I was born missing four fingers on my right hand. It makes executing a great first impression pretty difficult. The word I have to worry about being labeled when I meet someone for the first time is defective. There is no getting around the fact that we shake with our right hands. (Trust me, I tried shaking with my left and I was still labeled defective.) Add to that being a relatively young attorney…well, let’s just say it is extremely important that I nail the first impression with a potential new client so that I set the right staging for the client to feel confident enough in my abilities to retain me — and later, as their case goes on, to trust my advice as their attorney.

Why do I share the fact that I am missing four fingers on my right hand with you? Because I want you to believe that I am a resident expert in the art of making a great first impression. I have been studying this subject all my life.

Perhaps you are thinking at this moment something like, “Well, what she has to say does not apply to me, because I am not missing fingers or anything like that.” Hang with me for a few moments here, and let us see if I can persuade you otherwise. There are tips I want to share that will not only guarantee that you execute a great first impression, but also pave the way for solid client relations.
First impressions take five seconds. That’s it. One…two…three…four…five and you’re done. Boom! And it is over. In the seconds it takes for you to walk across the reception area at the office toward that new client, irreversible judgments have been made about you before you have even said a word. Powerful thought, isn’t it?

I want to break down the three parts of a first impression for you and leave you with some takeaways that you can use immediately in your practice. The three parts to a first impression are your 1) energy, 2) contact, and 3) opening line.

**Energy.** Now, I am not talking about anything voodoo here. I am talking about the energy you have about you when you walk into a room. We all send out these non-verbal cues. You know, the ones that say things like “I’m nervous,” “I’m frustrated,” or “I’m irritated.” Research has shown that people form certain impressions of others within a few seconds based on the emotions, such as anger or pleasantness, that are conveyed to them through body movement, facial expressions, and eye contact.

Most people like it hot! A warm, inviting, and confident approach when you meet someone for the first time is the very first step in making a first impression. Years ago when I was on the National Speech Team in college, I was very serious about the competitions and I wanted to portray confidence and a strong presence. After a year on the team, my teammates confessed that I used a facial expression they referred to behind my back as my “constipated look.” Wow. What a way to put it! Their description gave me pause. Back then, I thought that being very serious was the best way to send signals to the judges and the other competitors that I was a force with which to be contended. As my teammates so “gently” pointed out, the conscious choice I was making was not producing the end result that I intended.

This might sound like an odd request, but do you know what your “I’m concentrating” or “I am a serious trial attorney” face looks like? If not, pull a mirror out. Does your brow furrow? Is your jaw tight? Do you look off into space? Keep your serious trial attorney face on, and try to smile. Go on: right now, try smiling. It is harder than you think. The only way to execute a smile is to relax your face. If you try and smile with your serious trial attorney face on — well, I am going to be honest here — it is probably coming off more as a scowl or a sneer, rather than a smile. And that can create a devastating first impression.

Each of us has our own signature of professional presence — a statement that we make the instant we show up. This is made up of the energy we bring into a room, along with the confidence and initiative we demonstrate. All of this affords us the opportunity to connect immediately if we execute it correctly. So keep it hot, hot, hot!

**Contact.** The contact part of a first impression includes both eye contact and the hand squeeze. Yes, I did write hand squeeze and not shake for a reason. I will explain this shortly. The United States is one of the only countries in the world that mandates physical contact when we meet someone for the first time. The contact is commonly known as the handshake. And we judge each other harshly in a single moment with a single word, depending on how this is executed. Bottom line: Quality of hand squeeze equals quality of first impression.

What kind of handshake makes a bad impression? Statistically, the worst handshakes are those that are clammy, involve just fingertips, are too wimpy or too firm — or feature too much shaking. The single words used to judge a person who executes a bad handshake are: weak, untrustworthy, and dishonest. That is harsh, isn’t it? This is especially true when you understand that first impressions are lasting ones.

So what constitutes a good handshake? It is all about the squeeze! No shaking! Research shows that a favorable handshake is made up of solid contact, firm squeeze, and eye contact. The single words used to judge a person who executes a good hand squeeze are confident, trustworthy, and honest. Now that is more like it!

**Opening Line.** In the English language, the way we execute our words is by moving our mouths. There is only one word of greeting that I have found that forces me into a smile because of how the word is executed. The word is pleasure. My preferred opening line: “It is a pleasure to meet you.” Try it now. Notice how when you say the word pleasure and you make the “r” sound the corners of your mouth pull back, which is stage one of a smile. (Yes, I really have spent a long time study-
Editor’s Column

Riding Off into the Sunset

by Jamila Johnson

For the past two years, I have worked on De Novo. This issue is my last and it is with great pleasure that I turn over the ink to Allison Peryea, the spunky associate editor whose quality writing has been a great asset to the publication.

De Novo readers first met Allison in April 2009, when she submitted her first article to De Novo — “Princess Knows Best.” As someone who does not even like my own cats, I was surprised that I found this humorous piece presenting an overweight marshmallow of a cat as a mentor for a new lawyer so entertaining.

In the following months, Allison would come to be the associate editor and to continue to spread a witty and self-deprecating glaze on the front pages of almost every De Novo. One of the most memorable articles written by Allison showed up in the December 2009 issue. Allison had taken a trial-preparation course for women and struggled to find her trial persona. Eventually, she settled on “scrappy,” which means “having an aggressive and determined spirit.” As she put it: “I try hard and give it my best and the end product is often a little rough around the edges — but it gets the job done.”

For the record, I have yet to find anything about Allison rough around the edges. I anticipate her De Novo editor persona to be nothing short of “inspired.”

But Allison is going to need some help. Some good help.

You out there. Yes, you. The one reading this column right now.

You can write. You have ideas about what is (or should be) important to young lawyers. She is going to need your help filling the pages of De Novo over the next year. I encourage you to write for De Novo.

Since I have never been short on ideas, here is a list of article topics I think new writers should consider taking up and writing for Allison to make her life easier in the coming months.

• Legal Dating: Being a single lawyer is well, traumatic. Have horror stories? Send them to Allison, who can swap some dating mishaps of her own with you.
• Deferred: Out there now are dozens of attorneys awaiting a start date from large law firms who deferred their first-year associates. Are you one? Tell us your story. Explain how you have spent your year waiting for a law job to begin.
• Desperately Seeking Susan: Still seeking legal employment? What would you like those who have employment to know about the legal market? Tell the folks with jobs right now what it’s like and why this market is so tough.
• Be Aggressive: East Coast transplants — tell us why passive-aggressive West Coast lawyering is a bad idea. West Coast natives — defend our (superficially) laid-back style. Just because the Rules of Professional Conduct have edited the word “zealous” out doesn’t mean you can’t talk about what is transpiring in phone calls and letters in the everyday life of litigators.
• Eastern Washington Prosecutors: I had the pleasure of meeting with the elected prosecutor in Yakima during a weekend in June. Over a Yakima IPA, I realized that Western Washington has some learning to do about what it’s like to be an Eastern Washington attorney. Teach us.
• Insurance: Want to be an investigative journalist? Start polling attorneys regarding their insurance options. In our communities we have informally surveyed how friendly firm insurance options and work expectations are for mothers, or how strongly firms facilitate a high quality of life. What do lawyer benefits look like for firm jobs compared to government and in-house positions?
• Rub Shoulders: Have you always wanted to meet a particular distinguished member of the bench or bar? Volunteer to write a personality profile about him or her. Learn about the practice over coffee with someone who has seen it all — and get a byline.

Because I am unabashedly the type of person to gravitate to the themes (and Ally-McBeal-inspired theme songs) in my life, this month’s issue of De Novo is filled with “closing” articles. Thomas O’Toole, Jill Schmid, and monthly columnist Mau reen Howard take on closing statements. Christopher Smalls and Allison Peryea take on changing practice areas and jobs.

It’s been a good two years, but it’s time to move on. Goodbye and good luck, De Novo readers."

Jamila Johnson is a litigator at regional law firm Schwabe, Williamson & Wyatt. She has been the editor of De Novo. This is her last column, but she may be contacted at 206-407-1555 or jajohnson@schwabe.com. You can picture her driving off into the sunset in her 2004 Hyundai Accent to the tune of “Midnight Train to Georgia” by Gladys Knight and the Pips.

WSBA Leadership Institute Accepting Applications

The WSBA Leadership Institute will be accepting applications for the Class of 2011 starting August 1, 2010, through September 30, 2010, by 5:00 p.m. Please see www.wsba.org/lawyers/leadership_institute.htm for additional details. The mission of this nationally recognized program is to recruit, train, and develop minority and traditionally underrepresented attorneys for future leadership positions in our Bar and community. Applicants must be an active WSBA member and have been admitted into practice in any U.S. jurisdiction for at least three years and no more than 10 years (date of admission: January 1, 2001, to January 1, 2008).

For additional information or if you have questions, e-mail lachrisj@wsba.org.
A Fond Farewell From the President

by Julia A. Bahner

It is hard to believe I am writing my last President’s Column — this bar year has gone by fast. Serving as president of such a tremendous organization was truly a once-in-a-lifetime opportunity, embarked upon after many years of service and love for this division. This month I will preside over my last WYLD board meeting, to be held in Walla Walla, in conjunction with a WYLD Washington First Responder Will Clinic serving local police, firefighters, and other first responders in the area. I am so happy to end our year combining a board meeting with one of WYLD’s top public-service programs, with coordinators and volunteers of the clinic traveling the state serving those who serve our communities.

I take pride in the accomplishments of the WYLD this year. WYLD leadership adopted — and the WSBA Board of Governors approved — the WYLD Diversity Plan. The plan will guide the WYLD’s important diversity efforts for the years to come. The division also concluded a nearly two-year WSBA program review process. As a result of the program review, the WYLD has strengthened its focus and programming in three primary areas: pro bono/public service, transition to practice, and member outreach and leadership. The WYLD will soon elect directors for each of these areas. The addition of these three officer positions is sure to benefit the WYLD and its members by providing strategic and in-depth leadership. The directors will ensure that there is a common vision and proof of the incredible things young lawyers are accomplishing across the state.

The year ahead looks promising and I am happy to pass on the leadership baton to Kari Petrasek, a very experienced young lawyer leader. She will be followed by Dainen Penta, the current at-large WYLD lawyer leader. She will be followed by Eric Koester, Jenni Vollk, and Kate Vaughan. Eric, Jenni, and Kate were fantastic opportunities to network with other new lawyers and make new friends. The WYLD will be selecting this year’s recipients of the division’s Outstanding Young Lawyer of the Year Award, Pro Bono Award, and Professionalism Award at our final board meeting. Presenting last year’s awards to remarkable young lawyers was a highlight of the year for me — and proof of the incredible things young lawyers are accomplishing across the state.

The year ahead looks promising and I am happy to pass on the leadership baton to Kari Petrasek, a very experienced young lawyer leader. She will be followed by Dainen Penta, the current at-large WYLD trustee. I have no doubt that the next few years will be exceptional. It is particularly exciting that the ABA YLD will be holding its Fall 2011 Conference in Yakima, for example, and at membership-outreach social events, including a Cirque du Soleil event, Sounders and Mariners games, happy hours, and many more. These were fantastic opportunities to network with other new lawyers and make new friends. The WYLD will be selecting this year’s recipients of the division’s Outstanding Young Lawyer of the Year Award, Pro Bono Award, and Professionalism Award at our final board meeting. Presenting last year’s awards to remarkable young lawyers was a highlight of the year for me — and proof of the incredible things young lawyers are accomplishing across the state.

The WYLD has strengthened its focus and programming, challenges to the profession, and efforts at improving service to our young-lawyer constituents. The WYLD leadership is sure to benefit the WYLD and hope that you will join the list serve, send an e-mail to wyld-25th@yahoogroups.com.

In conclusion, I hope you all remember that you will only be a young/new lawyer for a relatively brief period of time. While your WSBA membership will likely extend through much of your life, there is only a finite period of time to take advantage of WYLD leadership and networking opportunities. Best of all, membership is automatic and free. I promise if you take the time to get involved, you will not regret your decision. I look forward to staying on the WYLD board for one more year as the immediate past-president. I will forever be a friend of the WYLD and hope that you will take the time to get involved as well. 

Julia Bahner is the 2009–10 president of the WYLD and can be reached at julbahner@hotmail.com.

Let us know what the WYLD is up to in your area. Send your stories, articles, photos, reports, or calendars to denovo@wsba.org. Please include author contact information.
Several months ago, I thought a new job was a mythical creature that frolicked around in some kind of dream world. I was more likely to be offered a pet unicorn than new gainful employment. It was no secret: everyone was eager to tell me that the job market stank worse than hot garbage. But when I decided that I wanted to change firms, I had no choice but to reluctantly wade into the job-search cesspool.

I attribute my success in finding a new job to an almost spiritual journey to become the job candidate I wanted to be. Long before I sent out a single application, I spent almost a year building a résumé (and by extension, a cover letter and all that other good stuff) that I hoped would impress a prospective employer in this tough hiring environment. My goal was to engage in a professional- and personal-development process that would make me someone I would believe was worth offering a position — not a different person, but a better version of myself.

My efforts consumed many nights and weekends, but they paid off. After several interviews — at least two of which were train wrecks on par with my lone attempt at do-it-yourself hair highlights — I was offered a position at a firm that was a much better fit (and not just because it has “Pizza Fridays”). What worked for me may not work for everyone, but might just help other reluctant job seekers. Here is what paid off for me.

**My goal was to engage in a professional- and personal-development process that would make me someone I would believe was worth offering a position — not a different person, but a better version of myself.**

1. Get the experience needed for the job wanted. There is absolutely no substitute for experience. Most of the firms I interviewed with focused on how long I had been practicing and how much time I had spent in court. Achieving the experience level you need to get the offer letter you want unfortunately may involve sticking it out at a job you cannot stand or volunteering if you are not employed.

   I recognize that (when what you really want is a paying position that you enjoy) neither of these options is ideal. But let’s face it: having “volunteered at Family Law Clinic” on your résumé will look a lot better than “watched all four seasons of the Real Housewives of New Jersey.” In my particular situation, I held off on applying for jobs until I had trial experience, because I knew I wanted another litigation position. Since most cases settle (and for the most part, mine were no exception), this wait took months. But eventually I had the opportunity to serve as second chair during a seven-day trial. This gave me a chance to question several witnesses and argue pre- and post-trial motions. This courtroom experience was important to potential employers — and helped me sell myself to them, since I had proved to myself that I could hold my own during an actual trial.

2. Strengthen the Achilles’ heel (or at least one of them). When you are feeling discouraged about your employment prospects, the last thing you want to do is spend quality time with what you consider to be the flaws that are holding you back. Lawyers who struggle with case citations, for example, are unlikely to leave the office looking forward to an evening...
curled up with a mug of hot tea and a copy of the Bluebook. But the only way to shore up your weak spots — which either explicitly come up during interviews or just silently erode your confidence — is by addressing them.

My professional Achilles' heel: oral argument. I always obsessed over content and never gave a thought to delivery. Plus, when I got nervous, my voice declared mutiny and took on a lilting, high-pitched quality reminiscent of a scratched Alvin and the Chipmunks record. It was easy to push these problems aside, since court appearances were not a daily occurrence for me. But when I decided I wanted to move on to a new job, I committed to confronting my oral-argument demons.

I joined a public-speaking club to get as much time in front of an audience as possible. (This experience involved lots of clapping and positive energy, neither of which is allowed in courtrooms.) I became a member of a trial-advocacy group that focused on polishing courtroom skills. Two of the women from that group later joined me in working with a voice coach, who did cruel things to us like make us give impromptu, mock opening statements. My efforts to hone my oral-argument skills certainly did not transform me into Johnny Cochran in an Ann Taylor skirt suit, but they did allow me to shed my skin of self-doubt when the subject of oral argument came up during interviews. Plus, they gave me something interesting to discuss in my cover letter and showed I was serious about becoming a trial attorney.

3. Figure out what I am good at — at least according to my mom — and showcase it. Law school wrestled the spirit from my 22-year-old body, crushed it, and fed it back to me in inadequate portions. I was feeling overwhelmed — a sentiment I always associated with my job, which was difficult
given the inevitable struggles of an inexperienced attorney — and the fact that nobody wants to hang out with someone who has nothing to talk about at parties except the intricacies of the Uniform Fraudulent Transfer Act.

As I got a handle on my workload, I decided to make time for non-law activities I enjoyed (in addition to happy hour). I like running and jumping around like a three-year-old child, so I signed up for softball and soccer teams and started regularly attending classes at my gym. I made new friends who got to know me as Allison the Mediocre Athlete rather than Allison the Lawyer. (Bonus: I no longer looked ahead to swimsuit season with trepidation.) And I reconnected with old friends who knew what was going on in my life only through Facebook status updates. I got a life that did not revolve around practicing law. This gave me something to talk about during interviews and made me a happier lawyer, since I no longer resented my job for swallowing up my outside interests and social circle.

5. Do not just pad the résumé and feverishly "network." Though it would certainly have been easier and taken far less time, I resisted the urge to engage in what I will call "résumé padding." To me, this means signing up for anything and everything that would require minimal commitment and then adding some words to your résumé to reflect your artificial involvement. (Remember those overachieving kids in high school who joined every club on the list but never showed up for meetings? Yeah, the ones who went on to law school.) This would not have fostered my development as a litigator and certainly would not have given me anything meaningful to discuss during interviews. The better approach is to select a few non-work activities that actually challenge and interest you and commit to them wholeheartedly. If you spread yourself too thin, you will start feeling overwhelmed — a sentiment I already got enough of at work.

I have heard time and again that networking (i.e., getting to know veteran attorneys and members of the judiciary) is the key to getting a job. This has not been my experience. I found both my old position and my new one advertised online. I certainly think networking is important to establishing yourself in the legal community. However, in my view it is rela-
tively pointless with respect to gaining employment unless you have some way to distinguish yourself during networking events through professional experience and self-development.

6. **Invest in the future and make peace with the present.** Applying for jobs takes a lot of time. Building a résumé to demonstrate that you are the single applicant in the candidate pool who should be hired takes even longer. (Shoot, I spent less time growing out my bangs in middle school.) With that in mind, during my job search I made sure to accept the fact that it would probably take a substantial amount of time to find a new position. I also recognized that my professional-and personal-development efforts were not simply to facilitate a transfer between firms, but also were valuable steps toward becoming a better practitioner and member of the legal community. (At the very least, I conned myself into believing this, which kept me from feeling and appearing as desperate as I really was to get a new job.) This helped me justify the substantial amount of time I was spending after work and on weekends doing résumé-building activities, which were not as fun as alternative activities such as sleeping or eating cereal.

Probably the most important thing I did to find a new job was to become content with the job I currently held. Though I knew I wanted something different in the long run, the prospect of going elsewhere made me appreciate the people I worked with and the things I learned at my old firm (chief among them: just because the office dog is a boy dog does not mean that he won’t try to hump the male legal messenger). Knowing that the life I had without a new job was tolerable (even downright pleasant at times) blunted any feelings of urgency I felt about the need to get hired elsewhere.

Certainly there are other, more efficient, strategies for landing a new legal job. But the holistic, long-term approach I took definitely worked for me, with the added benefit of allowing me to start at my new firm feeling confident and competent (at least until my new supervisor brought me back to reality). ◊

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**Wyld Announces New Trustees**

Congratulations to **Scott Husbands** (King County District), **Robert Grant** (Snohomish County District), **Cyrus Habib** (At-Large), and **Robin Haynes** (Greater Spokane District), who were recently elected to represent the interests of new and young lawyers on the Wyld Board of Trustees. The trustees will begin their service on October 1 with the start of the new WSBA fiscal year.

For more information on the Wyld Board of Trustees, visit www.wsba.org/lawyers/groups/wyld/bot.htm.

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**WYLD Announces New Trustees**

**Join the Wyld at the Mariners Game**

**Friday, September 17**

Celebrate summer or a completed bar exam? Join the Wyld Member Outreach Committee, Snohomish County YLD, King County YLD, and fellow young/new lawyers to catch the Seattle Mariners vs. the Texas Rangers. At 5:30 p.m., the Wyld, SCYLD, and KCYLD welcome attendees to free food and socializing at the Pyramid Brewery. The game begins at 7:10 p.m.; tickets are $19. For tickets, contact Kristy Stell (kristy.stell@whitsonlwa.com) or Kari Petrasek (kari@carsonlawgroup.com).

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**Have You Visited myWSBA Yet?**

To access myWSBA, see the link on the WSBA homepage (www.wsba.org) or go there directly (www.myWSBA.org).

Questions? Don’t have a valid e-mail address on file? Help is only a phone call or e-mail away. The WSBA Service Center is available Monday through Friday, 8:00 a.m. to 5:00 p.m., with friendly, knowledgeable representatives who are happy to help.

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**Allison Peryea is the associate editor for De Novo, and a litigator at Rand L. Koler & Associates, P.S. She can be reached at allison.peryea@leahyps.com.**
A common error made by unseasoned attorneys when giving closing argument is retelling the “story” of their case. Storytelling is best used in opening statement, not closing argument. By the time the jurors hear closing argument, they are well acquainted with the story, because they have heard two opening statements and all the evidence.

Closings argument, as the name suggests, is instead the time to argue. This means that in addition to revisiting the theme(s) presented in opening statement, a lawyer may use rhetorical questions, draw conclusions and inferences from the evidence, discuss the credibility of the witness, examine the plausibility of testimony, use analogies, and refer to stories from film and literature. Most importantly, a lawyer must walk the jury through the key jury instructions.

When a lawyer stands to address the jurors in summation, jurors expect her to explain the law and the evidence to them — to give them tools that will help them do their job. They do not want a recap of the evidence; they want to know what the evidence means for them as fact-finders. An attorney who fails to meet this expectation risks losing the jurors’ attention and misses an opportunity to prepare a “shadow advocate” to argue her case in the jury deliberation room.

If a lawyer has presented her case well, there will be at least one juror who has tentatively concluded the attorney’s client should win before the lawyer addresses the jury in closing argument. The lawyer’s job is to confirm this fledgling conclusion and equip that juror (or jurors) with the tools to persuade the other jurors during deliberation. In doing this, the lawyer creates a shadow advocate able to reiterate and clarify her points to the other jurors.

Unlike opening statement, where the structure is usually chronologically driven to maximize storytelling, the structure of closing argument is very much guided by the jury instructions. The lawyer must review key instructions with the jury and explain how the evidence meets, or fails to meet, the various elements of the claims or defenses. This review is best arranged topically, not chronologically or by witness.

In reviewing the evidence, a lawyer should walk the jurors through the key instructions to ensure the jurors understand what the law requires (or allows) and how, when applied to the evidence, the law leads unequivocally to a verdict for her client. This “connect the dots” approach may seem overly simple, but it is well advised.

Closing argument is the time to connect the dots for the jury by walking them through the jury instructions and explaining why the evidence supports a verdict for your client.

Remember that jurors are unlikely to ask questions of the court during deliberation; even if they do, the judge will not allow the attorneys to clarify their arguments. Thus, it is important to identify any potential areas of confusion in advance and take particular care in explaining those points during summation.

The importance of explaining what the jury instructions mean cannot be overstated. I have observed more than 50 mock trial jury deliberations and have interviewed jurors post-verdict in more than 30 real cases. A common occurrence during deliberation (which may or may not be outcome-determinative) is that jurors misunderstand a portion of one of the instructions. Juror misunderstanding happens even though those of us on the Washington State Pattern Jury Instruction Committee try our best to draft standard instructions in clear, understandable language. But some legal concepts can be confusing to jurors, even when instructions are clearly drafted. When such misunderstandings occur, jurors may apply the wrong law to the facts. During one mock jury deliberation I observed, the jurors misunderstood the three alternative prongs of a “to convict” instruction as requiring them to find all three prongs had been proved by the prosecutor beyond a reasonable doubt. The three prongs were set forth in the disjunctive (X, Y, or Z) and not the conjunctive (X, Y, and Z) so that the jury needed to find only one of the three alternatives was proven, not all three. In that mock trial, the misunderstanding was fatal to the prosecution’s case: the jury returned a not-guilty verdict.

Visual aids provide a great assist when reviewing instructions with the jury. Visual aids are particularly helpful because the jury receives the instructions aurally before deliberation, and yet Americans are accustomed to receiving information visually. When choosing visual aids, a lawyer need not use a high-tech PowerPoint presentation — posterboard works just fine. Nor does the lawyer need to set out the instruction word for word. It is very effective to write out just key phrases or short summary phrases as a visual assist. A lawyer can summarize (and shorten) instructions as long as she does not misstate or mischaracterize the law. A lawyer who has any doubts about her summary should run her visual aids by the judge in advance.

My advice to a lawyer who elects to set out the entire instruction in a visual aid is to think about breaking it into manageable chunks and presenting each section in a different “frame,” whether on poster board or in a PowerPoint presentation. This makes it easier to keep the font large enough that the jury can actually read it. It also limits the amount of information presented to the jury at one time. Too much information can overwhelm the jurors and cause them to tune out. A visual aid crammed with information and printed in font that is too small to read is not much of an aid!

While jury instructions provide a skeleton for closing argument, a lawyer must resist falling into the mode of a professorial automaton reviewing instruction.
after instruction. A dry, clinical review of the instructions will fail to engage the jury. Instead, a lawyer should bring all aspects of persuasive speaking to her summation, including her discussion of the jury instructions: eye contact (keeping eye contact with the jurors, not with the visual aids), purposeful movement about the courtroom (if allowed), complementary hand gestures, and variation of speech to augment content and keep the jurors’ attention. Silence can also be an effective way to highlight an important point just delivered to the jury.

Remember, too, to use the words of a speaker and not those of a writer. If a lawyer chooses to write out her closing argument, she should reduce it to bullet points and practice it using everyday language and cadence. The written word, while frequently more elegant, can hit jurors’ ears as stilted or artificial, which undercuts an advocate’s credibility in the courtroom.

A couple of final reminders of what to avoid during summation:
- Do not vouch for witnesses.
- Do not misstate the law.
- Do not misstate or mischaracterize the facts.
- Do not refer to facts or exhibits not in evidence.
- Do not violate the “golden rule”—i.e., do not ask jurors to put themselves in the position of a party or the victim in a criminal case.

In short, closing argument is the time to connect the dots for the jury by walking them through the jury instructions and explaining why the evidence supports a verdict for your client. In doing this, a lawyer must always remember to use persuasive rhetorical devices to motivate the jurors to want to return that verdict. ☐

“Off the Record” is a regular column on various aspects of trial practice by Professor Maureen Howard, director of trial advocacy at the University of Washington School of Law. She can be contacted at mahoward@u.washington.edu. Visit her webpage at www.law.washington.edu/Directory/Profile.aspx?ID=110.

Seeing the Forest Through the Trees: Closing Argument and Jury Instructions

by Thomas M. O’Toole, Ph.D., and Jill Schmid, Ph.D.

In 1950, Max Klein and Dan Robbins invented and developed the widely popular paint-by-number kits. These kits introduced everyday people to the unfamiliar world of artistic expression by providing them with the precise roadmap and tools to produce magnificent works of art. Previously, this feat was inaccessible to a large segment of the population due to the level of talent and sophistication required. But with paint-by-number kits, it was no longer necessary for amateur artists to understand the complicated world of color mixing and technique. Instead, they were provided with simple “shortcuts” that allowed them to produce a work of art they could feel good about.

Closing argument is like a paint-by-number kit. Similar to the amateur artists of the 1950s who lacked painting talent and knowledge, jurors often lack the professional background and industry tools to sort through the complex information and legal instructions they are bombarded with over the course of a trial. Jurors have not studied law and are not allowed to research case law when uncertain about the meaning of a word or phrase. And the human brain is simply not programmed to accomplish the task that is requested of jurors in the manner often expected. For example, jurors are provided a fraction of the time given to attorneys and judges to make sense of a vast amount of case-related information. To compound this issue, research in behavioral neurology has demonstrated that the human brain is incapable of processing more than seven pieces of information at any given moment. Additionally, studies on retention rates show that after three days, humans retain only 10 percent of the information verbally presented.

Consequently, attorneys can expect that, by the time for closing arguments, jurors are overwhelmed and underprepared for what will take place in the deliberation room. This means the burden lies on the attorney to provide jurors with the proper tools for sorting through the vast amount of case facts and effectively arguing for his client during deliberations. Like paint-by-number kits, an effective closing argument can provide jurors with the shortcuts to accomplish the task at hand, while still providing jurors with confidence and psychological satisfaction. With this in mind, here are 10 tips for developing a persuasive closing argument.

1. Entertain your audience. Like it or not, the human brain takes a break roughly every 10 minutes. There is nothing you can do to stop it. It happens, and the burden is on you to recapture jurors’ attention. Variety in the style of presentation is one of the simplest ways to accomplish this. Simple, periodic shifts from PowerPoint to video clips to exhibits on projectors and graphics printed on large boards in the courtroom cues the neurons in the brains of your jurors to refocus on, and make sense of, these environmental changes.

2. Organize with transitions. If jurors’ brains are going to demand a break, attorneys can take control of the process by providing them structured transitions. One attorney we worked with set five colored file folders at his table during his closing argument, each representing one of the five key issues he would discuss.

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colored file folders at his table during his closing argument, each representing one of the five key issues he would discuss. When finished with one issue, he would close the file folder, walk back to the table, exchange it for the next, and return to the podium to begin discussion of the new issue. Not only did this provide jurors with brief mental breaks, it effectively structured his closing argument to tell jurors when the discussion of evidence and testimony relevant to one topic began and ended, thereby making it crystal-clear which evidence was relevant to which issue.

3. Walk through the verdict form. Show jurors exactly how they should fill out the verdict form. Jurors who are motivated to serve as your advocates in the deliberation room must know the path to a favorable verdict — which is not always clear with special verdict forms containing numerous questions — and may not read or fully understand the written instructions. This also provides you with the opportunity to make it very clear which evidence is relevant to an issue, such as negligence as opposed to proximate cause.

4. Identify key jury instructions. Legal terminology can often be a significant stumbling block for jurors during deliberations, especially when the everyday use of a term varies from the legal use of the term. In other instances, the lack of familiarity with a legal term can leave it wide open for interpretation. In a recent mock trial, mock jurors inaccurately equated “proximate cause” with “contributing factor” when they considered the instruction: “There can be more than one proximate cause.” This effectively lowered the burden for the plaintiffs. Attorneys can prevent adverse interpretations and uses of legal instructions by identifying key instructions and explaining to jurors how those instructions should be used to navigate the verdict form.

5. Identify key exhibits. If everything is important, nothing is important. It is highly unlikely that jurors will sort through all of the exhibits sent back to the deliberation room, especially in cases where there are hundreds or thousands of exhibits. That presents attorneys with two options: let the jurors decide for themselves which exhibits are most important or do the work for them and identify the key exhibits that will lead them to the verdict that favors your client. One of the most effective closing arguments we have seen is one in which the attorney said to jurors: “There are only six exhibits you need to look at in deliberations.” He then proceeded to walk the jurors through each of those exhibits as the jurors took careful notes.

6. Call out key testimony. As previously indicated, jurors will recall about 10 percent of information that is verbally presented. One way to overcome this hurdle is to provide jurors with visual “call-outs” of the trial transcript, which is most easily accomplished through PowerPoint. This refreshes jurors’ memories and ties the testimony to specific verdict form questions. (Of course, this requires that the trial transcripts are available and a member of the trial team is assigned the task of tracking the key testimony.)

7. Connect the dots. With the benefit of having worked on a case for months, if not years, attorneys often take for granted the ease with which they understand how and why certain evidence or testimony speaks to a particular verdict-form question. However, this connection is not always apparent to jurors, even after weeks or months of trial. Jurors are bombarded with tremendous amounts of information over the course of the trial, often without knowing what the verdict form questions and jury instructions will be. Asking them to determine on their own which evidence goes with which verdict question is akin to asking someone to complete a puzzle without providing the picture on the front of the box.

8. Provide comparisons on the burden of proof. Any trial comes down to what has been proven. Each side presents their evidence and testimony, and jurors are left to determine whether the various evidentiary burdens have been met. Rather than leave this determination to jurors, simply show them. Plaintiffs and defendants alike can benefit from simple visual comparisons of what was required to be proven by law versus what was actually proven. This can be as simple as two columns (what needed to be proven versus what was actually proven) with bullet-points summarizing (ideally in sound-bite form) the key points on each. Plaintiffs want to emphasize how they have exceeded the burden of proof, and defendants want to demonstrate how plaintiffs have failed to fulfill their burden.

9. Identify the errors and implications of opposing counsel’s theory of the case. Jurors render verdicts they find psychologically satisfying. Outlining the implications or errors associated with the opposing side’s theory of the case in comparison to your own can de- crease juror motivation to find in favor of the other side. For example, in some cases jurors have found for defendants in patent infringement cases where the infringement was obvious, but jurors were concerned about how a plaintiff verdict might create a monopoly or eliminate a higher-quality product.

10. Recommend a process for conducting deliberations. There are a variety of ways in which jurors can approach the deliberative process. Two primary approaches consist of a verdict-driven process, in which jurors organize deliberations by walking through each verdict form question in order, and an evidence-driven process, in which jurors begin deliberations with an open-ended discussion of the case. A procedural approach, such as the verdict-driven process, can reduce the influence of emotional elements of the case as well as rogue jurors. But keep in mind this may not always be in the best interest of your particular client. ☐

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Wielding the Power of the Public Records Act

by Mimy A. Bailey

Public-disclosure laws in Washington provide access to documents that we normally think of as available only via the discovery process. If you are considering taking on a case with a government agency as a defendant, one of your first steps should be to take advantage of the access provided by these laws.

My practice includes roadway design issues specific to bicycles (e.g., a tire-swallowing drain grate in the middle of a bike lane). Due to the cost, the risk, and the difficulty of the types of cases I handle, pre-filing investigation is key. Public-disclosure requests are a crucial step in my investigation of a potential case, and also perform the due diligence and public-service functions of helping my client understand the background of what happened to him and why his case is not a matter I am willing to pursue. This article looks at the source of Washington public-disclosure laws, the request process, and the logistics of reviewing the documents produced. I will use a case I am currently investigating (with the facts slightly modified) as a guiding example throughout this article.

In 1972, Washington voters adopted Initiative 276, which requires that most records maintained by governments be made available to the public. The Public Records Act is codified in Chapter 42.56 of the RCW. A “public record” is defined as “any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics . . .” RCW 42.56.010(2).

Now for my example case: last week, a bicyclist called from the Portland area. She had suffered a broken arm and leg after falling while riding on a paved urban trail in Vancouver, Washington. There are many challenges to this potential case, including moderate damages and recreational immunity under RCW 4.24.210 (narrow exceptions exist to the immunity provided to public and private landowners when someone is injured on land held open for recreational purposes), so my first step is to gather information.

Online, I find out basic details about the pavement surface, the history of the trail and the government entities that funded its construction, the City of Vancouver, and the Washington State Department of Transportation (WSDOT).

A broad request may yield an overwhelming number of irrelevant documents.... On the other hand, a request with pinpoint specificity may leave you without a full picture of the factual background.

Here’s what I learned about the city of Vancouver: like many local governments, Vancouver has adopted and procedures in compliance with Washington state law. A quick Google search later, I have a PDF of Vancouver’s Records Disclosure Policy. The policy tells me what is available, how to submit a request, how long to expect to wait for a response, and the cost of obtaining copies of the responsive documents.

Here’s what I learned about the WSDOT: the department’s website has a dedicated page with Frequently Asked Questions and a PDF form, which may be submitted via e-mail. My experience is that it often takes the public-disclosure officer more than a month to actually produce the responsive documents.

When wording your request, make every effort to be clear and concise. Consider whether it is to your benefit to be broad or specific. A broad request may yield an overwhelming number of irrelevant documents. For example, “all documents related to the construction of the Burke Gilman Trail” is overly broad if you are looking only for documents related to a specific section of trail or regarding a specific improvement project. On the other hand, a request with pinpoint specificity may leave you without a full picture of the factual background.

For my potential case, I worded both requests similarly because I don’t know what role each entity had in the project (beyond funding). I also don’t want a ton of detail right now, so I worded some of the requests aimed at discovering specific facts.

- The city’s role in constructing the trail and bridge;
- The city’s role in maintaining the trail and bridge;
- The coordination between the state and other government agencies regarding the construction, maintenance, and operation of the trail and bridge;
- Complaints, issues, and problems arising from the surface of the trail across the bridge;
- Incidents of injury to trail users, including pedestrians and bicyclists; and
- The selection process for the surface material chosen for the trail and bridge.

Know your audience: another consideration is the nature of how public-disclosure requests are fulfilled. In many circumstances, the documents I receive include e-mail chains in which the public-disclosure officer is asking individuals and departments to produce anything in their possession that is responsive. Word the request in such a way that people will be able to understand what you are looking for. If you want “all documents” related to a specific topic, project, or event, then brainstorm the list of documents you would like to see. For example, “all e-mails, correspondence, studies, applicable standards, reports, and meeting notes related to the installation of stop signs at X location.”

Plan your attack: Develop a strategy for in-person document review. Last month, I took a “field trip” down to a WSDOT office in Olympia to pore over hundreds of pages involving a roundabout project in Kennewick. The department will provide hard copies, but the cost may be prohibitive. An in-person review allows you to select the documents that are worth paying for. I practice in Seattle and was displeased to learn that I was limited to two hours of review in any one day. I wanted this to be my one and only trip, so I quickly devised a strategy. First,
I flipped through everything on the table, so that I started with the most important and worked my way down the list of priorities. I did not spend time taking notes or reading details; I skimmed and flagged anything I thought was even peripherally important. For the binders I did not get to, I flagged the indices so at least I would have documentation of what is available for the future.

The Act provides a formal method of requesting information from governments, but do not overlook the vast amount of information that is provided by the government both online and in print. For example, you can perform extensive research on real property via King County’s online resources, and the WSDOT publishes their engineering standards online (including prior editions).

How can you take advantage of the access provided by the Act in your cases? Discovery is the litigator’s tool for the liberal exchange of information, but so often it is used to withhold and play games. Think outside the discovery process next time you need access to government-held documents and request the documents under the Public Records Act. Ÿ

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Putting the “Error” in the War on Terror: The Story of Abu Zubaydah

by Arthur Emery

Three months ago, the United States government declassified much of its factual information in the habeas corpus petition of Abu Zubaydah, the alleged No. 3 and logistics chief of al Qaeda. Zubaydah is currently being detained at the Guantanamo Bay prison camp in Cuba. Inside the pages of the government’s court filing is this quote: “[T]he Government has not contended in this proceeding that the Petitioner was a member of al-Qaida or otherwise formally known as al-Qada.”

In that one sentence, the United States government made public the most egregious error it has committed during the so-called war on terror — an error that will have consequences for generations to come. Zubaydah — the first detainee rendered to the CIA “black sites,” the “patient zero” for the second Bush administration’s “enhanced interrogation techniques” — is not now, nor has he ever been, a member of al Qaeda.

The enormity of this fact — and the public branding Zubaydah has falsely endured as an alleged al Qaeda lieutenant — has weighed on my conscience for close to two years now. As a third-year student at Northwestern University School of Law, I became involved in Zubaydah’s habeas corpus petition through the MacArthur Justice Clinic. I quickly buried myself in the facts of the case and spent countless hours reading government reports, Guantanamo Bay transcripts, books, news articles, and case documents in my attempt to understand the truth about Zubaydah. I chased leads through footnotes, detainee transcripts, and media reports, and researched the cases of several other detainees that were allegedly connected to Zubaydah. After all of my research and amid the government’s recent admission, I have reached only one conclusion: we have made a huge mistake that we must admit and for which we must atone.

As a young man, Abu Zubaydah traveled to Afghanistan in 1991 to assist the Mujahedeen in repelling the Soviet invasion. While in Afghanistan, he trained at the Khalden Camp, a jihadist training camp dedicated to defending Muslims being persecuted throughout the world. Eventually Zubaydah became involved in the logistics of the camp, and ultimately took responsibility for helping to funnel recruits through the camp during the 1990s.

Despite the United States government’s initial assertions that the Khalden Camp was an al Qaeda terrorist camp, the camp was in fact ideologically opposed to al Qaeda, and was closed by the Taliban in 1999 when its members refused to fall under al Qaeda rule. The camp’s anti-al Qaeda position was reiterated in several other detainees’ combatant-status-review tribunal transcripts, in scholarly articles and books written on the Afghanistans training camps, and even in the charge sheet of Noor Uthman Mohammed, which was written by U.S. prosecutors. Despite evidence of the camp’s opposition to al Qaeda, the federal government still uses a connection to the Khalden Camp as justification to hold dozens of Guantanamo Bay detainees in custody, even though they have released 29 of the original 50 people associated with the camp.

In March 2002, six months after 9/11, Zubaydah was apprehended in Faisalabad, Pakistan, in a joint raid involving the CIA, FBI, and ISI. Several guesthouses were raided in one night, and Zubaydah was captured after a firefight which left him on the edge of death. The first doctor to see him said he had never seen anyone live through wounds as severe as Zubaydah’s; in order to keep him alive for questioning, the United States government flew in a doctor from Johns Hopkins University.

Immediately upon his capture, Zubaydah was touted as the biggest catch in the war on terror. George W. Bush, Condoleezza Rice, Donald Rumsfeld, Dick Cheney, and several anonymous officials spoke about Zubaydah’s importance during speeches (including the President’s State of the Union address that year), in press releases, and during public daily briefings. He was described as al Qaeda’s No. 3 operative, its logistics chief, and a high-ranking al Qaeda lieutenant.

After his capture, Zubaydah was sent immediately to a CIA black site in Thailand. Once there, he was interrogated by Ali Soufan, the FBI agent credited with eliciting the most actionable intelligence Zubaydah would provide during his captivity. During his FBI interrogation, Zubaydah was treated with respect and dignity, and divulged the nickname of Khalid Sheikh Mohammed (the alleged architect of 9/11) as well as the identity of Jose Padilla, a U.S. citizen eventually convicted of aiding terrorists.

Shortly after the FBI team’s arrival, a second interrogation team, led by the CIA and former Air Force psychologist James
Mitchell, arrived in Thailand to interrogate Zubaydah. Despite the success of the FBI team, Mitchell instituted his own interrogation program — the same program that would eventually become the United States’ enhanced interrogation techniques. A former national-security official would subsequently admit that Zubaydah was a “guinea pig,” and that there were many enhanced interrogation [methods] tested on him that have never been discussed before we settled on the 10 [techniques].” Mitchell likened Zubaydah to a dog in a cage, and said that he needed only to have his will broken before he would tell everything he knew.

Throughout this program Zubaydah would be beaten, walled, denied food, put into forced stress positions, blasted with ear-damaging noise, locked in a confinement box so small it reopened the wounds from his capture, denied painkillers for his nearly life-ending wounds, deprived of sleep for days on end, kept in complete isolation, and waterboarded 83 times in one month. All of this was done to wring dry someone who was believed to be a high-ranking al Qaeda official. Unfortunately Zubaydah was not this person, and the government was slowly coming to realize it.

In addition, these tactics were so ineffective at gathering intelligence that Ali Soufan and the FBI team were repeatedly asked to return to the interrogation in order to gain more actionable intelligence. This back-and-forth was finally ended when Ali Soufan threatened to arrest Mitchell’s team for actions he believed were “borderline torture.” It was at this point that the divide between the FBI and CIA interrogation methods officially erupted, and the agents were removed from the interrogation and flown back to the United States. The FBI, within the next few months, would refuse to participate in any further CIA interrogations.

Throughout Mitchell’s interrogations, the CIA videotaped Zubaydah 24 hours a day. Eventually, and despite 17 court orders and numerous requests from high-ranking members of Congress and the White House, the CIA would destroy the tapes in their entirety. This left no visual record of what had occurred during Zubaydah’s interrogations.

After his waterboarding, Zubaydah was shuttled to various other CIA black sites before being interned at Guantanamo Bay. While there, he sat by as several of his alleged fellow conspirators were charged through the military-commissions system. He also sat by as the allegations against him began to disappear. In 2005, when the U.S. government originally charged four detainees — Sufyan Barhoumi, Ghassan Abdullah al Sharbi, Jabran Said al Qahtani, and Binyam Mohamed — Zubaydah was mentioned by name in six of the charges alleged against them. However, when Barhoumi, al Sharbi, and al Qahtani were recharged in 2008, all association with Abu Zubaydah was removed. In 2009, al Sharbi and al Qahtani were again recharged, with Zubaydah reincorporated in fewer than half of the number of charges. In the indictments, Zubaydah was no longer alleged to be an al Qaeda operative or lieutenant.

Throughout our war on terror, we have focused our sights on those who we believed to be the enemy. Our justification has been that we believe our actions have saved the lives of innocent Americans, and punished the lives of wrongdoers. We have interrogated hundreds of prisoners and killed thousands of human beings. Throughout it all, we have had a beginning, a starting point for our programs and our techniques — a starting point for our attempts to protect our nation. That starting point was the capture of Abu Zubaydah. And unfortunately, it was wrong.

Zubaydah was never a member of al Qaeda. He was never No. 3; he was never its logistics chief; and he never helped plot or plan any of its attacks on the United States. Zubaydah was a minor player in an ideologically opposed camp who believed it was his duty to protect Muslims from persecution throughout the world. Zubaydah was never who the government thought he was, and he did not deserve to suffer the way he did.

We are a nation of values and a nation of principles, and every day that we continue to propagate the lies we have been told about Zubaydah is another day we grow farther and farther from what makes us Americans. We made a mistake. It is time we admit it. It is time we atone for it. And it is time we set the record straight about Abu Zubaydah.

Arthur Emery is a 2009 graduate of Northwestern School of Law, where he volunteered at the MacArthur Justice Clinic on the Guantanamo Bay case of Abu Zubaydah. After graduation, he returned to Seattle to open two small businesses, and continues to work for the clinic as an investigator. In addition, he also guest lectures at the University of Washington about the case and is currently writing a book about his experience. He can be contacted at arthur.emery@gmail.com.

NOTES
1. “Black sites” are a network of secret internment facilities the CIA operated around the world.
2. “Enhanced interrogation techniques” was a term adopted by the George W. Bush administration to describe interrogation methods used by U.S. military intelligence and the COA to extract information from individuals detained after the September 11 attacks in 2001. Some of these techniques are regarded by many as torture.
3. The Mujahedeen were a group of Islamic guerrilla fighters who rebelled against the incumbent Democratic Republic of Afghanistan government, which was pro-Soviet, during the late 1970s.
4. Mohammed, a Sudanese national, was arrested by U.S. and Pakistani forces during a raid on an alleged al Qaeda safe house — the home of Zubaydah — in Pakistan.
5. The Directorate for Inter-Services Intelligence (ISI) is the largest intelligence service in Pakistan.
Transitioning Between Practice Areas: How I Made the Switch

by Christopher Small

Moving from one area of practice to another is no small task. And I have done it twice—sort of. I have gone from criminal-defense lawyer in Kansas to eminent-domain lawyer to criminal-defense lawyer in Washington, all during my five-plus years of practice. And it wasn’t easy. But, if I am any indication, it is doable. And I’m going to share with you how I did it.

Before I get too far into this, I guess I should say a couple of words about why I transitioned, and why you might want to do the same. My first transition from criminal-defense practice to eminent-domain practice was borne of need and of interest: I received a job offer and was interested in real estate law. Available employment in a practice area and interest in that new area are two important keys to transitioning well. You can chase the “hot” practice areas in the job market your entire career and never get anywhere if you do not have at least a moderate interest in what you are doing. That’s why I returned to criminal defense when I moved to Washington. It is something that interests me—plus, it’s a lot easier to find criminal-defense clients than eminent-domain clients.

Once you make the decision to change practice areas, you must focus on successfully completing the transition. There are three things I recommend to ease this process: 1) read everything you can get your hands on, 2) attend all the CLEs you can sign up for, and (3) ask as many “dumb” questions as you can.

1. Read all you can. When I decided I wanted to be a criminal-defense lawyer in Washington, I knew I had some learning to do. Not only are the substantive laws markedly different, but so is the procedure. So when I first arrived in the state—before I even sat for the bar exam—I got copies of Defending DUIs in Washington, Washington Criminal Practice in Courts of Limited Jurisdiction, and Washington Lawyers’ Practice Manual and started reading them from cover to cover. These were the definitive texts for my practice area. As I went through these books, if I saw some cases that appeared important, I’d write down their citations and later read the text of the opinions. After I read through these cases once, I went through them again.

I did it this way because that’s how I learned eminent-domain law when I was in Kansas. My boss was smart enough to have made a primer on eminent-domain law that was only about 100 pages long. My first week on the job, he told me to sit in my office and read it. And when I was done, I was instructed to read it again. And when I was done, I was told to read the cases that were discussed in the primer. So I did. And I quickly became proficient in Kansas eminent-domain law.

Now, I know what you’re thinking: you can read all you want about a particular type of law, but that’s not going to teach you how to be a lawyer in that practice area. I completely agree. But reading up on the law is an integral part of becoming proficient as a practitioner in that area—combined with the other two activities I explain below.

2. “CLE” all you can. I know the title of this section doesn’t make any sense grammatically, but it’s the best way to describe what you should do if you want to make the successful transition from one practice area to another—ride the CLE circuit.

I think this year alone I have already compiled more than 30 CLE credits. Each class was related to criminal defense, and they’ve all helped me immensely. I have taken classes on discovery, DUI defense, breath alcohol-tester training, direct and collateral consequences of guilty pleas, witness preparation, and many other pertinent subjects. Every time I finish one of these classes, I not only have more information about the law, but also what it means to be a lawyer in that field from a practical perspective.

CLE training gets you front-and-center with some of the best practitioners in the state in that particular area of law. Take advantage of every opportunity you find to learn from these attorneys. They love to teach—and most love to tell war stories. In my experience, you may learn more from one war story than you learned during the entire remainder of the CLE presentation.

3. Ask as many “dumb” questions as you can. No matter how many books you read or how many CLEs you attend, you are always going to be confronted with situations you have never before encountered during your practice. They might be in the courtroom, they might be in deposition, they might be in reviewing the facts of a specific case, but they will be there. When they arise, I have one suggestion for you: ask someone who you think knows the answer—or at least can direct you in where to look for it. Often they may have a helpful response for you.

For example, criminal defense attorneys in Washington who are members of the Washington Association of Criminal Defense Lawyers have access to electronic mailing lists (list serves) that are extremely active. When I have a question I do not know the answer to, instead of spending five hours trying to locate the answer in the subsection of some statute, I just post the question to the e-mail list. For example, just the other day I posted a question to the list serve about procedure during meetings with clients who are in jail, since I had such a meeting on my calendar. In two minutes, I had three of the most detailed responses I could ever hope for about what to do and what to expect. Searching for this information in books or articles could have taken hours.

As I explained above, changing practice areas is not impossible if you put in the legwork. That’s why you have to have an interest in your new practice area. If I had to do all of this work to be a probate lawyer or bankruptcy lawyer, for example, I would have quit long ago—those types of law are just personally not for me (I would expect that some bankruptcy or probate lawyers would think the same thing about criminal-defense law). If you are thinking about becoming an eminent-domain attorney or a criminal-defense attorney, please give me a call. I’d love to answer some “dumb” questions!

Christopher Small is the owner of CMS Law Firm LLC, a DUI and criminal defense law firm in Seattle. When he’s not in court or in the office, you can find him on the golf course enjoying his other passion. He can be reached at 206-651-4245.
Practice Success 101:
2.5 Hours a Day Gets You $65,000!

by Peter Roberts

Say what? Let me repeat: if you bill 2.5 hours per day, you will get paid $65,000! You must be kidding! Not at all. Here is the arithmetic:

2.5 hours x 5 days = 12.5 hours/week
12.5 hours/week at $150/hour = $1,875
$1,875 x 52 weeks = $97,500
$97,500 x 80% = $78,000 due to uncollectible bills
$78,000 – $13,000 for overhead = $65,000!

Ah, if only life were so simple. But I know the practice of law cannot be reduced to a formula. Billing for your time assumes that the recipient of your bill can pay the amount that you bill. But if you find that you are billing 20 or 30 hours a week and not realizing at least $65,000 in income, something is very wrong. This article is about billing generally, but the cardinal rule is: get the fees up front.

The billing process starts with verbal communication about your billing practices. Include this information in your fee agreement as well. Your fee agreement may vary depending on the practice area and your preferences, but the basic framework for a typical fee agreement is:

• Identification of the parties
• Scope of representation
• Fees and costs
• No guarantee of a particular result
• Duties of lawyer and client
• Signature blocks
• Third-party payer acknowledgement (optional)

The fees, costs, and billing practices are the most complex and emotionally charged aspects of the fee agreement. I recommend you discuss the following explanations with the client:

• “Fee” is the sum payable to the firm for the services of its personnel, including the lawyer.
• “Cost” is the amount payable for items that are receipted such as filing fees, travel expenses, copies from a copy service, or expert-witness services.
• “Expense” is the amount payable for re-covering the lawyer’s overhead such as telephone, fax, and copies.
• “Retainer” is the amount payable for securing the availability of the lawyer for a period of time.
• “Advanced fee deposit” is the amount payable that goes into the lawyer’s IOLTA account and is gradually withdrawn for fees, costs, and expenses. Consider using an “evergreen” advanced fee deposit, which means that the balance is never zero. Sample language for your fee agreement may be: “This acknowledges receipt of your advanced fee deposit for fees and costs in the amount of $5,000. Payment for our services and costs will be drawn against this amount and reported to you. We will bill you for an additional advanced fees and costs deposit whenever the current balance is below $1,000. We thank you in advance for timely remittance of your additional advanced fees and costs deposits. Our efforts on your matter may cease if an advanced fees and costs deposit is overdue.”
• “Flat or fixed fee” is the amount payable for the services of personnel in the law office. Costs and expenses are in addition to this fee.
• “Billing practices” are the descriptions of what is included in the bill and the frequency of billing. It may include time-keeping conventions, due date, interest penalties, and other details so the client knows what to expect and when.

What about billing etiquette? Your bill is an important client-relations tool. The bill should be professional, attractive, and easy to understand. Do not “nickel and dime” your clients by billing small amounts. Wait until the amount is at least three figures. The worst example I have seen is a bill that included 75 cents for a can of soda that I had in my lawyer’s office.

If the bill will likely be larger than usual, alert your client to the work that you are doing and notify him that the higher bill will be forthcoming. This gives the client more control over how much to spend on the matter. A client’s commitment to a matter can waver depending on the cost, so try to avoid being blindsided by a client’s reduced willingness to pay your fees due to the rising cost.

Bill at least monthly. A larger client load may benefit from billing half of your clients at the beginning of the month and the remainder at the middle of the month. Bill for time worked up to the close of the immediate prior month. Some matters may benefit from being billed twice a month. Consider a cover letter when bills are over $1,000 or some other appropriate amount. The cover letter can describe the unforeseen circumstances that gave rise to the higher amount of the bill.

There are a number of billing methods that are ethical to use. See the Law Office Management Assistance Program (LOMAP) Lending Library at www.lomap.org for a list of available books about billing methods.


If a bill goes unpaid over 60 days, you have a problem. Be sure to keep in touch with the client about the bill. Your practice is at risk if you find yourself as busy as ever but working on matters that are not being paid. That practice is called “pro bono pecunius nullius.” Avoid this situation, since you want to earn enough income to allow you...
to give back service to the community with your pro bono service.

The next step for a delinquent payment is a polite letter requesting payment. Include a stamped self-addressed envelope. Offer a payment plan and possibly a discount for early payment. Allow clients to use credit cards for paying fees — some clients want the airline miles! Next, after about 30 days send a second letter with stronger language. Hopefully, you are not doing work on the matter. That letter may describe a collection agency’s potential involvement. Note that when hired, collection agencies take a large percentage of the payment.

Insurance carriers discourage suing for fees because there is a likelihood of a countersuit for malpractice. Be sure your file is “clean” and defensible as to your work for the client before proceeding with a suit for fees.

No one bats 1.000 when billing and collecting fees from clients. The legal industry reveals about a 10 percent attrition rate between time worked and time collected ($1 worked yields $.90 collected). Use each unpaid account as a lesson in client-screening techniques. Screening potential clients is as much an art as a skill — but if your gut says “no,” Bar members tell me that it is best to listen. Over time you will improve your skill in assessing which clients are the best to keep on for your practice.

Remember, just 2.5 billable hours a day…

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**Flying Solo Still Means Networking: A Lesson from the Statewide Diversity Conference**

*by Randy Trick*

As the economic downturn makes it frustrating for young lawyers to find steady employment, or as work at a firm becomes stressful, brave young lawyers may consider striking out alone and hanging their own shingle. Four successful solo practitioners offered their advice last month on building an initial client base and getting a new practice to perform in the black and keeping it afloat.

Damon Shadid, who founded the Shadid Law Firm in 2009, moderated the panel discussion “Thinking Big, Flying Solo” as part of the fifth annual Statewide Diversity Conference, held in June at the Seattle University School of Law. The Washington Minority Bar Associations Collaboration Project organized the conference. Shadid emphasized the importance of using networking skills to build a client base. “If you’re completely against networking, if you don’t like to do it and you don’t want to do it, how are you going to get your clients to trust you, to network with you?” Shadid asked.

New firms obtain referrals from attorneys in other areas of practice and from former clients to be the earliest source of work. “If you treat [existing and former clients] well, they’ll send you more clients, and they will be in the same area of practice,” noted Shadid.

Networking skills are critical to building a client base, panel members agreed, and keeping expenses low will buy the new firm time as it grows. Advertising is rarely worth the cost, observed panel members, and can be the downfall of struggling firms. Some areas of practice may be the exception, such as personal injury or DUI defense work, but generally the importance of advertising is overrated and can be an insurmountable expense for a new firm, Shadid said.

“If you’re going to rely on advertising coming out as a solo, it’s going to break you — break you hard,” Shadid emphasized. “There is no easy way to pay money and get clients.”

Barbara Prowant founded the Prowant Law Group, a corporate securities and finance practice, in 2006. The practice was built with help from networking and referrals from other professionals in the accounting, financial advising, and business fields. Clients of those professionals typically have legal issues for which they need an attorney.

Rachel Huneryager founded her firm, the Law Office of Rachel Huneryager, in February 2010. As a new immigration attorney, she could accept referrals from other attorneys who were conflicted out of representation. She said she was able to put her practice into the black by April, due largely to keeping her costs low.

When Lisa Dickinson left her firm to open Dickinson Law Firm in Spokane, several clients followed her, giving her a client base with whom she already had a relationship. She recommended that an attorney who is working at a firm but is planning to go solo prepare the paperwork for the solo business early — file the PLCC paperwork and buy insurance a few months before giving notice. Advising clients that their lawyer is about to leave should be done with care, she added. At some firms an attorney preparing to leave may need to be secretive, especially in compiling a client list, Dickinson said — but don’t steal trade secrets. “All my first clients came with me when I left my firm, and I did the polite thing and asked, ‘I’m leaving, do you want to come with me?’ and the firm was okay with that because they didn’t know them any more,” Dickinson said. “Clients follow the person, not the firm.”

Networking as a solo practitioner means always representing yourself and your practice. It is also a chance to focus on areas of law that you are passionate about. Networking at legal-community events should be targeted for efficiency, Prowant suggested. “When you’re out on your own, what was more effective to me was to pick [networking events] I was passionate about, not just ones where you felt you had to attend just to network,” she said.

Shadid agreed, saying that showing passion for an area of work, as well as a passion in the community, builds a reputation. “Think about what you are passionate about and be the person who people refer to you about that,” Shadid said. He said that a surprising source of referrals for his practice has been his running club — proving that solo attorneys are networking all the time, whether they intend to or not.

A solo attorney is part business manager. Making a solo firm succeed means keeping overhead low. New attorneys have three primary needs when they first launch — office, phone, and insurance. Getting a new firm established while keeping overhead as
low as possible is critical, panel members agreed. Huneyager’s office broke even in April because she maintained a virtual office and took steps to limit her financial exposure if the business did not take off. “If it doesn’t work out, I’ll find something else,” she told herself when she launched. “So I kept my debt really low.” Keeping costs low also means that an attorney flying solo needs less of a savings account to live off of during the meager early months.

And just as good networking may help establish a new client base, networking with other solo practitioners can help cover the three primary needs. Other solo attorneys can provide advice and tips on how to start, where to find office space, which banks to use, and what to ask from insurance providers, Huneyager said. Networking with other solo practitioners also provides confidence and lets a new attorney avoid common mistakes.

The WSBA’s Law Office Management Assistance Program (LOMAP) offers low-cost legal research sources and assistance for solos running their own office, such as the “Law Office in a Box” document kit to help solos launch their PLLC.

Feelings were mixed about law students hoping to hang their own shingle right after passing the bar. New lawyers need experience, the panelists agreed, and usually that is found working for someone else. Prowant suggested that a student with plans for her own office should still join a firm after school. Besides the networking opportunities, time at a firm gives the new attorney perspective on the formal and informal practice of law that will help the solo attorney serve, please, and retain clients. But a student with the entrepreneurial drive may be able to use the opportunities in law school to prime her solo practice.

“Do not see your youth as a disadvantage,” Shadid said. “Your third year of law school should be spent talking to as many solos as you can … Treat it just like your time at a firm.”

For Dickinson, experience working for a firm meant she had “street credibility” when she launched her office. As an alternative to early experience at a firm, Dickinson recommended seeking a mentor relationship with an experienced and respected attorney. Even working for an hourly wage with a mentor, she said, can provide the experience and confidence to be an effective solo attorney. “A lot of people fail out on their own because they don’t know what they’re doing,” she warned. Plus, the mentor can assist in networking, and offer a young attorney an aura of legitimacy.

“Find someone who is experienced and well-respected and befriended them,” Dickinson said. “Get yourself a wingman.”

Randy Trick is a second-year student at Seattle University School of Law. He can be reached at trickr@seattleu.edu. More information about this year’s conference and how to get involved in planning the 2011 conference is available at www.wambac.org.

2010 ATJ/Bar Leaders Conference —
Talking About Transformation
by Nanette Blackburn

T he theme of this year’s annual Access to Justice and Bar Leaders Joint Conference, hosted by the WSBA and the Access to Justice (ATJ) Board, focused on transforming crisis to opportunity. Held June 4-6 at the Coast Wenatchee Convention Center, the event featured sessions that centered on the transformation theme. Each year the conference brings together Bar leaders — such as members of the Washington Supreme Court, the WSBA Board of Governors (BOG), and the WYLD Board of Trustees (BOT) — and the broader community interested in promoting access to justice, especially civil legal aid.

On Friday, various groups convened, including the WSBA BOG, the ATJ Board, Volunteer Attorney and Specialized Legal Services program staff, the WSBA Leadership Institute, the Washington Association of County Law Libraries, the Practice of Law Board, and the WYLD BOT. A legal-advocates training was also held Friday afternoon to help legal-aid advocates and supporters learn from community and client groups about community-wide needs and to discuss opportunities to collaborate to create justice for clients.

The conference officially began on Friday evening with a welcoming reception. Conference participants were greeted by Judge Steven González, chair of the ATJ Board, and WSBA President Salvador Mungia. Attendees watched a presentation of “The Lawyer King” by The Moderately Talented (Yet Plucky) Repertory Theater of Justice, which featured many comedic antics including Supreme Court Chief Justice Barbara Madsen sporting a feather boa.

On Saturday morning, newcomers to the conference were offered an orientation session. Concurrent conference sessions began thereafter. The Bar Leaders portion of the conference once again featured a popular roundtable discussion between the Washington State Supreme Court justices and the WSBA BOG members. The ATJ portion of the conference offered three session choices — one regarding the tension between privacy and open court records, a second touting communication as a tool to transform crisis to opportunity, and a third entitled “Show Me the Jobs.” This last session addressed how the economy affects the needs of low-income people and shared creative strategies for new attorneys wanting to work in public-interest law in this tough job market. The morning ended with a plenary session entitled “Crisis and Opportunity: A Call to Action,” which featured leaders from all three branches of government addressing responses to the economic downturn in a question-and-answer format.

The highlight of the conference was a keynote address during the Saturday lunch hour by Governor Chris Gregoire. She also received an award for her support of the conference’s work and was moved to tears during her remarks about the efforts being made to champion civil legal aid and increase access to justice in Washington. The Civil Equal Justice Advocacy Award was presented to Andrew Kashyap and Aurora Martin, of Columbia Legal Services, while the ATJ/WSBA Norm Maleng Award was presented to Lonnie G. Davis, of the Alliance of People with disAbilities. The WSBA Pro Bono Award was presented to DLA Piper LLP – Seattle. The ATJ Leadership Grant went to Mary Swenson, former director of LAW Advocates. The ATJ Judicial Leadership Award was awarded to
Diversity, that word typically evokes images of people from various ethnic backgrounds. Accordingly, when law schools engage in methods through which they attempt to increase diversity in enrollment, most of those methods focus on ethnic minorities. When law schools use scholarships and other enticements to try to increase the number of students who are, for example, Mexican-American, African-American, Indian, or Native American, law school administrators believe they are doing their part to address the problem of the lack of diversity in law schools and in the legal profession. But in limiting the definition of diversity to ethnic categories, law schools have disregarded a large segment of the population who also need inclusion and representation: students from lower socioeconomic backgrounds. Because these students are not easily identifiable based upon their appearance, they have effectively become invisible. These invisible minority students are disproportionately impacted by law-school admission practices that give undue weight to LSAT scores and undergraduate grade-point-averages; the ever-increasing tuition cost; a flawed system of measuring merit; the demands of having to both work and attend class; the social isolation a lack of disposable income creates; and the system’s neglect of financially distraught students and their associated struggles.

Low-income students fight classism before they are even accepted into law schools, due to law schools’ over-reliance on numerical indicators: the LSAT and undergraduate grade-point averages. In order to perform well on the LSAT, many aspiring law students enroll in a course. Such classes can cost well over $1,000 per session. For some, that cost may be affordable, but to low-income individuals, the cost is the first financial barrier they encounter if they hope for a J.D. Consequently, many low-income individuals do not enroll in a course: statistically, those who do not enroll in a course receive lower scores. Many low-income individuals, as a result, receive lower LSAT scores simply because they could not afford the preparation course. Other students may have lower undergraduate grade-point averages because they had to work while they attended college, leaving them with less time to devote to their studies. Because of these financial hurdles, and the undue weight given to the raw numbers, many low-income law-school applicants who may otherwise have become excellent lawyers cannot even gain admission to law school.

Even when these numbers are high enough for a low-income person to be accepted into a law school, he then has the daunting challenge of financing his education. The average cost of tuition — not including books, computer, or living expenses — can exceed the annual income of the majority of Americans. Starting years ago, the average tuition for law school surpassed the amount that students could borrow from the government. This forces all students to finance their tuition either through alternative, private loans or through family assistance. Yet not everyone is in a position to take out non-public loans or has a qualified co-signer, nor is everyone able to rely on financial support from relatives. Each year as law schools increase tuition, most institutions fail to provide need-based financial aid. As a result, low-income students are left to fend for themselves — facing the choice of finding a way to pay for school all alone or giving up their dream of becoming an attorney. This situation amounts to a tragic form of discrimination carried out by law schools: classism.
In recent years, tuition has increased at an alarming rate, in large part as a result of law schools’ attempts to improve their positions in the U.S. News and World Report rankings. As Paula Lustbader, professor of law and director of the Academic Resource Center at Seattle University School of Law, discusses in an upcoming article, a primary reason for this discrimination against low-income students is the push to increase the school’s rank. It works as follows: the simplest way for a law school to climb the list is to raise the median LSAT score. In an attempt to bring in students with high LSAT scores, law schools entice such high test performers with merit scholarships. Not only does this reward students who are most likely able to afford an LSAT preparation course, but also, in using all scholarship funds for merit scholarships, the school provides a form of financial aid to many who may not need it, instead of providing aid to assist the low-income students who would truly benefit from financial support. (Ironically, merit-based scholarships are often subsidized by tuition revenues paid in part by those students who are least able to afford the resulting higher rates.)

Another way that schools try to improve their rankings: increasing the scholarly output and prestige of their faculty. Prominent legal thinkers demand high salaries, and high salaries siphon school funds. To remedy this drain on funds, schools increase tuition, which hits low-income students the hardest.

Other efforts to increase the standing of the school include hosting elaborate events, and expansion through costly construction of the institution’s physical plant. In sum, schools raise tuition to pay costs justified by the priority of prestige. That priority is misplaced. The priority should be meaningful access to all worthy students, regardless of their income. Meaningful access for low-income students cannot be achieved without providing need-based aid. Yet due to the desire to rise in the ranks and improve their reputation, schools turn the focus toward prestige, which in turn, causes class disparity. And while many students and graduates of the law school reap the benefits of those efforts to obtain prestige, low-income students pay the highest price for those benefits. The more prestigious the school desires to become, the more low-income students suffer.

A school’s system of measuring merit also disadvantages low-income students. Upon entry, one of the only manners in which an incoming student can receive a scholarship is to have a high LSAT score. The adverse situation low-income students endure with affording LSAT classes carries over into how they finance their legal education. Such students may seek financial advice from the school’s office of financial services. Financial services staff will inform the student that the school will do nothing to assist her. That information sends a crystal-clear message regarding the school’s attitude toward low-income students: have money or do not come to our school. That message has a devastating impact, and those who wish to fight against it struggle their way through law school by paying tuition out of their own pockets.

During law school, low-income students also suffer through the grading system. Law schools force students to compete against each other for basically everything—especially grades. Statistically, high-income students perform better than those who are forced to balance a heavy workload from a job with the heavy homework load from law school. Most students on the Dean’s List are individuals who do not have to pay tuition out of pocket—yet those are the only students who receive scholarships. Not to downplay the achievement of students on the Dean’s List, but low-income students are not given equal opportunity to compete because they have to fight the school’s policy to not provide need-based financial aid. That policy is indicative of an innate bias towards high-income students.

Working during law school is no easy task, especially when a student must work enough hours to pay tuition. Professor Lustbader has conducted thorough research in the area of diversity in law school and recognizes that low-income students endure additional stress because their economic status places more pressure on them. Not only do they struggle with the regular stress of law school, but they also have to deal with the additional stress of being low-income. Working students have few days off during a semester because they have to work enough to pay tuition, while at the same time spending enough hours on coursework to stay afloat at school. A day off work means a day without money, and a day without studying means falling behind at school. As a result, low-income students work approximately 12 hours a day, seven days a week—in addition to keeping up with their course load. Naturally, the resulting stress load can be unbearable. The stress can take physical form through illness, muscle tension, lack of sleep, and headaches. It can also take shape as emotional issues such as depression, anger, and fear.

In addition, low-income students face social isolation. Most law students do not work, at least not as much as low-income students. Higher-income students may be ignorant to the suffering of low-income students, and may not understand why low-income students do not simply take out a loan or ask family for help. As a result, low-income students may be recipients of an insensitivity that forces their heads down in embarrassment. Also, low-income students are unable to participate in social activities because they typically cost money, depriving them of opportunities to join social circles that can support them through law school.

As if the physical and emotional suffering were not enough, low-income students are unable to take advantage of professional opportunities. For example, low-income students are often unable to participate in study-abroad programs, externships, or unpaid internships because such opportunities mean that the student is unable to work. Consequently, low-income students are unable to make vital professional connections or enhance their resumes with incredible experiences such as working at the International Tribunal for Yugoslavia or being an extern for a judge. Many low-income students may desire to work in the public interest, but most public-interest law firms hire only unpaid interns. Therefore, because low-income students are not able to take unpaid internships, when they graduate they lack the requisite experience to get hired by a nonprofit entity.

Low-income students deserve to be rewarded. The task of balancing work with the demands of law school is difficult, to say the least. Students who manage that balance are doing something that not everyone can do. In fact, as Professor Lustbader recognizes, merely being in law school means that low-income students have motivation, dedication, and passion: qualities necessary to thrive in the profession. But most law schools do not reward those students with scholarships and receptions. Rather, schools continue to engage in policies that push low-income students farther into the shadows.

Despite the built-in classism that exists throughout law schools, many law schools boast about achievements in diversity. But true diversity means actual access for low-income students, which cannot exist with-
out need-based aid. While many minorities are from a diverse socio-economic background, the reach for diversity must extend beyond ethnic diversity. In fact, “socio-economic status discrimination is the predominant impediment to achieving meaningful educational diversity.” This is true for two primary reasons. First, many ethnic-minority students are also low-income students. When schools do not provide need-based aid, they force low-income students out of law school. In turn, many ethnically diverse students are excluded from law school, thereby decreasing diversity. Second, experts in the area of diversity in law school, including Professor Lustbader, acknowledge that low-income individuals are underrepresented members of the community. The arm of classism reaches farther than just to ethnically diverse students, also touching students who are not ethnically diverse but are from diverse socio-economic backgrounds, and who are also forced out of law schools merely for the inability to pay steep tuition rates. If law schools would simply provide financial assistance to low-income students, then true diversity could be more easily accomplished.

As Professor Lustbader explains, true diversity is necessary for the legal profession. In particular, attorneys who were low-income students have the potential to bring a unique and exceptional quality to the profession. Many clients are low-income individuals. Lawyers who have neither lived that hell nor interacted (as peers) with those who have lived that hell may not be able to connect or empathize with low-income clients. Although lawyers from all backgrounds are compassionate, lawyers who have overcome the adversity of being a low-income student may be able to bond through a special kind of compassion: compassion as a result of shared experience.

Even lawyers who were able to interact with low-income students as classmates will be able to connect with clients in a more meaningful way. In Grutter v. Bollinger, 539 U.S. 306 (2003), many organizations submitted amicus briefs on behalf of an admissions policy that took diversity into account. Those briefs discussed the variety of studies that demonstrate the positive impact of interaction with a diverse student body. By interacting with low-income students, other students are exposed to the struggles of others who have overcome otherwise-unfamiliar barriers to success. That awareness leads to understanding, and that understanding leads to more compassionate and better lawyers.

In sum, even though law schools may use methods through which they attempt to achieve diversity, those strategies are in several ways illustrative of an inadequate definition of diversity. True diversity extends beyond ethnic diversity and includes low-income individuals who are currently the invisible minority. They fight through classism before they even enter into law schools because of the over-reliance on undergraduate GPA and the LSAT. At law school, low-income students suffer in silence as they endure the almost-impossible task of paying the ever-rising cost of tuition. Tuition rates continue to soar because of the schools’ focus on boosting their places in the national rankings. That focus forces low-income students farther into the background, and true diversity is pushed farther from reality. To make true diversity a reality, law schools must change the method by which they recruit new students and assess merit. And, most importantly, schools must provide need-based financial aid.

Rebecca Rook is beginning her third year at Seattle University School of Law this fall. She works as a legal intern at Rand L. Koler & Associates, P.S. She enjoys traveling and reading up on history and current affairs.

2009 WYLD Outstanding Young Lawyer: Eric Koester

2009 WYLD Outstanding Young Lawyer Eric Koester receives his award from WYLD President Julia Bahner at the WSBA Business Law Section Annual Meeting.

Save the Date

CLE Express #14: Olympia Saturday, September 11

New and young lawyers gather for free CLE credits and networking in Olympia. Sponsored by the WYLD CLE Committee and WYLD Member Outreach Committee.

For more information, contact Brian Halcomb, WYLD liaison, at 206-727-8205 or brianh@wsba.org.
The WYLD and WSBA Solo and Small Practice Section co-sponsored a networking event at Bellevue’s Rock Bottom Brewery and Restaurant on June 23. The popular event, which had more than 40 participants, provided attendees with opportunities to network with established attorneys and (for those who were interested) to build some mentoring relationships. More networking events between the WYLD and Solo & Small Practice Section, as well as other WSBA sections, are in the works. Stay tuned for more information about these upcoming events this fall.

Above left: The WYLD Member Outreach Committee gathers new and young lawyers to cheer on the Seattle Sounders.

Below right: Mike Heath and Kim Tran, co-founders of the Washington Minority Bar Associations Collaboration Project, cut a cake to recognize five-year sponsors of the Statewide Diversity Conference.

Above: A group of young lawyers converses with WSBA President-elect Steve Toole at the WYLD-WSBA Solo and Small Practice Section networking event.

Above left: The WYLD Member Outreach Committee gathers new and young lawyers to cheer on the Seattle Sounders.
De Novo

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