to Washington Supreme Court," Nov. 24, 2025, https://governor.wa.gov/news/2025/governor-ferguson-appoints-spokane-native-colleen-melody-washington-supreme-court.

FEATURE

DRAFTING WILLS AND TRUSTS:

Be Careful Naming Life Insurance Beneficiaries in Estate Planning Documents

BY ROBERT MORGAN



It is not unusual for attorneys to use estate planning software or form documents in drafting wills and trusts as part of estate plans they prepare for their clients. These forms and software documents typically contain a boilerplate provision directing the personal representative or trustee to generally pay expenses of administration, taxes, and creditor claims of the decedent (hereafter collectively referred to as the "Clause").

Throughout my many years of practice, I have never drafted a will or trust without including the Clause in the estate planning documents my office prepared. How can such an innocuous provision contained in a will or trust be a problem? I found out the hard way. I hope my experience dealing with the Clause helps you avoid defending yourself in a legal malpractice action.

This article focuses solely on the subject of life insurance and its exemption from creditors' claims; other assets with beneficiary designations, such as annuities, are not addressed. There are separate laws in Washington and other jurisdictions regarding assets like annuities. See RCW 48.18.430 for the general rules in Washington state.

FACTS

Assume you are retained to draft an estate plan for a client. The client prefers a revocable trust over a will as their primary planning document, having learned about the benefits of avoiding probate from watching YouTube videos and similar online sources. Note: Washington law permits non-intervention probates—meaning less time and money spent in probate after a testator's death. In other states, such as Florida (where I practiced prior to relocating to Washington), which do not utilize non-intervention procedures, a revocable trust may be the preferred main estate planning document in order to avoid a long and expensive probate. In this case, one of the client's significant assets is a life insurance policy (the policy). The client expresses a clear intent that the policy proceeds be distributed to a spendthrift sub-trust for the benefit of his children. A spendthrift sub-trust is a trust within a trust that, in this case, would hold a child's inheritance and protect that inheritance from becoming available to the child's or the decedent's creditors. The assets of a revocable trust are generally subject to a decedent's creditors' claims to the extent the assets of the probate estate are insufficient to pay the same. *See* Section 733.707(3), Florida Statutes, for an example of such a law.

As an astute estate planning attorney, you suggest the use of an Irrevocable Life Insurance Trust (ILIT) to own and be the primary beneficiary for the policy. An ILIT is an irrevocable trust whose sole asset is life insurance. Since the trust is irrevocable, neither the decedent's nor the decedent's beneficiary's creditors can attach the proceeds of the life insurance owned by the trust. The life insurance proceeds are protected from the claims of the trust beneficiary's creditors. After discussing the fees involved to prepare this estate plan, your client rejects your suggestion of using an ILIT as too expensive. He wants a spendthrift trust for the benefit of his children, which is contained in the revocable trust you are retained to prepare (the sub-trust).

You advise your client that, without the use of the ILIT, the beneficiary of the life insurance policy should be the sub-trust. You warn the client that it is possible, if naming the revocable trust as the policy beneficiary, that some or all of the policy proceeds may become available to his creditors at death, thereby causing less money to flow to his children. There is a statute indicating that life insurance is a creditor-exempt asset in probate and trust administration proceedings, but you find no cases in your research on this issue. You provide the client with written instructions on how to fund the revocable trust, including the exact wording that makes the sub-trust the beneficiary of the life insurance proceeds.

Both the revocable trust and the pour-over will contain the Clause, which is the generalized direction to pay the deceased's creditors' claims.

At the time of the client's death, your client had $6 million in assets (mostly consisting of real estate secured by mortgages and the proceeds of the policy) and over $8 million in creditor claims, most of which would be due to deficiency judgments due to the devaluation of the real estate assets. With the devaluation of the real estate, the only asset available to pay creditors' claims is the proceeds of the policy.

When your client dies, his children come to you to settle their father's estate. You realize the client failed to follow your advice; he named the revocable trust as the beneficiary of the policy, not the sub-trust as you directed. Since the probate estate is insufficient to satisfy all of the creditors' claims, some or all of the revocable trust's assets may be deemed available to satisfy creditors' claims.

> An Irrevocable Life Insurance Trust (ILIT) is a trust whose sole asset is life insurance ... neither the decedent's nor the decedent's beneficiary's creditors can attach the proceeds of the life insurance owned by the trust.

AFTERMATH OF *MOREY*

In *Morey v. Everbank and Air Craun, Inc.*, 93 So. 3d 482 (Fla. 1st DCA 2012), a Florida case of first impression, the facts of which I detailed above, life insurance proceeds payable to a revocable trust were deemed available to pay the claims of creditors of the settlor's estate. I was the attorney for the decedent and his children for the drafting and subsequent administration of the revocable trust after my client's death.

Both the trial and appellate courts in *Mo-*

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Robert Morgan has been practicing law for 40 years both in Florida and Washington. He practiced primarily in the areas of estate planning, elder law, and real estate. He has written many peer reviewed articles, including for the *Florida Bar Journal* and National Academy of Elder Law Attorneys. Morgan is semi-retired and lives in Spokane with his wife, kids, and two wonderful dogs.

Photo © Getty Images/DNY59

rey ruled the general language of the Clause was sufficient to waive the creditor exemption for life insurance proceeds. In other words, a general statement to pay expenses and claims of a testator of a will or settlor of a trust is sufficient to waive the creditor exemption enjoyed by life insurance proceeds.

Around the time *Morey* was decided, the courts in Arizona dealt with the same issue. In *In re Estate of King*, 269 P.3d 1189 (Ariz. Ct. App. 2012), an Arizona appellate court ruled the exact opposite of the Florida courts in its analysis regarding the availability of life insurance proceeds to pay a decedent's creditors' claims. On similar facts and law to those analyzed by the Florida courts, the Arizona courts found that a general provision to pay creditors' claims was insufficient to waive a statutory exemption for life insurance to pay similar claims.

The Florida Bar Real Property, Probate, and Trust Law (RPPTL) Section felt the courts were incorrect in their ruling in *Morey*. Section members were worried about potentially thousands of estate plans being defeated and sued for malpractice based on the ruling. In its white paper[1] submitted to the Florida Legislature along with proposed language amending the relevant statutes, the Florida Bar RPPTL Section advised of its position that a specific waiver should be required to waive the subject life insurance creditor exemption.

A *Florida Bar Journal* article discusses the *Morey* decision and its impact on wills and trusts.[2] The author provides suggestions to "fix" the problem caused by the Clause as it was interpreted in *Morey*. In addition, the Florida Legislature amended the relevant statutes to state that without express language waiving a statutory exemption for life insurance proceeds, the general statement in the Clause to pay the estate's creditors is insufficient to waive any permitted exemption provided in the statute. The new law had a retroactive effect.

WHY WASHINGTON LAWYERS SHOULD CARE ABOUT THE CLAUSE

In Washington, it is common for life insurance proceeds to be exempt from an insured's creditors so long as the beneficiary of the policy is not the decedent or his estate. See RCW 48.18.410 (2009); *Washington Community Property Deskbook*, Section 4.18 (2023).[3]

However, since many Washington residents own real property and other assets subject to the laws of different jurisdictions, estate planning for only Washington asset protection may be insufficient to meet the goals of your client and fulfill their testamentary intent. Should an ancillary probate be necessary, the creditor exemption laws of another jurisdiction may differ from those in Washington. In addition, in my experience, clients often acquire assets after executing their estate planning documents without notifying their counsel.

In Washington, it is common for life insurance proceeds to be exempt from an insured's creditors so long as the beneficiary of the policy is not the decedent or his estate.

SUGGESTIONS FOR ESTATE PLANNING ATTORNEYS

For the past several years, I have used the following language in my wills and revocable trusts to deal with the issue raised in this article:

> Notwithstanding anything in this will or trust to the contrary, it is the settlor/testator's intent that a general statement to pay claims, taxes, and expenses of administration, such as that found in Article____, shall not constitute a waiver of any laws providing creditor exemptions to any of the assets of this estate, including, but without limitation, life insurance proceeds. Any properly appointed fiduciary, such as my personal representative or trustee, may assert such exemption on my behalf to any court or administrative body with jurisdiction over my estate.

I also added a reformation provision for both judicial and non-judicial modifications in the event a court ruled that an exemption had been unintentionally waived.

In Washington, maintaining available creditor exemptions, such as for life insurance, is particularly important when you represent older clients. These clients may require Medicaid to pay for their long-term care costs, which can run from $10,000-$20,000 per month. Clients typically can't pay this amount and require Medicaid assistance. Washington has a Medicaid recovery law, which means the state is required to try to get reimbursed for any sums it has paid out for an individual utilizing its Medicaid long-term care program. The recovery is usually accomplished at the time of an individual's death by filing a creditor's claim in probate. Making the beneficiary of the life insurance a third-party special needs or spendthrift trust is a way to ensure a surviving spouse and children receive an inheritance.

CONCLUSION

What I take away from all the cases and statutes analyzed for this article is that lawyers generally should not advise a client to name their estate or a revocable trust as the beneficiary of any life insurance policy. Better practice is to name as the primary beneficiary the specific sub-trust created in a will or revocable trust that your client intends to have the life insurance proceeds flow to. These sub-trusts usually take the form of either a spendthrift or third-party special needs trust. Since following this advice, I sleep better at night. BN

NOTES

1. www.rpptl.org/images/PT_2013_5.pdf.
2. George D. Karibjanian, "Morey v. Everbank: Three Drafting Tips To Avoid A Troubling Decision," *Florida Bar Journal*, Vol. 87, No. 7, July/August 2013 at 45.
3. While an experienced estate planning attorney can help their clients avoid such a scenario, it can still happen. Individuals and insurance agents regularly name an insured's revocable trust as the beneficiary when completing life insurance policy applications. And many people today enlist the help of the internet, rather than an estate planning expert, to assist in drafting simple wills and trusts.

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Need to Know

NEWS & INFORMATION OF INTEREST TO WSBA MEMBERS

WSBA NEWS

2026 License Renewal Update: Pre-suspension Notices Mailed

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 may include MCLE certification, trust account declaration, and disclosing professional liability insurance or financial responsibility. Licensing requirements, including MCLE certification, must be completed online at **https://licensing.wsba.org**. Visit **www.wsba.org/licensing** to learn more.

Shape the Future of the Professional Oath

The WSBA Oath Review and Drafting Task Force wants your input to better understand Washington legal professionals' views about the current professional oath and to guide the task force in its work. The phrasing of Washington's oath traces back to the state's territorial days. Responding to member feedback referencing these possibly dated aspects of the oath, the WSBA Board of Governors created a task force with two goals: 1) to determine whether the oath ought to be updated; and, if so, 2) to draft corresponding language and rule changes for consideration by the Washington Supreme Court. The task force has created a survey to collect data that will be the foundation for its decisions about if and how to move forward in redrafting Washington's professional legal oaths. Visit **www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/oath-task-force** and please take the survey that corresponds to your license type: Oath of Attorney, Oath of Limited License Legal Technician, or Oath for Limited Practice Officers.

THE BAR BUZZ

Claim Your Free Trust Accounting & Billing Software

Are you looking for support with trust accounting or billing? We have great news for you! The WSBA recently announced a new, exclusive benefit for members: FREE access to Smokeball Bill, the premier trust accounting and billing software for law firms. This offer is designed to help WSBA members manage trust accounting compliantly, bill easily, and get paid faster—so you spend less time accounting and more time practicing law. Visit **https://bit.ly/wabarbill-launch-enews-0226** and sign up for your free subscription today!

New CLJ Data and Document Portal is Live!

Re:SearchWA, the new public case records portal for Courts of Limited Jurisdiction Case Management System (CLJ-CMS) courts, is live. If you already have an eFileWA account, you can use those same credentials when using re:SearchWA. If not, new users will need to click "Register" on the top tool bar on re:SearchWA to create a new free account. Once logged in, you can begin searching for cases right away. Visit **https://researchwa.tylerhost.net/CourtRecordsSearch/ui/Home** for more information including user guides and a list of participating courts.

Speak Up for Justice, Washington!

Judges throughout Washington and the nation have sounded the alarm: they have become targets of unprecedented levels of violence and threats of violence. Join us at one of many locally hosted in-person, free CLEs that aim to develop leadership skills and empower legal professionals to speak up in their communities to counter misinformation and build relationships in support of their court systems. Speak Up for Justice Washington! is partnering with county bars, which will host events throughout the state eligible for 1.0 to 1.5 CLE credits. Visit **www.wsba.org/about-wsba/ambassadors/speak-up** to see a list of upcoming dates and locations; we will continually update the list as more events are confirmed.

AOC Launches Self-Help Washington

The Administrative Office of the Courts' (AOC) Equity and Access Program has launched Self-Help Washington (SHW) to provide accessible resources to help people without lawyers navigate Washington Courts. The project began in 2019 through a Superior Court Judges' Association (SCJA) work group, which made a recommendation to create an online portal for self-represented litigants. Learn more at **www.courts.wa.gov/self-help/**, or contact Self-Help Washington Lead Kelsey Jandoc, Kelsey.Jandoc@courts.wa.gov.

Entity Regulation Pilot Project Accepting Applications

After years of research, planning, and logistics, the application portal for the Entity Regulation Pilot Project is open. This is a time-bound, data-driven, carefully supervised process authorized by the Washington Supreme Court to determine whether changes

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to certain regulatory rules can meaningfully expand access to legal services for Washingtonians. The pilot project allows businesses and nonprofits (not just individually licensed lawyers/LLLTs/LPOs) to seek authorization to offer legal services for the first time in state history. Learn more at **www.wsba.org/about-wsba/entity-regulation-pilot**.

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 an ethics concern about the 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. Visit **www.wsba.org/for-the-public/concerns-about-a-lawyer/preocupaciones-por-un-abogado**.

Please Complete Your Confidential Demographics Form

Did you know that the WSBA regularly publishes a variety of demographic information about the 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 survey of demographic questions during your license renewal. If you have already renewed your license, you can still return to the license renewal page (**www.wsba.org/licensing**) 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.

ENGAGE IN YOUR LEGAL COMMUNITY

Rule of Law Ambassador Program

The WSBA invites you to join its volunteer Rule of Law Ambassador Program, which equips volunteer legal professionals to educate their local communities about the importance of an independent legal profession as a cornerstone of U.S. democracy and to build relationships to increase trust and confidence in the rule of law. Visit **www.wsba.org/ambassadors** to learn more and volunteer.

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 second Wednesday of each month from 8-9:30 a.m. via Zoom) is reserved for member comments. All topics are welcome. Visit the events calendar at **www.wsba.org** for more information.

Explore the WSBA Lending Library

Looking for your next great read? The WSBA Lending Library is a free service to WSBA members offering the short-term loan of books on topics related to practice management, wellness, and career development. Visit **www.wsba.org/for-legal-professionals/member-support/lending-library** to explore the catalog.

VOLUNTEER

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, personal injury, and more. For more information, email **clinics@lbaw.org** and **clinics2@lbaw.org**.

RESOURCES

Have You Reviewed Your Group Health Options?

The group health insurance landscape is evolving. If you haven't assessed your plan in a while, you might not know what you're missing out on. WSBA members have access to licensed benefits experts who can help you find out—at no cost. It's a courtesy consultation, and it's included with your membership. Make sure your company isn't overlooking or overpaying. Visit **https://wsba.memberbenefits.com/employer-group-solutions/** to start your no-obligation market analysis and group health quote on the WSBA Insurance Marketplace.

Defense Standards: Guidance and FAQs

For public defenders, local jurisdictions, and other stakeholders in Washington's justice system looking to implement the new WSBA Standards for Indigent Defense Services, find a guidance document and FAQs at **www.wsba.org/connect-serve/committees-boards-other-groups/public-defense**.

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**.

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**.

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. 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.

Zen Meditation for Lawyers: A Path to Clarity, Focus, and Well-Being

Start the new year right by joining Zen Reverend Soko Mackay for a weekly meditation session designed for busy legal professionals. Discover how Zen practices can help you reduce stress, enhance focus, and improve productivity in your high-pressure environment. Take the time to invest in your mental health and experience the profound benefits of Zen meditation both in and out of the courtroom. The group meets Thursdays from 12–12:30 p.m. Sign up at **https://www.wsba.org/meditation**.

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

New Members List Serve

This list serve is a discussion platform for new members 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

March 2026 Usury

The usury rate for March 2026 is 12.00%. The auction yield of the Feb. 2, 2026, auction of the six-month Treasury Bill was 3.639%. The interest rate required by RCW 4.56.110(3)(a) and 4.56.115 for March 2026 is 5.639%. The interest rate required by RCW 4.56.110(3)(b) and 4.56.111 for March 2026 is 8.75%. BN

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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.**

James M. Brown, #11634, 2/1/2026
James E. Brown II, #49040, 12/19/2025
Ronald Hall Clark, #1341, 12/11/2025
Bifford Crane, #4931, 5/2/2025
Rafael Downey, #21476, 3/14/2025
Daniel Farr Sr., #4612, 01/27/2026
W. J. Thomas Ferguson, #335, 10/3/2025
George Fields, #25973, 1/10/2026
John Charles Huston, #3656, 11/18/2025
Thomas E. Kelly, #4208, 1/31/2026
Charles A. Kimbrough, #134, 12/28/2025
Lauri Lewis, #47172, 10/25/2025
Sage Linn, #31841, 10/19/2025
Kenyon Luce, #3081, 1/18/2026
Stephen Edward Marvich, #6637, 8/18/2025
David T. Patterson, #4753, 1/19/2026
William N. Snell, #3684, 11/2/2025
John Spencer, #32188, 12/26/2025

MORE ONLINE

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

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Notices

DISCIPLINE & OTHER REGULATORY NOTICES

THESE NOTICES INCLUDE INFORMATION ABOUT THE IMPOSITION OF DISCIPLINARY SANCTIONS AND ACTIONS involving lawyers, limited practice officers (LPOs), and limited license legal technicians (LLLTs). Active links to directory listings, which provide additional information and documents related to the disciplinary matter, and other linked information 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://www.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

John David Du Wors (WSBA No. 33987, admitted 2003) of Bainbridge Island, was disbarred, effective 1/28/2026, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Delaware. For more information, see *https://courts.delaware.gov/Forms/Download.aspx?id=299408*. Henry Cruz acted as disciplinary counsel. John David Du Wors represented themselves.

Decision document: The Washington Supreme Court Order.

Suspended

Timothy Ronald Richards (WSBA No. 44812, admitted 2012) of Seattle, was suspended for eight months, effective 1/28/2026, by order of the Washington Supreme Court. Kathy Jo Blake and Briana Gieri acted as disciplinary counsel. Kevin M Bank represented respondent. Knowrasa T Patrick was the hearing officer. Henry E. Farber was the settlement hearing officer.

The lawyer's conduct violated the following Rules of Professional Conduct: 3.4 (Fairness to Opposing Party and Counsel), 4.2 (Communication With Person Represented by Counsel), 4.4 (Respect for Rights of Third Person), 8.4(a) (Attempt, Assists or Induce), 8.4(d) (Prejudicial to the Admin of Justice), and 8.4(j) (Violate a Court Order).

Richards stipulated to suspension for: 1) communicating with a represented person in the dissolution matter without consent; 2) harassing opposing counsel and damaging their property; 3) knowingly violating court orders; and 4) using means that burdened a third person without a purpose other than to embarrass, delay, or burden the third person.

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

Kerry P. Zeiler (WSBA No. 56524, admitted 2020) of Bellevue, was suspended from the practice of law in the state of Washington for a period of three years, with the execution of that period of suspension stayed and placing Kerry P. Zeiler on probation for three years. Kerry P. Zeiler is suspended for a minimum of the first two years of probation and remains suspended until the requirements in the California Supreme Court En Banc Order are met, effective 1/29/2026, 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://discipline.calbar.ca.gov/portal/DocumentViewer/Index/HB3wLVPZqP2uFM9pCiTwDHBkStOjTvcHEcEK30zcQSEHi3qO-DqZHmeHBw0SZnvNQry1-l1jpoVVEkh-9oA06WBdMV6Ecwjq-sfhlrAZqNc1?caseNum=SBC-24-O-30805&docType=Disposing%20Document&docName=Supreme%20Court%20Order%20-%20Final%20Discipline&eventName=Supreme%20Court%20Order%20-%20Final%20Discipline&docTypeId=266&isVersionId=False&p=0. Henry Cruz acted as disciplinary counsel. Kerry P. Zeiler represented themselves.

Decision document: The Washington Supreme Court Order.

Reprimanded

David L Vicevich (WSBA No. 45426, admitted 2012) of Butte, MT, was reprimanded, effective 1/20/2026, by order of the Washington Supreme Court imposing reciprocal discipline in accordance with an order of the Supreme Court of the State of Montana. For more information, see https://courts.mt.gov/external/orders/caseInfo?id=PR%2025-0356. Henry Cruz acted as disciplinary counsel. David L Vicevich represented themselves.

Decision document: The Washington Supreme Court Order. BN

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Hawley Troxell is pleased to announce attorney Patrick Stocks has joined the firm's Litigation practice group in Yakima.

Patrick most recently practiced law for the Northwest Justice Project, where he represented clients in civil and post-conviction criminal matters. He is licensed to practice in Washington and Alaska.



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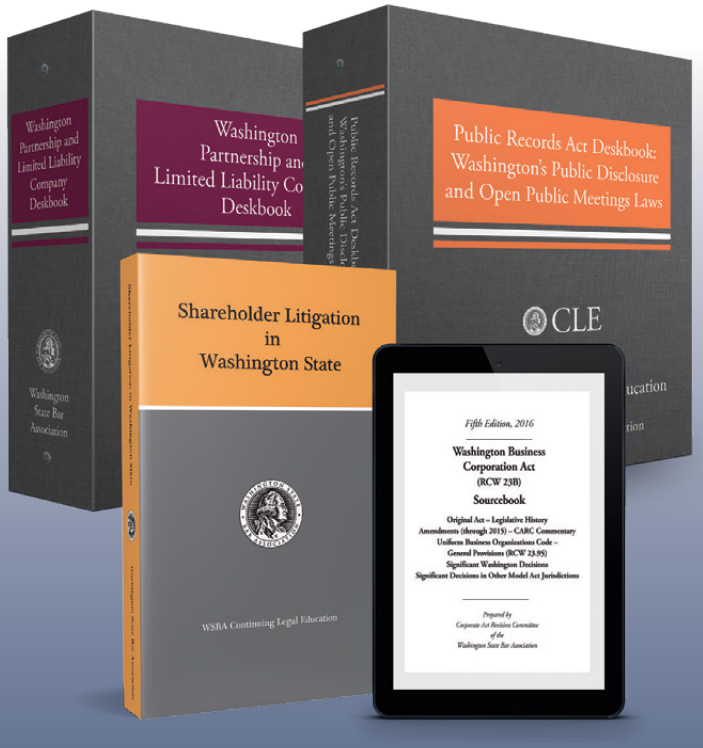
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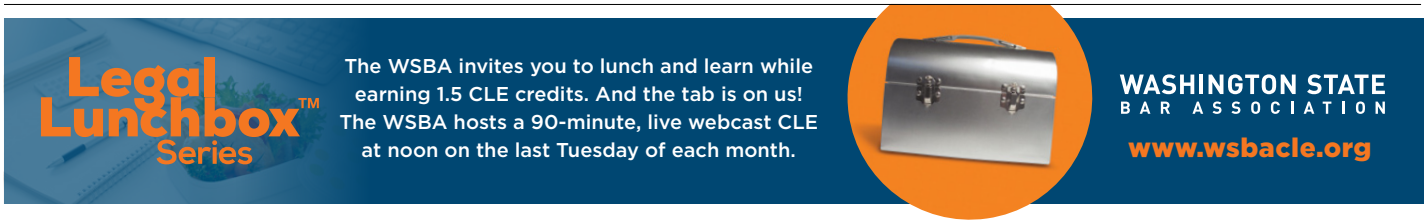
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LIGHTNING ROUND

George Lundin

BAR NUMBER: 1348

George Lundin has had a distinguished 68-year legal career. Shortly after being born in St. Louis, he and his family moved to Haiti with the U.S. Marine occupation of the island. After that ended, his family moved back to the Chicago area where he lived for two decades until the Navy brought him to Seattle, where he never left. His legal career includes service as a U.S. Navy Legal Officer, assistant U.S. attorney, and private practice attorney, as well as unwavering dedication to professionalism, mentorship, and the integrity of the legal profession. Besides practicing law, Lundin participated in 13 Boston Marathons and countless other distance runs. Often his daily practice runs were with one of his large dogs.

What is the most interesting case you have handled in your career so far and why?
I retired in December 2025, after 68 years in practice. The most interesting case that I can recall handling was a counterfeit case when I was an assistant U.S. attorney in Seattle years ago. Defense counsel was a prominent Seattle attorney who had been court-appointed when he chanced to walk into court when arraignments were taking place.

The case was well investigated for the prosecution, and the prosecution went smoothly. The defendant chose not to take the stand in his defense, which rested without calling any witnesses. In arguments to the jury, the defense counsel picked up the counterfeit money which was in evidence. He held the bills up in front of the jury and asked: "Have any of you or your children ever played the game of Monopoly?" The jury's attention was riveted. Then counsel said, "If you tried to buy a beer in the tavern involved in the case with Monopoly play money, Mr. Lundin would want to haul you into this court and prosecute you for counterfeiting." All of the jury burst out laughing.

When the jury went out to deliberate, the judge ordered both counsel NOT leave the courthouse, as a guilty verdict would be returned in short order. Well, the verdict was returned quickly. Despite what the judge had thought and what I as prosecutor believed was assured, the jury foreman read the verdict: "We find the defendant not guilty on all counts."

The best case can be lost due to something not possible to anticipate.

Did you end up practicing in the area of law you expected? If not, where did you end up and why?
I started my career by serving our country in the U.S. Navy. I was a legal officer on staff of the admiral of the 13th Naval District in Seattle. After I completed active military duty, I then entered the U.S. Justice Department, where I was an assistant United States attorney for three years. After working for the U.S. Justice Department, I then went into private practice, where I have maintained an active practice since—assisting those with bankruptcy, estate, and other civil legal needs. BN



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Have you had a pro bono or other volunteer experience that resonated with you? If so, please describe. Working as a volunteer at a crisis clinic and assisting those in need. In fact, I may have saved a young woman from committing a homicide/dying by suicide.

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What is one thing your colleagues may not know about you? I ran full and half marathons when I was younger—probably more than 50. I ran several miles a day well into my 80s!

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