



The Official Publication of the Washington State Bar Association Young Lawyers Division

Princess Knows Best

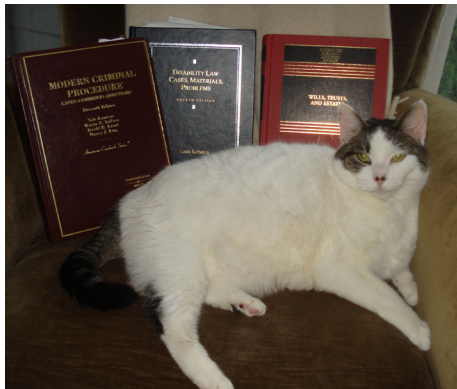
A young lawyer learns about practicing law from an unlikely source

by Allison Peryea

They say it is important for a new lawyer to have a mentor. Mine is named Princess. She is a five-year-old cat that I adopted from the animal shelter a couple of months ago. She has white fur and whiskers and is about the size of a minivan. When I took her to the vet for her post-adoption checkup, I learned that her previous owner had blessed her with a full name — Princess Useless. But Princess is far from useless. In fact, she has taught me countless lessons that are directly applicable to my litigation practice.

1. Don't take everything personally; some people may just be allergic to you.

Princess loves everyone who is not a dog or a vacuum. But some people cannot even stand to be in the same room as her. They may think she's cute and love her winning personality, but they are simply allergic to cats. Princess, however, could care less about whether she makes people sneeze and gasp for air. She actually seems intent on winning these people over, crawling onto their laps as they try to swat her away while frantically reaching for their inhalers.



Princess's tenacity in the face of outright rejection can be a lesson to young lawyers who have to deal with hostile opposing attorneys. In my experience, the layer of politeness blanketing initial interactions with opposing counsel is frequently worn off to expose a core of irritation. I have dealt with raised voices, dodged calls, angry letters soaked with indignation, and outrage. Initially, it was difficult not for me to take such hostility

personally: it's hard to ignore the arrows when you are the target. Eventually, however, I realized that the threatening letters and outraged voicemails are not directed at me personally, but rather at my efforts to represent my clients. Opposing attorneys act angry and annoyed to intimidate young lawyers. They also act that way when you hit a weak spot in their case. The best way to respond is by taking a cue from Princess: disregard their irritation and keep doing your job, which, in her case, involves a lot of sitting and staring. I do not, however, recommend crawling into any laps.

2. Sometimes you have to show up early, stay up late, or vomit cat food to get the job done.

Like a teenaged couple with uptight parents, Princess and I do not spend as much time together as we would want. I usually have to wake up early to make it to the office before the coffee shop downstairs runs out of cinnamon rolls. And I typically don't get home until late, having to hit the gym after work to combat other kinds of rolls. Fortunately, Princess "makes time" to get attention from me. This involves keeping me up at night or waking me up in the morning. She knows that exactly 30 minutes before the alarm is set to go off is "Smother Allison Time." Her efforts are extremely effective: it is hard to ignore an 11.5-pound marshmallow wrapped around my neck, purring like a jackhammer.

Similarly, to succeed in a legal practice, a lawyer has to "make time" to get things

Volume 23 • Issue 2

- 1 **Princess Knows Best**
by Allison Peryea
- 3 **Editor's Column**
by Cynthia B. Jones
- 4 **President's Column**
by Jaime M. Hawk
- 5 **Television Takes the Ratings and Leaves the Legal Ethics Behind**
by Jamila Johnson
- 7 **Practice Success 101**
by Pete Roberts
- 8 **First Years and First Terms Share Similar Challenges**
by Allison Miller
- 9 **ACLU-WA's Low-Cost CLEs Combine Civil Rights/Liberties Education with Fun**
- 9 **Loren Miller Bar Association Young Lawyers Give Back**
- 9 **WYLD Membership Committee Social Events**
- 10 **Keep Your Ethical Muscles in Shape**
by Colin Folawn
- 11 **WYLD "Voices Against Violence" Teen Dating Violence Public Service Project**

done — even though it often seems that our lives are already booked solid. Though a regular working schedule would be nice, it is about as realistic as fat-free cheese that doesn't taste like a Barbie doll's leg. Deadlines do not care that the phone keeps ringing or your response to a motion took more drafts to polish than you have years of life. This means working at night if you are a night person, or working very early in the morning if you are insane.

3. The reward for dealing with crap is usually more crap. A litter box is an unpleasant but necessary member of a housecat's entourage. And like a Hollywood socialite, it requires constant attention. It seems the minute after I clean it, Princess is making another "royal visit."

Legal work is very much like cleaning Princess's throne. The minute you take care of one mess, another one needs to be cleaned up. There is not a lot of time to celebrate a favorable settlement or successful motion to compel, because focusing a lot of time on one case just means work on other cases has, um, piled up. The reward for a job well done is often simply the opportunity to get to work on cases that have been shelved due to a busy schedule. And those projects probably won't smell any better than the one you just finished.

4. Own your territory, including windowsills and the space under beds. I live in Princess's apartment as her in-house support staff. The fact that I pay the rent and all the bills is completely irrelevant, as is the tiny detail that she is a house pet and I am a human being. Once she got her paw in the door, she took over and got down to the serious task of shedding white fur on every square inch of the place, with an emphasis on anything black.

Princess's transition to the head of the household was far smoother than my

transition from a student to a professional, though mine involved fewer lint brushes. When I first started working as a lawyer, I often felt like a soccer rookie in a baseball league — new and completely out of place. I was painfully aware of the fact that quite literally everyone had more experience than I. But after a few motions and oral arguments, I learned that what really matters in the end are the facts you are given, the law that applies to them, and the amount of work you put in. As Princess aptly demonstrated, it doesn't matter how long you have had a license — pet or legal — as long as you put it to good use.

5. Love all dozen of so pounds of yourself, but stay open to suggestions for improvement. Princess does not care about self-improvement. The only exercise she does each day is blinking. But Princess is willing to entertain suggestions about how to be a better pet. For example, she stopped clawing the dining-room rug — a favorite extracurricular activity of hers — after I bought her a cardboard scratching pad, sprinkled catnip on it, and mimed a very bad "Cat Scratching Cardboard" impression.

Princess's willingness to change for the better should be an example to young lawyers. It is difficult during the beginning of a legal career to listen to suggestions for improvement without getting defensive — we are an argumentative bunch, after all. But any advice will, in the end, make us better attorneys. This is especially important if you are like me and do not have a promising career as a mime ahead of you.

6. You may eat the same thing for every meal, but at least you are getting fed. Princess eats the same thing for every

meal on every day of her life: dry cat food and water, rarely but sometimes from the toilet. Once, I tried to change up her nutritional habits by going organic during a short but haunting period now known as the Thanksgiving Week Regret. Princess has never complained about her repetitive diet, organic or otherwise. In fact, it appears to be the center of her universe.

Practicing law can sometimes seem as monotonous as Princess's meal plan. After working for a while, you start encountering the same legal issues, the same client questions, and the same forms. But this is not necessarily a bad thing. It gives us an opportunity to become more efficient as we develop expertise in dealing with similar cases. Also, in this economic climate, there is something to be said about being fortunate to have any type of job where we are privileged to practice law.

Despite her wealth of practice-related knowledge, Princess is currently unavailable for speaking engagements, as cats are physically incapable of speaking. She is, however, scheduled to spend the rest of her life crouched on her scratching pad, molting fur, and staring blankly into space. Registration to attend this event is now open; attendance is limited to those who would describe themselves as neither a dog nor a vacuum. ♠

Allison Peryea is a second-year litigation associate at Rand L. Koler & Associates, P.S. She can be reached at 206-621-6440 or allison@kolerlaw.com.

WSBA Job Seeker Discussion Group

The Job Seeker Discussion Group meets the second Wednesday of each month from noon to 1:30 p.m.

at the WSBA offices: 1325 4th Ave, Ste. 600, Seattle.

We discuss where to look for jobs, how to use your network of contacts, strategies for résumés and cover letters, and how to keep yourself organized and motivated.

We exchange information and ideas with other lawyers.

For more information, contact Rebecca Nerison, Ph.D., at 206-727-8269 or rebeccan@wsba.org.

Editor's Column

by Cynthia B. Jones



I came across a story recently while reading the *Wall Street Journal's* Law Blog about an e-mail exchange between two Boston lawyers, William A. Korman and Dianna L. Abdala. The recap of this exchange was posted by Peter Lattman. While the story is about three years old, the lessons from what happened are timeless. According to Lattman, Abdala had responded to an ad that Korman posted on Craigslist for a criminal defense associate at his firm. Korman offered Abdala a job, came up with a start date, but then decided to hire an additional associate, thereby reducing Abdala's salary. Here is the ensuing e-mail exchange:

—Original Message—

From: Dianna Abdala
Sent: Friday, February 03, 2006 9:23 PM
To: William Korman
Subject: Thank you

Dear Attorney Korman,

At this time, I am writing to inform you that I will not be accepting your offer.

After careful consideration, I have come to the conclusion that the pay you are offering would neither fulfill me nor support the lifestyle I am living in light of the work I would be doing for you. I have decided instead to work for myself, and reap 100% of the benefits that I sew [sic]. Thank you for the interviews.

Dianna L. Abdala, Esq.

—Original Message—

From: William A. Korman
To: Dianna Abdala
Sent: Monday, February 06, 2006 12:15 PM
Subject: RE: Thank you

Dianna -

Given that you had two interviews, were offered and accepted the job (indeed, you had a definite start date), I am surprised that you chose an e-mail and a 9:30 p.m. voicemail message to convey this information to me. It smacks of immaturity and is quite unprofessional. Indeed, I did

rely upon your acceptance by ordering stationery and business cards with your name, reformatting a computer and setting up both internal and external e-mails for you here at the office. While I do not quarrel with your reasoning, I am extremely disappointed in the way this played out. I sincerely wish you the best of luck in your future endeavors.

- Will Korman

—Original Message—

From: Dianna Abdala
Sent: Monday, February 06, 2006 4:01 PM
To: William A. Korman
Subject: Re: Thank you

A real lawyer would have put the contract into writing and not exercised any such reliance until he did so.

Again, thank you.

—Original Message—

From: William A. Korman
To: Dianna Abdala
Sent: Monday, February 06, 2006 4:18 PM
Subject: RE: Thank you

Thank you for the refresher course on contracts. This is not a bar exam question. You need to realize that this is a very small legal community, especially the criminal defense bar. Do you really want to start pissing off more experienced lawyers at this early stage of your career?

—Original Message—

From: Dianna Abdala
Sent: Monday, February 06, 2006 4:29 PM
To: William A. Korman
Subject: Re: Thank you

bla bla bla

According to Lattman, Abdala filed a complaint against Korman with the state bar for forwarding her e-mail to an outside party. Korman told a local Boston newspaper: "All I did was forward a non-privileged, non-client communication to somebody who then chose to forward it along. I really don't

see where the ethical breach is."

Later, "Young Lawyer" posted the following comment to Lattman's blog: "There is something to be said for the exercise of judgment...or the lack thereof. Chose [sic] your battles wisely!"

Carey Bertolet, writing for LawCrossing.com, summed up the story as "The 'Bla' Heard Round the World." The e-mail exchange made its way to the major news outlets, including CNN. Bertolet frames the lesson this way: "If you don't want your conduct to be a topic of conversation, it shouldn't be memorialized electronically." Bertolet goes on to write that a lawyer's professional conduct broadcast (literally) worldwide drew such attention that it was, in Bertolet's words, a bell that will never be unrung.

One more thought to ponder: Bertolet shares a story about sitting in a passenger seat as the partner she worked for drove to the courthouse to start a trial. The partner was rudely cut off while pulling into the parking lot. To her amazement, this partner smiled and waved the driver along, and they continued on their way. The partner explained that although he might normally honk, swear, or raise a middle finger, there was at least a small chance that the person who cut him off was going to be seated on the jury for their case.

The moral of this story? (Or should I say column?) I am learning every day how valuable it is to reflect on my own behavior, even in the most unguarded moments like, say, driving behind the wheel or sending an e-mail. I am also learning how I may be perceived as a lawyer, even when in private life situations, and how that perception reflects upon our profession. In this issue, there are several articles addressing professionalism, the oath of the attorney, and staying on top of the Rules of Professional Conduct. The impression young lawyers make matters. ♦

Cynthia B. Jones is the editor of De Novo. She practices in the area of commercial litigation at Rafel Law Group PLLC, of Seattle. Cynthia can be reached at 206-838-4195 or cjones@rafellawgroup.com.

President's Column

by Jaime M. Hawk

As financial challenges remain around the country, we continue, as an organization, to work to support our fellow new and young lawyers during this tough time. But we are also committed to supporting our communities throughout Washington.

On March 21, the WYLD organized the first Young Bar Leaders Summit, where we brought the state's young bar leaders together. Having these leaders from the boards of the minority bar associations, the WYLD Board of Trustees, the county bar association young lawyer boards, and former fellows of the WSBA Leadership Institute was an opportunity to address some of the top issues facing new and young lawyers around the state.

One of the top areas of concern and conversation related to today's legal market and the particular challenges facing younger attorneys. The WYLD has remained sensitive to the employment issues facing our members, even before the current financial downturn. It is committed to finding ways to respond to these economic challenges and providing resources and networking opportunities for young lawyers.

Another one of the WYLD's top initiatives is our support for the Greater Access and Assistance Project (GAAP), a program which aims to serve the unmet legal needs of moderate-income individuals and families around the state. We have supported the growth and formation of GAAP for nearly a decade, but its importance has never been more relevant to today's new lawyer. GAAP provides "low-bono" services to those of limited means who fall into the "gap" between those qualifying for free pro bono or legal services representation and those who can afford traditional market legal representation.

GAAP provides low-cost legal services through a referral program. The program connects eligible participants, who would otherwise remain without any access to the legal system, to attorneys who can provide compensated services to these individuals at low rates. Additionally, GAAP provides an opportunity for young lawyers to gain valuable practice experience through "low-bono" client representation in many different areas of law and a means to ensuring access to justice for many clients each year.

This past year, the WYLD has advocated

aggressively for the development of an online intake and referral system and a model to expand GAAP statewide and serve additional counties in Washington. Later this month, the Access to Justice Board/WYLD GAAP Committee will be presenting a statewide centralized GAAP proposal to the WSBA Board of Governors for review and approval.

A few months ago, the WSBA Board of Governors voted against the Practice of Law Board's proposed Legal Technician Rule

The WYLD has remained sensitive to the employment issues facing our members, even before the current financial downturn. It is committed to finding ways to respond to these economic challenges and providing resources and networking opportunities for young lawyers.

(LTR). The LTR is a proposal that would allow "legal technicians" to take the place of lawyers in providing certain basic family law services. Many legal services that today would fall within the practice of law would be lawfully completed by non-lawyers if the LTR is adopted by the Washington State Supreme Court. Throughout the debate concerning the LTR, there were many who advocated for expansion of GAAP as an alternative to the LTR and as the best means of addressing the vast unmet legal needs around the state.

The WYLD Board of Trustees feels that unique legal skills are necessary to address even the most basic legal issues, and thus only lawyers should provide these services in Washington. With many unemployed and under-employed new lawyers around the state who are particularly qualified and ready to provide these services, the WYLD's position is that it does not make sense to adopt a new rule to create a group of non-lawyer "legal technicians" to provide family law representation. Resources can more effectively be used to expand GAAP and train lawyers to address the unmet legal needs and fill the gaps in representation.

While the Board of Trustees works to oppose the creation of the LTR, you, too, can send your thoughts to the Supreme Court during their public comment period.

The deadline for mailed and e-mailed comments to the Clerk of the Court is April 30, 2009.



In addition to our advocacy on behalf of our members, the WYLD is working to support our local communities during these tough times. We continue to contribute volunteer attorneys to the YMCA, through their state mock trial competition, which was held in late March in Olympia. We also actively support the Youth and Law Forum, which will be held in Seattle later this month. The WYLD is also working to continue its "Voices Against Violence" project, modeled after the ABA YLD's national public-service project focused on domestic violence. Through this program, we are working to develop written materials focused on the legal rights of victims of teen dating violence, and we look forward to partnering with local organizations and bar associations to conduct statewide outreach to inform teens of their legal rights. Please let me know if you are interested in being part of this important public-service effort led by our WYLD Public Service Committee.

As we continue through this bar year, your needs and interests are at the forefront of our focus and work. Currently, the WYLD is undergoing program review internally and by the WSBA Program Review Committee, and we would like to hear from you regarding how WYLD can better provide programs and resources to address the needs of our members. As always, let me or your respective WYLD trustee (listed in this issue of *De Novo*) know how we can best represent your concerns. Additionally, consider running to serve on the WYLD Board of Trustees and look for the announcement in this issue of *De Novo*, which provides additional details and the election deadline.

In February, we welcomed Brian Halcomb as our new WYLD staff liaison at WSBA. He can be reached at brianh@wsba.org. Please contact him with any election questions. We look forward to hearing from you! ♦

Jaime M. Hawk is the 2008-2009 WYLD president. She is currently a trial attorney with the Federal Defenders of Eastern Washington and Idaho in Spokane. She can be reached at jaimehawk@hotmail.com.

Television Takes the Ratings and Leaves the Legal Ethics Behind

by Jamila Johnson

Forty-two years ago, “Perry Mason” aired for the first time on television screens across the country and everyone wanted to be him. They wanted to hold his briefcase, have his stare, and recite his cross. Since then, America has not lost its love affair with the lawyer. The images are varied — perverts and sycophants, crusaders for justice and savages.

From slapstick situational comedies to crime-scene dramas, television shows have crafted — or, much more likely, picked up on — a number of misconceptions about what it means to be a lawyer. The best television shows, with large fan bases and numerous awards, are drenched in behaviors forbidden by the oath attorneys take before they practice. The following are the best shows, but worst offenders, for the reputation of attorneys.

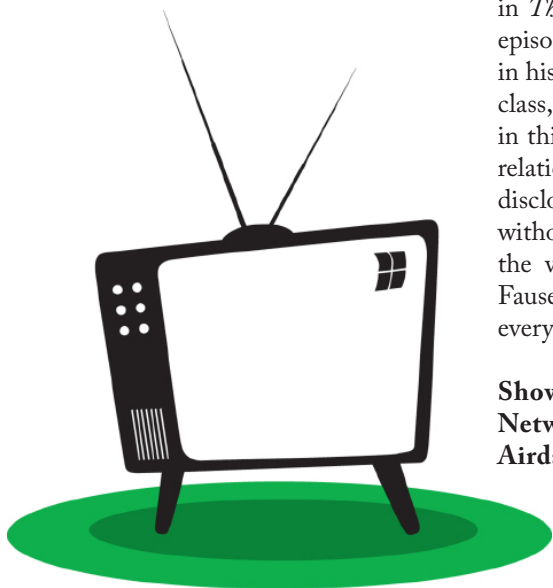
Show: “Damages”

Network: FX

Airdate: July 2007

Washington Oath Violated: “I am fully subject to the laws of the State of Washington and the laws of the United States and will abide by the same.”

“Everyone is looking to play an angle,” Patty Hewes says, while the corner of her glasses hangs from her mouth. If Hewes, played by Glenn Close, were to practice in the state of Washington, she’d probably have a hard time saying the first oath of an attorney and vowing to not break the law.



Be it libel, wiretapping, or a myriad of other crimes, her intrigue, and the show’s success, is based around the ruthlessness of attorneys.

Show: “Law & Order”

Network: NBC

Airdate: September 1990

Washington Oath Violated: “I will support the constitution of the State of Washington and the constitution of the United States.”

Jack McCoy is the vision most Americans see when they imagine prosecutors. While the show portrays him as a hero, he walks a fine line when it comes to supporting the Constitution. Miranda violations or charging an individual he knows is innocent — Jack McCoy and the other attorneys on this show should have taken an extra class in con-law. “Law & Order” is the longest-running prime-time drama in American history, but shows yet another ruthless portrayal of the law and those who practice it.

Show: “Boston Legal”

Network: ABC

Airdate: October 3, 2004

Washington Oath Violated: “I will abide by the Rules of Professional Conduct approved by the Supreme Court of the State of Washington.”

After watching the first episode of “Boston Legal” in 2004, Los Angeles attorney Bret Fausett published an article in *The Daily Journal*. While watching the episode, he had flashbacks to issue-spotting in his law school professional responsibility class, and grabbed a pen. He documented in this one episode: legal spoliation, sexual relationships with active clients, failing to disclose conflicts, *ex parte* contact, cases without merit, and firm complacency with the violations. At the end of his article, Fausett says, “Don’t get me wrong, I loved every sleazy minute.”

Show: “Moral Court”

Network: Warner Brothers (WB)

Airdate: October 2000

Washington Oath Violated: “I will maintain the respect due to the courts of justice and

judicial officers.”

It only ran one year. You may have missed it. But if you didn’t, the effects of “Moral Court” linger in dark places no one wants to admit they once traveled. Modeled on “The People’s Court,” “Moral Court” put a lawyer/talk show host in a robe and gave him a gavel, but it was not the law that Larry Elder wielded. Instead, he presided over moral disputes. (Read as: he slept with my best friend and didn’t water my houseplant.) He awarded money to the wronged party — a maximum of \$2,000 — for ethical missteps. Unsurprisingly, or maybe surprisingly in the age of reality television, the ratings were low and the reviews bad. But it did its part to lower the respect Americans have for the bench.

Show: “Ally McBeal”

Network: FOX

Airdate: September 1997

Washington Oath Violated: “I will not counsel, or maintain any suit, or proceeding, which shall appear to me to be unjust, or any defense except as I believe to be honestly debatable under the law, unless it is in defense of a person charged with a public offense. I will employ for the purpose of maintaining the causes confided to me only those means consistent with truth and honor. I will never seek to mislead the judge or jury by any artifice or false statement.”

One has not seen a frivolous lawsuit until one has seen “Ally McBeal” — the little boy suing God, or the suit against the matchmaker who calls someone unmatchable. The comedy drama reinvented the frivolous lawsuit in the post-McDonald’s coffee era. The attorneys talk about the details of their cases openly to their significant others and roommates. They date their judges and then mislead them. The attorneys on “Ally McBeal” could, in almost every episode, make breaking this oath a mantra.

Show: “Night Court”

Network: NBC

Airdate: January 4, 1984

Washington Oath Violated: “I will

abstain from all offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged.”

If there were an employee in a dusty room at *Time* magazine keeping track of the most ludicrous statements printed on high-gloss pages, the issue that stated that “Night Court” was one of the most realistic law shows on the air should be on his bulletin board. But overlooking the insane defendants (one episode involved Wile E. Coyote), the largest oath violations came from the lecherous Dan Fielding. Played by John Larroquette, Dan Fielding spent more time trying to get into the fishnets

of whatever call girl was in the courtroom than actually practicing law. He also had a tendency to sell his clients downstream.

Show: “L.A. Law”

Network: NBC

Airdate: September 15, 1986

Washington Oath Violated: “I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.”

If anthropologists in the future want to look back to the 1980s to understand the value and ideologies of the time, they might look to “L.A. Law.” But if they did, attorney reputations for championing the

defenseless would be in serious trouble. It is a vision of fast cars, red heels, and flashy-dressing attorneys. They are worried first and foremost about the money. The classic opening sequence sports an “L.A. Law” license plate attached to a Jaguar XJ, but eventually the car was replaced with a Bentley. While the show frequently tried to touch on social issues (the 1992 riots, for instance), it wins special recognition here for overlooking the defenseless in exchange for car wax. ♦

Jamila Johnson is a litigation associate with Schwabe Williamson & Wyatt P.C. She is also the associate editor for De Novo and can be reached at jajohnson@schwabe.com.

Bridging the Gap CLE

April 10, 2009

Low-cost CLE — \$95 for attorneys,
\$25 for law students

7.5 general CLE credits, plus 1.0 ethics credit (pending)

Join us for this low-cost CLE at the WSBA office, 1325 4th Ave., Ste. 600, Seattle.

Topics covered will include:

- Law practice management
 - Rules of practice
 - Developing a network
 - Ethical issues
- Winning the client over
 - Legal writing
- Negotiation and mediation

For information, visit www.wsba.org/lawyers/groups/wyld.

Save the Date: Oregon Reciprocity for Washington Attorneys CLE

Approved for 15 Oregon Reciprocity Credits

When: October 17-18

Where: Oregon State Bar Office
Tigard, OR

Cost: \$250

More information on this CLE will be posted on www.wsba.org/lawyers/groups/wyld

To determine eligibility for reciprocity, visit www.osbar.org/admissions.

Save the Date: Access to Justice/Bar Leaders Conference

May 29–30, Yakima (9 CLE credits for \$125; includes meals)

The annual Bar Leaders Conference will include the always-popular “Supreme Court and Board of Governors Roundtable” Saturday morning, discussing a timely topic. The workshop offerings in the afternoon include a continuation of the “Young Bar Leaders Summit” held in Seattle in March 2009 covering issues related to new lawyers’ survival in today’s economy, filling the gaps in civil legal aid while keeping skills developed, and embracing diversity and work-life balance in the practice of law. This workshop will be led by a diverse group of young lawyers, including members of the Washington Young Lawyers Division Board of Trustees and WSBA’s Leadership Institute Fellows.

The second workshop will be a dynamic presentation led by WSBA Executive Director Paula Littlewood and a distinguished panel discussing various trends that are changing how our profession operates, including the changing demographics of our membership, outsourcing of legal work offshore, and new trends and developing business models. Lawyers statewide are encouraged to attend.

More information for this event will be posted on: www.wsba.org/atj/committees/atjconference/default.htm.

Practice Success 101

by Pete Roberts

**“A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.”
—Washington Rules of Professional Conduct 1.1**

As I sit in my office thinking about such things, I wonder how technology and lawyer competence interact. What follows are tips for ensuring that your technology use is as competent as your other services.

Computer Back-ups. RPC 1.15B includes suggestive language in Comment: [2]: “If trust records are computerized, a system of regular and frequent (preferably daily) back-up procedures is essential.” [Emphasis added.] Back-up procedures? What is that? And what is this “system”? In the terminology section of the RPCs, there are 14 definitions, but there is no definition for “back-up” or “back-up system.”

A back-up is a copy of important files located in another place. The purpose is to be able to retrieve the copy and use it if ever the main files become unavailable. Usual methods to back up files copy the files to a CD or DVD, flash drive, external hard drive, and/or secure location on the Internet. The reference to a “system” means that there are procedures that identify who does the back-up, when it is done, where the copy is located, and any other information necessary to properly administer back-ups that are reliable.

Checking the reliability of the back-up involves creating a file, allowing the file to be backed up, deleting the file, and restoring the deleted file from the back-up copy. The American Bar Association Legal Technology Resource Center offers a good article about back-up procedures at www.abanet.org/tech/ltrc/fyidocs/databackupfyi.html. But there is more to being a competent lawyer in the technological age.

Passwords. Use a password to start the computer operating system. Go to Start

> Control Panel
> User Accounts.
Choose your account and set the password. What password to use? How about using a phrase as the basis? “Pete Roberts lives in Edmonds.” So, the password becomes PRliE. These are the first letters of each word in the phrase. The phrase is the mnemonic that helps you remember! Use upper-case and lower-case letters. Experts say that any computer is able to be hacked — even using a password. But a lawyer is held to a reasonableness standard. Not using a password can easily be considered unreasonable for a lawyer. The media has reported lawyers’ computers being stolen and the data revealed.

What else? Consider putting a password on those attachments to e-mail to help preserve privacy. In Word, go to Tools > Options > Security. In Adobe Acrobat, go to File > Properties > Security. Use a password that is the recipient’s last name and first letter of the first name.

Reply All. Try moving the Reply All e-mail button away from Reply. Go to Tools > Customize. You see a dialog box. Ignore that dialog box and move your cursor to the toolbar and drag and drop the Reply All button all the way over to the right, away from Reply. Close the dialog box.

Metadata. You have likely heard about metadata. Load a new fee agreement and go to File > Properties. Who is the author? If the name is not yours, delete the name and save the document. That other name is an example of metadata that could be embarrassing if seen by a client. Saving a



file under a new file name can remove some metadata and there are comprehensive metadata scrubbers out there; for instance, Google “metadata scrubber.”

Compare and Merge. Compare and Merge Documents is a handy tool. Bring up the first document. Then go to Tools > Compare and Merge Documents. Then choose the second document to compare with the first. Notice that there is a checkbox for “Legal blackline.” Check it! Choose “compare,” and a third document is created noting the changes.

I hope that you will think of other tech competence areas and suggest them to me and to your colleagues when you attend an upcoming free monthly LOMAP Computer Tips Class. See www.lomap.org. ♦

Pete Roberts has 18 years of experience as a legal administrator in law firms. Pete has an MBA from The College of William & Mary and a certificate as Small Business Webmaster from the University of Washington. He is a frequent speaker and has consulted with more than 400 WSBA members in Washington, Idaho, Oregon, Illinois, and Alaska. Since 2001, Pete has been the practice management advisor in the WSBA Law Office Management Assistance Program (LOMAP). Reach him at 206-727-8237, peter@wsba.org, or www.lomap.org. He enjoys tennis, travel, and tries to enjoy the Seattle Mariners. Will they lose 100 games this year?

First Years and First Terms Share Similar Challenges

by Allison Miller

A new attorney is shown to her office for her first day of work. She sits down, turns on her computer, and then she panics. She has absolutely no idea what to do next. Sound familiar? Each attorney starts the legal practice with varying degrees of terror. But over time, we get more confident. We lose “the dread” when we come to work, primarily because we learn how to find the answers to our questions. The ability to admit we don’t always know the answers is what leads to success — just ask Judge Timothy Bradshaw.

Judge Bradshaw was recently elected to the King County Superior Court bench. He came to the court with over 20 years’

briefing, which explained the issues, and then went back to hornbooks. He discussed the matter with his judicial colleagues. He took all these things into consideration in finding the answer and coming to his ruling.

This process — looking first to what you know, then looking for new sources of information — is comparable to the process a first-year associate goes through when completing their first projects. The first assignment that Farron Lennon, a first-year associate, received was to research whether the attorney-client privilege had been waived in a particular situation. Similar to Judge Bradshaw, Lennon also drew on her experience. She learned, maybe quicker than

most, that while she didn’t know the answer, she had educational experiences to draw from to find her solution. Instead of looking to her practical experience, Lennon drew on her experiences from law school and from studying for the bar exam. She knew a little bit about the attorney-client privilege, and she knew the general theories on how to support a legal argument.



experience in the King County Prosecutor’s Office, where he tried more than 125 jury trials. Despite his vast experience, Judge Bradshaw didn’t immediately have the answers on his first day presiding over a case.

This first case was an alleged contract breach — a very different issue from what he was used to working on at the Prosecutor’s Office. He was in a new environment, in which he was responsible for having the answers. While the subject matter was different, in deciding this case he still drew on his experience as a prosecutor. He applied the theories that he knew to the set of facts. The outcome of a case turns on the facts, and “the devil is in the details.” He paid close attention to the nuances to determine the factual issues before considering the legal ones. But he needed to go beyond his experience.

When it came time to consider the legal issues, he started with the basics. He had the benefit of first reviewing the parties’

She then looked at Washington Practice, and searched case law analogous to the situation at issue. Next, she relayed the information to her supervising attorney, who helped her focus issues. She took all of these things into consideration in finding the answer.

In law school, most people think they have a good idea of what a lawyer’s job is like. But your first day (or year) practicing law can be overwhelming, because you are constantly discovering things about this job that you didn’t expect. You have to bill your time, join bar organizations, learn which printer is yours, learn how to use the copy machine. There are meetings to go to, CLEs to attend, and marketing lunches to go to. New jobs will always somehow entail all sorts of things that you didn’t expect or think about before you started.

Likewise, all attorneys probably think they have a good idea of what a judge’s job would entail: Judges preside over trials. Before Judge Bradshaw took the bench,

that is what he thought, too. But he has been surprised by the significant number of out-of-court duties he has. In addition to presiding over daily trials, he has to review daily motions, serve on committees, consider budgeting issues, and take care of general administrative duties. But these extra duties do not compare to the expertise that judges are expected to possess.

Judge Bradshaw said that one of the most challenging things about being a judge is all the different areas of law in which a judge must be knowledgeable. Judges need to know about everything. Realistically, he acknowledges that he can’t be an expert in all of these areas, but must develop a working knowledge of each area. It’s okay not to know the answer immediately. The most important skill you can have is the ability to know that you do not have the answer and then know what to do to find them.

One of the most important things that we learn as young lawyers is that we should ask questions of our colleagues for guidance. Judge Bradshaw said that he has the benefit of being a part of one of the best metropolitan benches in the country, where he can look to any of his colleagues for direction. If you have questions, chances are someone else has had the same question at one time, and they will be happy to direct you toward the answer.

But learning how to look for answers does not get you everywhere. Judge Bradshaw had the following words of wisdom: “It is also important for young lawyers — all lawyers — to keep perspective. Though at times all-consuming, avoid ‘cross-examining’ your loved ones. And since the law is primarily a ‘right brain’ profession, seek out music, art, literature, poetry, drama. This will enhance your professional balance and appreciation for the coalescence of the world around us (e.g., the elegance of biochemistry, the calculus of music) and offers the side effect of nourishing the human experience.” While the practice of law is all about looking for the answer, the left side of your brain, which helps you appreciate the value of the answer, needs similar cultivation. ♦

Allison Miller is a fourth-year litigation associate at Schwabe Williamson & Wyatt. Miller can be contacted at amiller@schwabe.com.

ACLU-WA's Low-Cost CLEs Combine Civil Rights/Liberties Education with Fun

Low on cash for CLEs? Falling behind on civil rights issues? This year, the Washington ACLU has launched a new program bringing nine free or low-cost CLEs to the public. The events strive to present an introductory overview about vital civil rights and civil liberties issues. Each one covers historical perspectives on landmark cases and updates on current law and policy.

In February, the series launched with a seminar on domestic partnership at Theo Chocolate in Seattle's Fremont neighborhood. The CLE covered the history of domestic partnership, legislation and case law, and practical matters such as same-sex adoption and other family law services. What made this CLE unique was that before and after the presentation, attendees were given the chance to tour the organic chocolate maker's factory. The CLE taught participants not just the law of domestic partnership, but also the process for making organic chocolate and the geopolitical realities of the chocolate industry.

At the time of publishing, an event is scheduled for April 2 to discuss religion and government at the Saint Social Club, a tequila bar in Seattle's Capitol Hill. Throughout the year, CLE topics will include "Racial Justice: Batson and Selective Enforcement" (May 7), "The War on Drugs" (June 4), "Street Speech" (July 7), "Student Rights and Technology" (September 1), "Voter Rights Restoration and Collateral Consequences" (October 15); "Immigration" (November 12), and "International Human Rights for Civil Rights Advocates" (December 10).

For more information on locations and registration, go to <http://new.aclu-wa.org> or contact Ritee Parikh at rparikh@aclu-wa.org.

WYLD Membership Committee Social Events

On January 30, the WYLD Membership Committee hosted one of its regular happy-hour events at the Rock Bottom Brewery in Seattle. More than 15 young lawyers attended the event and had the chance to network with new people. The Membership Committee hosts up to three social events each month, including happy hours, hikes, art gallery walks, and other events. In December, the Membership Committee hosted a holiday gift exchange. The next social event will be on Saturday, April 4, 2009.

The Membership Committee also plans two "CLE Express" events each year. These events take place across the state at various travel destinations and combine a CLE program with pleasurable activities such as cross-country skiing, wine tours, and kayaking. On April 3, 2009, the WYLD will host a free CLE Express in Spokane at Gonzaga University Law School with five one-hour CLE courses and a reception following the event.

Chaired by a team of three new lawyer co-chairs — Kristen Guberman, Margette Baptist, and Cassidy Saitow — the Membership Committee's purpose is to coordinate with WYLD members and other committees to support and help build community among new lawyers and encourage them to remain active and excited about their profession. The Membership Committee encourages all new and young lawyers to come to one of its upcoming events.

To get in the loop on Membership Committee activities and events, young lawyers can join the committee list serve by sending an e-mail to: WYLD-Membership-subscribe@yahoo.com.

Loren Miller Bar Association Young Lawyers Give Back

The Loren Miller Bar Association decided to start the 2009 year focused on service. The Young Lawyers Committee organized a day of service at the Union Gospel Mission in Seattle. The purpose of the event was to give thanks while giving of our time and energy to aid those who are less fortunate. The 14 volunteers were given an orientation from a young man who is a recovering alcoholic and a live-in program member at the Mission. The guide informed the volunteers of the many services that the Union Gospel Mission provides for men who are battling addiction. The Union Gospel Mission also has a women and children's shelter. Men admitted into the recovery program are required to stay at the facility for 30 days without leaving. Our guide had just completed his 30 days and was happy to share that he was grateful to have joined the program at the Mission.

After orientation, the volunteers were whisked off to their respective stations: organizing the dessert station, helping to prepare the food, and assembling the food trays. The volunteers helped serve lunch to all the live-in program members and the daily visitors at the Mission. The Mission requires that all visitors attend chapel before eating. After helping to serve lunch, the group also made approximately 200 sandwiches. The afternoon was a humbling and rewarding experience. The Young Lawyers Committee is planning to add more community service events to the calendar. Stay tuned!

To learn how you can get involved with future Loren Miller Bar Association volunteer projects, please contact Nyjat Rose at nyjat45@yahoo.com.

WYLD President-Elect and Trustee Applications Sought

Young lawyers interested in serving on the WYLD Board of Trustees are invited to submit applications for the following positions:

- Trustee, Peninsula (Clallam, Grays Harbor, Jefferson, Kitsap, and Mason counties)
- Trustee, Pierce County
- Trustee, King County
- President-elect, Washington state

Note: The 2009-2010 president practices in King County. Pursuant to WYLD Bylaws, this year's president-elect must have a primary place of business outside of King County.

Applications must be received by 5:00 p.m. on Friday, May 1, 2009.

For detailed information and application instructions, visit www.wsba.org/lawyers/groups/wyld.

Keep Your Ethical Muscles in Shape

by Colin Folarwn

Young lawyers are confronted with several challenges early in their careers. Many of these involve legal ethics. To navigate these challenges, young lawyers should adopt an ethical exercise regimen to be fit, limber, and prepared for when those dilemmas come. The following tips may help you to develop your personal ethics regimen.

Know the rules. You cannot make ethical decisions if you don't know the rules. You may have learned a great deal about professional responsibility in law school. If you are licensed to practice, you learned enough about Washington's rules to pass the bar exam. But if you do not use this knowledge, odds are that you'll lose it quickly. Every attorney has an independent obligation to make decisions that are ethical and professional. See RPC 5.1, 5.2. So how can you stay apprised of the rules, notwithstanding your busy schedule and many professional demands?

Read one rule a day. Set aside 10 minutes every day to read a different ethics rule or comment. Consider it your ethical workout for the day. My mentor recommends that trial lawyers review a civil rule a day. This is good advice for those of us in litigation. If you can't get through a rule or section on one day, read two the next day.

Write in your rules book. During your daily ethics regimen, mark them up. Write in the margins, use post-it notes, and underline portions as you go. This will keep you more engaged during your review, and you may recall your prior review more readily.

Don't forget about the comments. Washington adopted model comments in 2006, along with some state-specific ones. Although the comments are not the rules themselves, they provide important guidance and perspective. See RPC Preamble and Scope, cmt. 21. Some cite to case law. See e.g., RPC 1.10, cmt. 11. Whenever you review an ethics rule, read its accompanying comments thoroughly. Be on the lookout for comments in other rules that relate to your particular rule.

Observe the outside world. As a member of the WSBA, you receive a fantastic source of information about

ethics issues every month. *Bar News* contains a monthly list of recent disciplinary notices. These notices are not mere gossip about our attorney brethren. To the contrary, the notices outline facts that resulted in actual discipline.

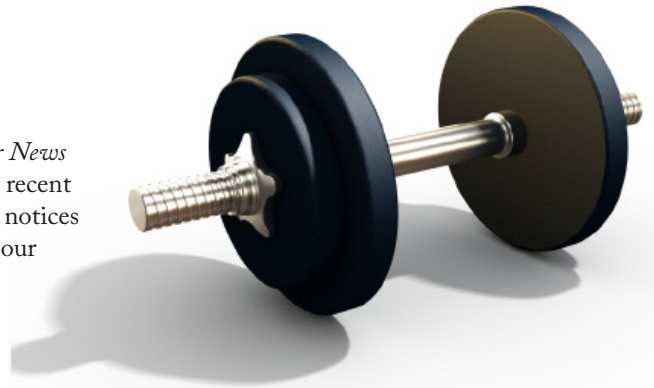
Own your practice. As a young lawyer, you may be working mostly or exclusively on another attorney's files. This doesn't mean that the ethical decisions in the matter are not your concern. Each of us has an independent obligation to make ethical decisions in our practice. See RPC 5.2.

Moreover, even young lawyers are responsible for the non-lawyers whom they supervise. It's no excuse to commit an unethical act simply because a partner so directs. See RPC 5.3, 5.2. When we rely on others to take actions required of us by the ethics rules, we assume the risk that that action wasn't taken or wasn't properly taken. See e.g., RPC 1.0, cmt. 6 (stating that "a lawyer who does not personally inform the client or other person assumes the risk that the client or other person is inadequately informed and the consent is invalid").

Be curious. If you work in a firm, ask questions of your colleagues. Take advantage of open-door policies, practice-group meetings, or supervision and mentoring. Don't pretend that you have all the answers in the world. Engage in positive discourse with the goal of getting to the right result. If you don't work in a firm, attend CLEs as frequently as possible, and ask questions. Make a habit of asking other lawyers what they think (without divulging confidential client information). One of the best sources is the Bar's ethics line: 206-727-8284.

React promptly. When you face an ethical crisis, you should address, and thoroughly analyze it as promptly as possible. Some ethics questions can be resolved or corrected if you act promptly enough. In fact, sometimes taking the proper time to analyze a problem will reveal that there was no problem in the first place.

Start by reading the rules (and comments). As obvious as it sounds,



attorneys sometimes have lengthy conversations about ethics issues, and their personal experiences or insight, long before re-reading the rules.

If you are fortunate to work at a firm that has general counsel or loss prevention/ethics counsel, ask them your questions. Keep in mind the privilege limitations that may be imposed by Washington case law and their capacity in representing your firm. See *VersusLaw, Inc. v. Stoel Rives, LLP*, 127 Wn. App. 309, 111 P.3d 866 (2005); see also ABA Formal Opinion 08-453.

If you don't have general counsel available, talk with other attorneys in your firm. Consider calling the Bar's ethics line as soon as possible to permit them sufficient time to get back to you.

Once you're ready to make a decision about your problem and take action, document what you do. Memorializing letters can be good reminders to clients of your conversations with them, and memoranda to your file can remind you (and your counsel) of what you did or did not do if a Bar complaint is later filed.

Get in the habit of flexing your ethical muscles and exercising your ability to make decisions in accordance with the rules of professional conduct. The more you do, the more ready you'll be to make the countless ethical decisions that you'll have to make in the practice of law. ◊

Colin Folarwn is a trial and appellate lawyer with the law firm of Schwabe, Williamson & Wyatt in Seattle. He is a member of Schwabe's ethics committee and co-founded "The Ethics Hour," a free monthly ethics seminar for Washington lawyers. He represents a variety of clients, including private companies, insurers, and attorneys. He can be contacted at cfolarwn@schwabe.com or 206-407-1500.

WYLD “Voices Against Violence” Teen Dating Violence Public Service Project

On February 7, WYLD held a “Voices Against Violence” teen dating violence public service project in Seattle at the Asian Referral and Counseling Service. This event was held in recognition of National Teen Dating Violence Awareness and Prevention Week, February 2-6, 2009, and a proclamation signed by Mayor Nickels was presented. The teen peer advocates from the ACRS were presented with certificates of appreciation by the WYLD.



L-R: Crissy Anderson, WYLD Public Service Committee co-chair; Kelly O’Connell, staff attorney, Sexual Violence Law Center; Belinda Lafferty, MA, LMHC, of Youth Eastside Services; and Jaime Hawk, WYLD president.

Right: ACRS teen advocates display their program T-shirts.



Left: Jaime Hawk presents an award to a teen advocate.

WYLD Committee and Program Chairs – 2008-2009

Aspiring Youth
Crissy Anderson

Committee for Diversity
Naomi Kim
msklaw@gmail.com

Wilberforce Agyekum
forcelaw@yahoo.com

J. Kahlia Gibson
khalia.gibson@gmail.com

Donna Emmingham
donnae@atg.wa.gov

Continuing Legal Education
Meredith Virant
meredithvirant@gmail.com

Ritee Parikh
rparikh@aclu-wa.org

Marie Kagie-Shutey
mshutey@workwith.com

Editorial Advisory Board
Editor, Cynthia B. Jones
cjones@rafellawgroup.com

Greater Access and Assistance Program
Rachelle Anderson
rachelle@asisna.com

Long Range Planning Committee
Jaime Hawk
jaimehawk@hotmail.com

Membership Committee
Kristen Guberman
kristenguberman@yahoo.com

Margette Baptist
margetteb@hotmail.com

Cassidy Saitow
clsaitow@fggzlaw.com

Pre-Law Student Leadership Conference
Gloria Ochoa-Lawrence
gloria@ochoa-anderson.com

Blanca Rodriguez
blancar@nwjustice.org

Public Service/Pro Bono Committee
Erin Trusler Hall
erin@seattle-immigration.com

Jason Amala
jamala@gth-law.com

Crissy Anderson
crissya@nwjustice.org

Jenni Frere Volk
www.volklawfirm.com

Ethan J. Anderson
ethan22@gmail.com

Trial Advocacy Program
Kari Petrasek
kari@carsonlawgroup.com

YMCA Mock Trial Program
Dubs Herschlip
dubs@newtonkight.com

Youth and Law Forum
Jennifer Porto
jenniferporto@hotmail.com

April Boutillette Brinkman
brinkman_april@yahoo.com

WYLD Board of Trustees - 2008-2009

President
Jaime Hawk
jaimehawk@hotmail.com

President-elect
Julia Bahner
julbahner@hotmail.com

Immediate Past President
Mark O'Halloran
markohalloran@earthlink.net

King District
Manish Borde
mborde@willamskastner.com

David Estudillo
destudillo@estudillolaw.com

Michael Pellicciotti
pellicmj@hotmail.com

North Central District
Beth Wilcox
beth@wblawfirm.com

Northwest District
Marie Gallagher
mgallagher@adelstein.com

Olympia District
Grace O'Connor
gracespencer78@hotmail.com

Peninsula District
Jennifer Andrews
jdandrews@wapa-sep.wa.gov

Pierce District
Kimberly April
kapril@tacomalaw.com

Snohomish District
Kari Petrasek
kari@carsonlawgroup.com

South Central District
Alma Zuniga
almaz@nwjustice.org

Southeast District
Nanette Blackburn
nanette.blackburn@co.benton.wa.us

Southwest District
Daniel Gasperino
dan.gasperino@clark.wa.gov

Spokane District
Elizabeth Tellessen
etellessen@winstoncashatt.com

GU Law Student Trustee
Sam Colito
scolito@lawschool.gonzaga.edu

SU Law Student Trustee
Justin Farmer
Farmerj1@seattleu.edu

UW Law Student Trustee
Danan Margason
dananm@u.washington.edu

Governor, WYLD At-Large
Carla C. Lee
carlaclee@comcast.net

WYLD Liaison
Brian Halcomb
1325 4th Ave., Ste. 600
Seattle, WA 98101
206-733-5951
brianh@wsba.org

For detailed contact information, please visit www.wsba.org/lawyers/groups/wyld

DeNovo

Editor • Cynthia B. Jones

Associate Editor • Jamila A. Johnson

Desktop Publisher • Stephanie Perry

Past Editors • Shelley Ajax, 2007-2008 • Jason T.

Vail, 2005-2007 • Eric B. Martin, 2004-2005 • Jeannie Huddleston, 2002-2003 • David Berger, 2000-2001 • Geoffrey Hymans, 1999-2000 • Evan Loeffler, 1995-1999 • Erin Moore, 1993-1995 • Todd De Groff, 1991-1993 • Steve Robinson, 1989-1991 • Scott Jackson, 1987-1989

© 2009 Young Lawyers Division • Washington State Bar Association • All rights reserved.

De Novo Mission Statement

De Novo is published for the young lawyers of the Washington State Bar Association. Its general mission is to provide a forum for the exchange of ideas, information, and commentary, and to encourage discussion amongst the readership regarding the broad experience of young lawyers. *De Novo* additionally serves as a vehicle to facilitate the dissemination of information regarding member services, public service, programs, and activities of the Young Lawyers Division.

Readers are invited to submit correspondence and articles. They may be sent via e-mail to denovo@wsba.org. By submitting articles, the author licenses

De Novo to publish and permit reprints of the author's article at the sole discretion of the editor. The editor reserves the right to edit articles and correspondence as deemed appropriate.

Reproduction is expressly prohibited unless written permission is given by the editor. Unsolicited submissions may be sent; they may not be acknowledged or returned to the author. All photographs submitted with articles become the property of *De Novo* and will not be returned except by special arrangement.

All editorial material, including editorial comment, appearing herein represents the views of the respective authors and does not necessarily carry the endorsement of the Washington State Bar Association or the Washington Young Lawyers Division. Likewise, the publication of any advertisement is not to be construed as an endorsement of the product or service offered unless it is specifically stated in the ad that there is such approval or endorsement. The Washington State Bar Association, Washington Young Lawyers Division, editors, authors, and contributors do not make any express or implied warranties in regard to the use of any substantive material printed in *De Novo*. Each attorney must rely on his or her own legal knowledge and expertise in the practice of law.