

Avvo.com: A Young Lawyer's Best Friend

by Mark Britton

Avvo.com: A Young Lawyer's Best Friend	1
by Mark Britton	
Editor's Column	2
by Shelley A. Ajax	
Ethics Corner	3
by Dean Chuang	
Seattle University School of Law Joined Loren Miller Bar Association in Celebration of the Appointment of Judge Richard Jones to the U.S. District Court	4
by Grace Greenwicz	
Traditional IRA vs. Roth IRA: Which One Is Right for You?	5
by Michael Heath	
Fantasy Sports League Players Have Reason to Rejoice	6
by Ryan M. Rodenberg	
YLDers Brave the Snow for Bellingham Students	7
Greater Spokane District Trustee Report	7
YMCA Mock Trial Program Seeks Volunteer Attorney Raters and Judges for the State Championships	8
WYLD President-elect and Trustee Applications Sought	8
The ABA Young Lawyers Division Hosts First Diversity Summit	9
The BOG Report	10
by Jason T. Vail	
WYLD Committee and Program Chairs	11
WYLD Board of Trustees	11
Get Involved in the WYLD Membership Committee	12

I want to thank *De Novo* for allowing me to comment on the article “*Avvo.com: A Young Lawyer’s Worst Enemy – or Best Friend?*” by Laura Chuang. Ms. Chuang certainly put a lot of time into her article; however, as the founder and CEO of Avvo, I wanted to add my own thoughts on why Avvo should be every young lawyer’s best friend.

The Best Friend

So you are a young lawyer who wants to show the world, or at least paying clients, what you can do. Who *should* be your best friend? Let’s see, in Washington, the Yellow Pages will charge you as much as \$80,000 for a one-year, full-page ad. Legal directories will extract their own pound of flesh if they are going to “recommend” you to one of their customers. Hmmm ... how about applying for a Martindale Hubbell AV Rating? Or, better yet, maybe you will be knighted as a Super Lawyer? Don’t hold your breath.

And that is where Avvo comes in – the free website that rates and profiles every lawyer to help consumers choose the right lawyer. Avvo is the best friend of young lawyers because, in the following ways, it gives them a fighting chance against older, more-established lawyers:

- **Avvo is free.** For no charge, promises or commitments, you can claim your free Avvo profile and update it with as much information as you want as often as you want. You do not need a credit card to claim your Avvo Profile as long as you have an e-mail address on file with the Washington State Bar. (Note: The WSBA is not affiliated in any way with Avvo; Avvo simply requires a credit card or e-mail address that can be verified on the WSBA website.)
- **Avvo gives you a presence in the legal marketplace.** The hardest part for young lawyers is establishing a presence. As discussed above, it is hard if not impossible to have legal directories or rating systems take

note of you without years of experience or a fat check-book. Your Avvo profile includes a free Avvo rating, which is our attempt to evaluate your professional background. If your Avvo rating is lower than you think it should be, upload data regarding your legal accomplishments, and chances are it will rise. If you are a little lean on legal accomplishments, have your happy clients review you or lawyers with whom you have worked endorse you. All of these will help to build your online presence.

- **Avvo lets you show what you know.** Many young lawyers will say to me, “I’m a great lawyer, but I have a tough time getting clients because I am just out of law school.” Avvo helps young lawyers solve this problem. Avvo Answers allows you to show off your legal skills and interact with potential clients by answering real questions from real consumers. In your Avvo profile, you can also list the cases you have worked on with your own commentary, list articles you have written with links to the articles, and list your primary practice areas with commentary around those practice areas. These are just a few examples, and we are adding new features all the time.
- **Avvo can be your website.** As a young lawyer, chances are you don’t have your own website. Don’t worry – neither do roughly a third of practicing lawyers in the United States. Now, you can pay a website development firm a gazillion dollars to develop your website. Then you can pay a search engine consultant a gazillion dollars to optimize your site for search engine crawlers. Then you can call back the website development firm to maintain the site every time it goes down or you need to make a change. Then, when no one comes to your site, you can pay Google \$50 for one click to your website (yes, that is a real number ... legal advertising can go for as high as \$70 per click). OR, you can claim your Avvo profile, and let Avvo do all of the above for you.

- **Avvo lets you show off your network.** Having started out in a small law firm, I can tell you from experience that young lawyers survive by relying on their virtual law firm – those lawyers that help them on
- continued on page 4*

Editor's Column

by Shelley A. Ajax



As I write this I am embarking on a major stressful event: I am getting ready to move my law firm. As a “young lawyer” I couldn’t help but wonder if there are others out there who may be facing this kind of major change. You see, it’s not the first time I had to move, it is the second. The first time was in the middle of an ice storm. Good times. Since then, the thought of moving an entire firm makes me feel ill. What follows is a little practical advice for you if you’re contemplating such a move. And a few honest words of concern, such as, I worry about whether I should continue to lease or if I should build. I know it is not the right time to build although I want to start the investment process. I finally decided that I must continue to lease.

I am concerned about losing clients. What if they cannot find me? I have anxiety about whether my mail will actually be forwarded so I can pay my bills and correspond in a timely fashion. What a mess changing all of the business cards, letterhead, checks, telephone numbers, and fax numbers. Most importantly, for personal reasons, can I keep my office dog in the new leased building because that is just a deal breaker. It is a whirlwind to move and attempt to keep the firm open and above board.

Type A personality and all, I am not able to let go and allow anyone else to look at buildings for me or narrow the search. During the first move, I didn’t think anyone else could make any decisions about the entire deal. I wound up doing it all and trying to balance the practice at the same time. What a big mistake in my thought process, but a true one. I realized that I was a worry wart. With a staff of five, I finally learned how to manage this second move without doing everything myself. Here is my practical advice for those who are considering moving:

1. You must pick the building on your own.
2. You must hold a staff meeting and dole out the rest of the responsibilities.
3. You must supervise the move, but not be actively involved in the moving of items.
4. Plan hard.

There is no other who can pick the building, location, and price except for the attorney who is tied to the responsibility. Visualizing the structure and success is only something the attorney can do. A staff member is not concerned about growth, cost, or the future. You only know one thing for sure: you will be in that building for the lease time period and your staff may come and go. You must make sure you are happy with the structure or you will be irritable every time you enter the building.

Once you have found a building and signed a lease, get your staff together and organize who is going to do what. Someone else can take care of almost all of these details. Most importantly you must follow up to make sure these details are being handled. This allows you to continue to practice and take on a management role. It is imperative because each move will affect your clients and practice in some manner. Followup cannot be underestimated at this point. Fail here and you will show up at your new building without phone service.

Most young lawyers cannot afford to hire out the actual moving of the equipment and supplies. Actively involve your staff and friends. Include any clients you trust who owe you money and barter services. Be cautious about confidential information, but this is a good way to get clients to pay their bills while helping you out at the same time. Set up several teams of moving groups. Don’t rent one large U-Haul or truck. Rent several small trucks and assign them to three-people teams who have designated areas in the office to move. The first two people should be capable of heavy lifting and the third person can be a teenager who is simply opening doors and assisting. Having small teams assigned to areas will save you a great deal of time. It can be a big headache if people are standing around waiting for one large truck to be filled. It’s natural to think this is the way a move should occur, because that is how we naturally would move our home with a moving company. When you have more than one truck, the teams can work independently on moving and setting up their areas as assigned. They stay focused and the task appears to be much smaller for them and they won’t become overwhelmed. It also allows the attorney at the new building to have a rotating influx of equipment to organize and manage rather than one big mess at the same time.

Do not lift the boxes or equipment on your own. Take your most trusted employee and have him remain at the old building. You remain at the new building and direct the setup there, as you are the only person who has visualized the interior plan of the building.

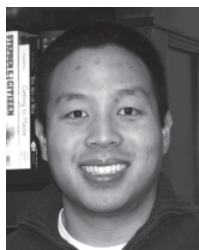
Lastly, be certain to have your technology person on board to be available to make sure the network and telephones work once you have set them up. It’s the most important part of your business, because you cannot function without either. Ice storms and all, that is what I have learned. Oh, I forgot, you must have plenty of pizza and drinks on hand for those helping you move.

Shelley A. Ajax is the editor of De Novo. Ms. Ajax is a solo practitioner in Richland, Washington. She can be reached at 509-946-7778 or shelly@ajaxlawfirm.com. All opinions are solely her own and not those of WYLD, the WSBA, or De Novo.

Ethics Corner

Flat-fee Funds to be Deposited Directly Into Lawyer's Accounts Under Proposed Amendments to RPC 1.5 and 1.15A.

by Dean Chuang



Of all the malfeasant acts a lawyer can do, the mishandling of client funds tends to be at the top of the list. In 2005, the Trust Account Responsibilities and Retainers Task Force (TARRTF) was formed to make recommendations on the handling of various types of advance fee agreements. The task force recommended and the Board of Governors approved the adoptions of amendments to RPC 1.5 and RPC 1.15A. The amendments were presented to the Washington

State Supreme Court for consideration.

The proposed amendment to RPC 1.5 addresses flat fees and availability retainers. This question was addressed in Formal Ethics Opinion No. 186, but the opinion was withdrawn after the Supreme Court's decision in *In re Discipline of DeRuiz*.¹ In *DeRuiz*, the lawyer was disciplined after failing to refund client funds pursuant to a non-refundable agreement. *DeRuiz* argued that the fee arrangement was permissible under Opinion No. 186,² but the Court disagreed by stating that Opinion No. 186 dealt with a true availability retainer. In *DeRuiz*'s case, the Court characterized the agreement as a flat fee arrangement that was unreasonable because the lawyer never performed as promised.³ The Court's decision did not address whether flat fee agreements were permissible or whether flat fees could be deposited in a lawyer's account after receipt.

When Opinion No. 186 was withdrawn, lawyers lacked guidance on how to handle these type of fee agreements. Proposed amendment to RPC 1.5 creates two exceptions to the general rule that fees paid in advance must be kept in client trust accounts until earned. The two exceptions are availability retainers and flat fee agreements. An availability retainer is a fee paid in advance to a lawyer to secure his availability. This retainer cannot be used to fund any additional work on the client's case. In other words a retainer and advance fee deposit cannot be used interchangeably. The two are mutually exclusive. A flat fee "[c]onsitutes complete payment for those services and is paid in whole or in part in advance of the lawyer providing the services."⁴ Furthermore, the flat fee agreement must be in writing with disclosures stating the funds will be deposited into the lawyer's account and that deposit of such funds will not impair the ability of client's right to a refund. As with all fee arrangements, the flat fee must be reasonable. The proposed amendment also outlines dispute resolution mechanism and prohibits the use of the terms "nonrefundable," "earned upon receipt," and "minimum" in characterizing flat fee agreements.

The proposed amendment to RPC 1.15A deals with the safeguarding of client property. Under the proposed amendment, a lawyer may deposit client funds directly into the lawyer's account upon receipt when there is a availability retainer or a flat fee agreement with the client as permitted under proposed amendment to RPC 1.5. The practical effect of this rule change is that fees from client-attorney agreements under proposed amendment to RPC 1.5 are fully earned, except clients are entitled to refunds if the work is not performed.

As with any new proposals, there are benefits and disadvantages. Some foreseen benefits are:

- \$ The flat fee proposal allows firms to directly deposit client funds into operating accounts. This is vital for many lawyers' economic survival.
- \$ In criminal matters, a flat fee may be the only time a lawyer is paid. Unlike other matters, lawyers in criminal matters may only withdraw with permission from the court. The fact that the client has exhausted funds may not allow a lawyer to withdraw.
- \$ Clients are fully apprised of the cost of representation.
- \$ Allows clients to afford representation and allows lawyers flexibility to run their practices in an economical matter.

However, the flat fee proposal could prove problematic in several ways:

- \$ If a lawyer enters bankruptcy or is subject to personal judgment, it may be impossible for a client to recover flat-fee funds in such a case where the lawyer did not provide the services promised. Without client funds in trust, creditors will likely have priority over any unearned client funds.
- \$ In instances of lawyer-client fee disputes, a lawyer must refund any amount that he reasonable believes is unearned or, if there is a disagreement in regards to the client's entitlement to a refund, the disputed amount must be placed in trust. The fact that lawyers may have already spent the money on firm overhead and other expenses may put the lawyer in a position of not being able to comply with the RPC.

The proposed amendments to RPC 1.5 and 1.15A attempt to clarify and guide lawyers though the minefield of fees and client property – specifically, what fees lawyers may deposit into their own account and what fees must be held in trust. Furthermore, the proposed rules create a precise distinction between retainer and advance fee deposit. These rules can help lawyers draft clearer fee agreements, so that clients will better understand the conditions of their funds. In November 2007, the Supreme Court published the proposed amendments for comment on the Court's website. Any comments must be received before April 30, 2008 in order to be considered in the Court's decision. If the proposed amendments are adopted they will be republished and become effective on September 1, 2008. Regardless, lawyers should pay close attention to the developments and be prepared to change their practices accordingly.

Dean Chuang is an associate attorney at Ajax Law Firm in Richland, Washington. He can be reached at 509-946-7778 or dean@ajaxlawfirm.com. All opinions are solely his own and not those of WYLD, the WSBA, or De Novo.

1 152 Wn.2d 588, 99 P.3d 881 (2004).

2 WSBA Formal Ethics Op. No. 186 (1990) [withdrawn December 9, 2005].

3 *In re DeRuiz*, 152 Wn.2d at 574.

4 Proposed Rule 1.5(f)(2).

Seattle University School of Law Joined Loren Miller Bar Association in Celebration of the Appointment of Judge Richard Jones to the U.S. District Court

by Grace Greenwich

Seattle University School of Law and the Loren Miller Bar Association (LMBA) partnered to co-host a reception in honor of the appointment of Judge Richard Jones to the U.S. District Court. More than 100 alumni, students, LMBA members, judges, and members of the legal community gathered at the law school in early December to celebrate his achievements. Judge Jones is a long-time LMBA member and two-term president of the association. Judge Jones is also an alumnus of Seattle University and a devoted friend of the law school.

Dean Kellye Testy applauded Judge Jones for serving the legal profession with integrity and dignity, and leaving all those he impacts with a great role model. “We are delighted with the appointment of Judge Jones to the federal bench,” said Testy. “We are so proud of him and so appreciate his extraordinary public service.”

Judge Jones served as deputy prosecuting attorney for King County and as an assistant U.S. attorney for the Western District of Washington. Judge Jones has also served as a staff attorney for the Port of Seattle and as an associate with the Bogle & Gates law firm. In 1994, Judge Jones was appointed to the King County Superior Court and has been re-elected by the citizens of Washington state on three occasions. Judge Jones has presided over several high-profile cases, including sentencing the “Green River Killer,” Gary Ridgway, to 48 consecutive life terms.

In addition to his judicial duties, Judge Jones has served on numerous boards and committees, including the Seattle University Board of Regents, the KCBA Awards Committee, the KCBA Martin Luther King Jr. Celebration Committee (co-chair), the Washington State Minority Justice Commission, and the Northwest Minority Job Fair Committee.

Even as the program honored the contributions Judge Jones has made in the legal profession and in the community, it was clear to see he had touched and inspired the lives of everyone in the room on a very personal level. As Judge Jones ended his remarks, he thanked his wife and everyone in his life, stating he “did not do this alone.”



Grace Greenwich is the alumni relations director at Seattle University School of Law and can be reached at greenwig@seattleu.edu.

Avvo.com: A Young Lawyer’s Best Friend from page 1

complex legal issues. Through Avvo’s peer endorsements, you can have lawyers from your network endorse you and say a nice thing or two about you while they are at it. Peer endorsements will also help your Avvo rating because, in our opinion, they are a form of industry recognition.

Supporting Cases

In the end, don’t just take my word for it. Take a spin through Avvo and see all of the young lawyers that are already using it to their advantage. A great example is Nathan Webb, a fourth-year lawyer at Fox Bowman Duarte in Bellevue. His Avvo rating is 9.2 or “superb.” Looking at his profile, I am not surprised, as Nathan has garnered considerable industry recognition in his four short years as a lawyer. He also currently has six stellar client reviews and four peer endorsements, and he has submitted ten Avvo Answers. I particularly like this quote from Nathan where he says, “I have utilized *Avvo.com* since its inception and found it to be an invaluable tool. I included the Avvo rating badge on my website, www.WashingtonDUIArrest.com, and know it is a great aid for potential clients who are assessing and comparing my services and experience with other attorneys in my area of practice. As a younger attorney, I believe that internet marketing is immeasurable and Avvo.com offers a great tool to really promote myself to clients.”

Other examples of young attorneys leveraging Avvo are Heidi Hunt, a fifth-year solo practitioner in Bothell rated 8.4 or “excellent,” and Robert Hyde, a fourth-year lawyer at Rafel Law Group in Seattle rated

10.0 or “superb.” Very impressive – both in the accomplishments of these attorneys *and* their marketing sophistication.

Closing Argument

It is so hard for young lawyers to get their legal practices moving. Sitting in your office with sharpened pencils and a pressed suit – waiting for your next (or maybe even first?) referral – will seldom do it. Expensive advertising is not much of an alternative either.

Young lawyers need to get out there and bring the business to them. How? Avvo. Avvo *can* help you get your practice moving, no matter how long you have been practicing or how fat your wallet is. Avvo gives you a free and immediate marketplace presence. It gives you a free and immediate web presence. It gives you a free and immediate place to show off your skills and your network. Yes, an astute lawyer can spot potential issues regarding Avvo or any other advertising tool; but, the entrepreneurial lawyer simply spots the opportunities to move his or her practice forward.

Since its launch in June 2007, almost 2,000 enterprising lawyers in Washington have claimed their profiles on Avvo ... their new best friend.

Mark Britton is the CEO and president of Avvo.com (www.avvo.com). He is a 15-year lawyer and the former general counsel of Expedia.com. You can reach Mark at mb@avvo.com. You can also find some of his other ruminations at www.avvoblog.com. All opinions are solely his own and not those of WYLD, the WSBA, or De Novo.

Traditional IRA vs. Roth IRA: Which One Is Right for You?

by Michael Heath

Even as a young lawyer, it's never too early to begin planning for retirement expenses. Whatever you see for yourself in retirement – whether it's work, leisure, or something in between – you'll need sufficient funds to ensure yourself an adequate income on which to live. It used to be that most people could rely solely on employer-sponsored pension plans and Social Security payments to provide for a comfortable retirement. Not so today!

More people than ever are responsible for planning and funding their own retirement, and one of the most effective and popular retirement savings vehicles is the individual retirement account (IRA). This article provides an overview of two different types of IRAs – the traditional IRA and the Roth IRA.

The Traditional IRA

Your savings in a traditional IRA get the benefit of tax-deferred growth until those savings are withdrawn. Contributions may or may not be tax-deductible depending upon your income level and whether you (and your spouse, if married) are covered by an employer's qualified retirement plan (see below).

If you are a working individual under the age of 70-1/2, you are eligible to contribute 100% of your earned income, up to \$5,000 in 2008, to a traditional IRA. If you are age 50 or older, you can make an additional \$1,000 catch-up contribution for the year. Single-income married couples may contribute 100% of earned income up to \$10,000 for 2008 (plus catch-up contributions, if eligible), although no more than \$5,000 (\$6,000 if age 50 or older) can be contributed on behalf of any individual each year.

Contributions to a traditional IRA have always been, and remain, tax deductible for:

- Single taxpayers who are not covered by such an employer-sponsored qualified retirement plan, and
- Married couples filing jointly where neither spouse is covered by such an employer-sponsored qualified retirement plan.

Deductibility for individuals who are covered by an employer-sponsored qualified retirement plan depends on adjusted gross income (AGI). IRA contributions for 2008 are fully tax deductible for:

- Single taxpayers covered by an employer-sponsored plan, if their AGI doesn't exceed \$53,000 in 2008, and
- Married individuals covered by an employer-sponsored plan, whose joint AGI doesn't exceed \$85,000 in 2008.

Tax-deductibility is phased out as AGI rises above these limits.

For 2008, if one spouse is covered by an employer-sponsored qualified retirement plan and the other is not (whether a working or non-working spouse), the spouse who is not covered may deduct his or her IRA contribution, as long as the couple's joint AGI doesn't exceed \$159,000. A partial deduction is allowed for those with AGI between \$159,000 and \$169,000. No deduction is allowed where the couple's joint AGI exceeds \$169,000. Investors who do not qualify to make tax-

deductible contributions can still contribute up to the annual maximum for a particular year to a traditional IRA and benefit from the potential of tax-deferred growth. Withdrawals of tax-deductible contributions, as well as all earnings, are taxed as ordinary income (withdrawals made prior to age 59-1/2 may also be subject to a 10% penalty tax).

The Roth IRA

The Roth IRA is similar to a traditional IRA in that earnings grow without being subject to current taxes. Eligible taxpayers may contribute up to \$5,000 (\$6,000 if age 50 or older) of earned income to a Roth IRA for 2008. The annual limit applies in the aggregate, whether contributions are made to a Roth IRA, a traditional IRA, or a combination of the two. Contributions of earned income may be made to a Roth IRA on behalf of a spouse even if he or she has little or no earned income.

However the Roth IRA is different from the traditional IRA in several important ways:

- Contributions are made only with after-tax dollars (since contributions are made after taxes, they can always be withdrawn tax-free and penalty-free).
- Income eligibility phase-out limits for contributing to a Roth IRA for 2008 are \$101,000 to \$116,000 for single taxpayers and \$159,000 to \$169,000 for married taxpayers filing jointly.
- There are no required minimum distributions from the Roth IRA at age 70-1/2 (as there are with a traditional IRA). Contributions can be made beyond age 70-1/2, as long as there is earned income.
- Withdrawals of earnings can be made income-tax and penalty tax free if the account has existed for at least five tax years, and any one of the following conditions is met:
 - 1) Attainment of age 59-1/2,
 - 2) Disability,
 - 3) The distribution is for the first time purchase of a home up to a lifetime limit of \$10,000, or
 - 4) Death of the account holder.

Converting a Traditional IRA to a Roth IRA

If you qualify, you may be able to convert your existing traditional IRA funds to a Roth IRA. This conversion of assets from a traditional IRA to a Roth IRA can be done only if the individual or married couple has AGI of no more than \$100,000 for the year of the conversion and the taxpayer is not a married individual filing a separate tax return. In addition, it can only be done on an after-tax basis. Therefore, the account holder must pay ordinary income taxes on the portion of the

continued on page 8

Fantasy Sports League Players Have Reason to Rejoice

by Ryan M. Rodenberg

Fantasy sports league players should celebrate. And it has nothing to do with how many touchdowns Tom Brady or Peyton Manning threw in during the recently completed NFL season. Nor does it have anything to do with Kevin Garnett's first season in a Boston Celtics' uniform.

Instead, they can thank Morris S. Arnold and Dennis M. Cavanaugh. Who?

Arnold and Cavanaugh are not unknown players mistakenly overlooked in the last fantasy draft. Rather, they are federal court judges who recently ruled on important legal issues central to the continued viability of the wildly popular fantasy leagues – a \$1.5 billion industry with at least 15 million players.

“We hold that [the] First Amendment rights in offering...fantasy baseball products supersede the [MLB] players' rights of publicity,” wrote Judge Arnold in *C.B.C. Distribution and Marketing, Inc. v. Major League Baseball Advanced Media, L.P.*, 06-3357/3358 (8th Cir. Oct. 16, 2007).

And, with that single sentence, fantasy leaguers should be happy. Player names and statistics, a key aspect of the internet-fueled phenomenon, now have a certain degree of First Amendment protection.

The other lawsuit yielded a similar fantasy-friendly result.

“As a matter of law, the entry fees for...fantasy sports leagues are not ‘bets’ or ‘wagers,’” wrote Judge Cavanaugh in *Humphrey v. Viacom, Inc., et al*, No. 06-2768, (D.N.J. June 19, 2007).

So, paying entry fees for participation in fantasy leagues isn't considered illegal gambling either. That's good news to wannabe general managers across the country.

In the wake of several sports scandals last year, the import of these two cases has been largely overlooked. In the first lawsuit, a small-time baseball fantasy league operator named CBC filed a complaint against MLB's media arm. The lawsuit sought a declaratory judgment stating that it is okay for CBC to continue to use actual player names and statistics in its fantasy league.

Why did CBC sue the monolith MLB? Well, MLB posited that all player names and accompanying statistics are “owned” by MLB. At the same time of the litigation, MLB was planning to launch its own “official and exclusive” baseball fantasy league, where MLB would collect all entry fees and distribute the loot among its teams and players.

Because “the information used in CBC's fantasy baseball games is all readily available in the public domain...it would be strange law that a person would not have a First Amendment right to use information that is available to everyone,” wrote Judge Arnold.

No one wants “strange law.” As a result, fantasy players will continue to have a wide choice of leagues in which they could participate. For now, MLB may appeal the decision to the U.S. Supreme Court.

In the other case, a Colorado attorney filed a class action lawsuit in New Jersey alleging that thousands of fantasy league players should be entitled to recover monetary damages from ESPN.com, CBS Sportsline, *The Sporting News*, and other fantasy league organizers. The complaint asserted that such media outlets are, instead of merely operating a fee-based fantasy league, running (and profiting from) illegal gambling ventures. Judge Cavanaugh dismissed the case, finding fantasy sports to be more about skill than luck. He also concluded that, unlike actual gambling, there are no winners or losers in the fantasy leagues.

Like video games, fantasy sports leagues wouldn't be as popular as they currently are unless real players and statistics were used. If a computer randomly spit out statistics to accompany hypothetical players, there would be a measurable drop-off of interest in both the fantasy leagues and the actual games with the players.

MLB, and other sports governing bodies such as the NFL and NBA, should recognize this. A significant portion of the fans paying high ticket prices, buying team-licensed merchandise, and purchasing products advertised on the game telecasts follow certain teams and players because they are managing their own fantasy teams. It would be foolish for MLB, and others, to go after the CBCs of the world for something anyone can read in the newspaper or online.

With both court decisions recently being handed down, fantasy leaguers should sleep well at night knowing that they aren't illegally gambling or are at risk of having their favorite hobby monopolized. That is, of course, if they sleep at all. Maybe they are pulling an all-nighter looking for someone willing to trade a second-string running back for their back-up quarterback before the beginning of the 2008-09 NFL season.

Ryan M. Rodenberg, Esq. teaches sports law at Indiana University – Bloomington. He can be contacted at rmrodenb@indiana.edu or www.sportslawprofessor.com. © Ryan M. Rodenberg, 2008.

YLDers Brave the Snow for Bellingham Students

“Neither snow, nor rain, nor heat, nor gloom of night”¹ kept the YLD from hosting its first Pre-law Student Leadership Conference in Bellingham on December 1st. Inspired by the annual Yakima conference coordinated by Michael Talbott, the Bellingham conference was a joint effort between Amy Robinson, Northwest Trustee, and the YLD’s Pro Bono and Public Service Committee.

The conference began with introductory remarks by Mark O’Halloran, YLD president, followed by small workshops that introduced the students to different areas of the law and different ways of using a law degree. For example, one workshop involved the students dividing into teams to discuss U.S. immigration policy and the proposed border fence along the U.S./Mexico border. Each team then selected members to present their arguments to a mock congressional panel comprised of YLD members.

After the morning workshops, the students watched interviews from “What Would You Do if You Knew You Couldn’t Fail?,” a video produced by the WSBA Leadership Institute Class of 2006. The video explores the life stories of five inspirational and successful individuals from diverse backgrounds and professions. Using the themes from the interviews as a foundation, the students then participated in a moderated panel discussion with Mark O’Halloran and a number of attorneys from a wide-range of personal and professional backgrounds, including local YLD members and members of the YLD’s Board of Trustees.

Although more than 70 middle school and high school students pre-registered for the conference, attendance was somewhat thwarted by the early December snow storm that started blanketing the region the night before the event. The students who managed to brave the weather and road conditions were very grateful for the experience and opportunity; many commented that the conference was the first of its kind in the area.

Students were not the only victims of the early season snow storm: the video and panel discussion was originally planned to follow a keynote speech by the Honorable Ricardo S. Martinez, United States District Court Judge for the Western District of Washington, who graduated from local Lynden High School. But unfortunately, Judge Martinez awoke on December 1st to find himself trapped in snow 20 miles east of Seattle. Although he was unable to attend, the YLD would like to thank Judge Martinez for his gracious offer to speak at the conference.

Given the success of the Bellingham conference, the Pro Bono and Public Service Committee is now working with Daniel Gasperino, Southwest District trustee, to plan a similar conference for Vancouver. If you are interested in volunteering for the Vancouver conference, please contact one of the Committee’s co-chairs, Erin T. Hall (erin@seattle-immigration.com) or Jason P. Amala (jamala@gth-law.com).

Washington Young Lawyers Division Greater Spokane District Trustee Report

Greetings from the Greater Spokane District! For those of you who might not be aware, the Greater Spokane District includes the counties of Stevens, Pend Oreille, Lincoln, and Spokane. If there are any young lawyers out there who want to be kept informed about the happenings of the Washington Young Lawyers, please contact me and I would be more than happy to provide you with all the information I can.

The Spokane County Young Lawyers Division (SYLD) has been keeping busy this winter with organizing our spring programs. At our last meeting we formed a committee to organize this year’s Aspiring Youth Program. The committee is very excited about getting the program up and running; however, the many details have not yet been decided. Please feel free to contact me with any questions, or if you would like to be involved.

Also on this spring’s agenda is Law Day. Each year Spokane lawyers, young and more experienced, participate in Law Day by attending local junior high or high school classes to teach the students about the law. This program has received tons of positive feedback and we are all very excited to participate this year. If you would like some information on how to bring Law Day to your county, please let me know.

In our continuing effort to keep GAAP (Greater Access and Assistance Program) ongoing in Spokane County, we are working hard to recruit more attorneys willing to take on GAAP cases. For those of you who may not be familiar with GAAP, it is a reduced-fee legal service program. These clients typically do not meet the financial requirements for free legal services, although full price legal services are out of their reach, and often times fall into the “gap.” GAAP is an excellent program for attorneys in the beginning years of their practice, as there is no fee for joining the GAAP referral service, and it provides great case work experience. I would like to invite all of you to join the Spokane County GAAP referral list!

If you have any questions about the SYLD activities, or would like more information on the WSBA-YLD, please feel free to give me a call or drop me an e-mail.

Elizabeth A. Mosey
Winston & Cashatt, Lawyers
601 W. Riverside Ave., Ste. 1900
Spokane, WA 99201
Phone: 509-838-6131
Fax: 509-838-1416

¹ Herodotus, Inscription, New York City Post Office, adapted from Herodotus. Greek historian & traveler (484 BC – 430 BC).

Traditional IRA vs. Roth IRA... from page 5

traditional IRA that is taxable (i.e., deductible contributions and all earnings). Among the tax rules to be considered when converting a traditional IRA to a Roth IRA is the important pro-rata distribution rule¹, which should be discussed with your tax advisor. (Please note that, beginning in 2010, the \$100,000 AGI limit and the tax filing status requirement described above for Roth IRA conversions will no longer apply.)

Choosing the IRA That's Right for You

Besides your AGI, there are a number of factors to consider before choosing between the traditional IRA and the Roth IRA. They include your age, number of years until retirement, growth rate earned on your investments, as well as your current and anticipated future income tax brackets. Generally, contributing to a Roth IRA can be more advantageous than making nondeductible contributions to a traditional IRA. The two accounts are treated similarly in the year a contribution is made (i.e., no deduction is allowed), but upon withdrawal, distributions from the Roth IRA are potentially tax-free, while taxes must be paid on the earnings portion of the distribution from a traditional, nondeductible IRA. If you are eligible to make both a deductible traditional IRA contribution and a Roth IRA contribution, your situation is even more complicated. Your financial advisor and tax advisor can assist you in conducting the necessary analysis to determine which type of IRA would help benefit your particular situation.

Michael Heath is a financial advisor at UBS Financial Services in downtown Seattle. He previously practiced securities litigation at Dorsey & Whitney and technology transactions at Cairncross & Hempelmann. He can be reached at michael.heath@ubs.com or through www.ubs.com/fa/michaelheath.

This article is intended to provide a general discussion of traditional and Roth IRAs. Neither UBS Financial Services Inc. nor its financial advisors provide tax or legal advice. You must consult with an attorney or tax professional regarding your specific financial situation. The information in this article is based on sources believed to be reliable, but its accuracy cannot be guaranteed.

¹ Pro-Rata Rule: If you have a traditional IRA, SEP-IRA, SIMPLE IRA or rollover IRA that contains both pre-tax and after-tax funds, a percentage of every dollar you convert to a Roth IRA will contain a proportional percentage of taxable and tax-free funds relative to the pre-tax and after-tax value of **all your non-Roth IRAs**.

WSBA SERVICE CENTER

800-945-WSBA (9722)

206-443-WSBA (9722)

questions@wsba.org

Monday-Friday, 8 am to 5 pm

YOUTH & GOVERNMENT™

We build strong kids, strong families, strong communities.

YMCA Mock Trial Program Seeks Volunteer Attorney Raters and Judges for the State Championships

The YMCA Youth & Government Mock Trial program allows high school students to participate in a "true-to-life" courtroom drama. Each team of attorneys and witnesses prepares the case for trial before a real judge in an actual courtroom. A "jury" of attorneys rates teams for their presentation while the presiding judge rules on the motions, objections, and ultimately the merits. Participants develop critical thinking and analytical skills, learn the art of oral advocacy, and gain a respect for the role of law and the judiciary.

The State championship competitions will be held Friday, March 28th through Sunday, March 30th, 2008 at the Thurston County Courthouse in Olympia. Volunteer attorney raters and judges are needed. To volunteer, please contact Janelle Nesbit at (360) 357-3475 or youthandgovexec@qwest.net Please visit, www.youthandgovernment.org for more details.

This program is sponsored in part by the Washington Young Lawyers Division.

WYLD President and Trustee Applications Sought

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

Trustee, Greater Olympia District**Trustee**, King County District**Trustee**, North Central District**Trustee**, Northwest District**Trustee**, South Central District**Trustee**, Southeast District**President-elect**, Washington StateApplications must be received by 5:00 p.m. on **Thursday, May 1, 2008**.For detailed information and application instructions, please visit www.wsba.org/lawyers/groups/wyld/default.htm.

Soliciting Writers, Articles, and Letters



We encourage members of the Washington Young Lawyers Division to submit letters or articles for publication in *De Novo*.

All submissions must contain a daytime telephone number for verification of authorship. Letters and articles may be edited for length and grammar.

Letters and submissions to be included in the next *De Novo* must be received no later than April 15, 2008. The next *De Novo* will be published in May 2008.

Send submissions to:
denovo@wsba.org

If e-mail is not possible mail to:

De Novo
WYLD Liaison
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

The ABA Young Lawyers Division Hosts First Diversity Summit

The Young Lawyers Division of the American Bar Association will host a Diversity Summit in Washington, DC, this April in conjunction with the 2008 ABA YLD Spring Conference. This dynamic event will be held in Washington, DC, on April 19th and promises to provide a very worthwhile and stimulating conversation on diversity in our profession!

The Diversity Summit will gather young lawyers from across the country representing state, local, and specialty bar organizations, as well as law firm, legal department, and minority legal community leaders, to exchange ideas on how young lawyers can ensure that the profession reflects the society for which it serves and fosters an environment of inclusion. In conjunction with the Summit, the YLD will be creating an online toolkit and vignette-driven diversity training manual.

Whether or not you can attend the Summit, attorneys are invited to contribute by submitting real-life situations or narratives (i.e. vignettes) dealing with diversity issue(s) they have experienced as young lawyers. They will also be encouraged to offer commentary regarding "best practices" to resolve these real-life situations. The vignettes will provide the breeding ground for open discussions during the Summit on the challenges faced in creating an environment of inclusion and how we can address those challenges. To submit a real-life situation or narrative, visit www.abanet.org/yld/spring08/diversitysummit.

The Summit will commence with a summary of the state of diversity within the profession, focusing on racial, disability, ethnic, generational, gender, and sexual orientation diversity.

The purpose of this event is two-fold. We hope to increase the sensitivity and awareness of the individuals who attend and participate in the Summit by engaging them on thought-provoking discussions on relevant situations. We also hope that participants will utilize the innovative solutions created as a result of these discussions to make their respective work environment more inclusive. This will effectively enable all organizations to operate more effectively in a global marketplace.

For more information on the 2008 ABA YLD Spring Conference and Diversity: The Next Generation Summit, visit www.abanet.org/yld/spring08.

The BOG Report

by Jason T. Vail



The Washington State Bar Association Board of Governors (“the BOG”) met on December 7 and 8 in Everett. As usual, the day-and-a-half meeting covered a variety of issues facing the State Bar and its members.

Of significance during this meeting, the board members received a presentation from the WSBA Leadership Institute. The Institute’s mission is to recruit, train, and retain Washington attorneys who have been admitted to practice for three to 10 years for leadership positions within both the State Bar and the broader legal community. Program participants, or “fellows,” are selected with an emphasis on dimensions of diversity that include racial, ethnic, gender, sexual orientation, disability, cultural, and geographic. The Institute also helps to expand the leadership potential for local, minority, and specialty bar associations. Each class of fellows is tasked with the development of a community-service project. The 2007 class of fellows chose to create a video presentation titled “Justice for All: Our Profession, Our Responsibility.” This video promotes the involvement of attorneys in the delivery of pro bono services to those who cannot afford representation as a matter of lifelong professional responsibility. The BOG had the opportunity to view the video, which can be seen online at <http://medialaw.seattleu.edu/public/wsba/leadership2007.htm>.

The BOG also received a presentation from the Washington State Bar Foundation. The Foundation is an entity that is related to, but distinct from, the State Bar as its own 501(c)(3) not-for-profit corporation. The Foundation currently has two ongoing projects: The Presidents’ and Governors’ Diversity Scholarship Fund and the Loan Repayment Assistance Program for public interest attorneys. The Foundation has experienced lackluster funding for these programs as it has not, thus far, aggressively engaged in fundraising for its projects. The Foundation, in its annual report to the BOG, advised us that the board will be receiving a full presentation at our March meeting on ways the Foundation will propose to seek more robust funding. One idea is to institute a “checkoff” on the bar association’s annual licensing dues form that will allow bar members to contribute an additional, tax-deductible amount to the foundation’s work. As a member of the Foundation’s board, I have been a strong proponent of the checkoff as a means of raising money for the Foundation’s projects, as many other state bar associations have done with success. I hope to see the BOG pass this proposal, and the others that will be presented, when the Foundation returns in March.

The final significant item of note during this meeting was a presentation regarding the need for stronger ethics enforcement against attorneys who threaten opposing parties or their counsel with reporting to immigration authorities when immigration status is not at issue in the legal dispute. M. Lorena Gonzalez, president of the Latina/o Bar

Association of Washington, and Dan Ford, of Columbia Legal Services, discussed with the BOG numerous instances where attorneys, in an attempt to gain an upper hand in civil, nonimmigration-related legal proceedings, will threaten to report an opposing party to Immigration and Customs Enforcement (“ICE”). This intimidation tactic is frequently employed irrespective of the party’s actual immigration status, lawful or otherwise. The State Bar had, at one time, a formal ethics opinion (Opinion 167) that prohibited such practices under the then-effective Code of Professional Responsibility. This opinion was withdrawn upon Washington’s adoption of the Rules of Professional Conduct and has not been reenacted since. Given the rise in incidents of attorneys using ICE-related threats as a litigation tactic, a request was made by the presenters and others in the room representing various minority and specialty bar associations and other constituencies that the BOG request the RPC Committee to develop a new formal ethics opinion on this matter. My view is that the use of threats to report someone to immigration as a means of gaining an advantage in a nonimmigration, civil proceeding is underhanded and patently unethical behavior against which the State Bar should take a strong position. And so it did: The BOG not only requested that the RPC Committee develop a new formal ethics opinion barring such conduct, but it also requested that the RPC Committee explore drafting a new RPC explicitly prohibiting attorneys from engaging in such acts. As of this writing, I believe the new formal ethics opinion will be before the BOG at its March meeting for consideration of adoption.

Finally, on a personal note, this will be my last BOG report for *De Novo*. After nearly seven years in Washington’s civil legal aid community, I have decided to relocate and pursue an exciting opportunity with the Sargent Shriver National Center on Poverty Law in Chicago, Illinois. I will be taking the experiences I’ve gained as a legal services practitioner in Washington and putting them to work at the Shriver Center to develop projects to increase collaboration, communication, and education of legal aid advocates nationally. I am sad to be prematurely ending my term on the Board of Governors in order to undertake this new work, but I am honored to have had the chance to represent you, the young lawyers of Washington, and I hope I have done so effectively. It has been a pleasure to serve you as editor of *De Novo* and as your governor, and I wish you all the best.

Jason T. Vail is a staff attorney-legal editor with the Sargent Shriver National Center on Poverty Law in Chicago, Illinois. He can be reached at 312-515-7111 or jasonvail@povertylaw.org.

WYLD Committee and Program Chairs – 2007-2008

Aspiring Youth Program
Krista Elliott
kelliott@spokanecounty.org

Committee for Diversity
Abigail Gonzales Daquiz
agdaquiz@jphillipslaw.com

Naomi Kim
nsklaw@gmail.com

Continuing Legal Education
Allison Williams
allison.williams@roberthalflegal.com

Editorial Advisory Board
Editor, Shelley Ajax
shelley@ajaxlawfirm.com

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

Long Range Planning Committee
Mark W. D. O'Halloran
markohalloran@earthlink.net

Membership Committee
Julia Bahner
julbahner@hotmail.com

Kristen Guberman
kristenguberman@yahoo.com

Pre-Law Student Leadership Conference
Michael Talbott
michael.talbott@co.yakima.wa.us

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

Jason Amala
jamala@gth-law.com

Trial Advocacy Program
Stacey MacDonald
stacey.macdonald@metrokc.gov

YMCA Mock Trial Program
Dubs Herschlip
dubs@newtonkight.com

Youth and Law Forum
Jennifer Porto
jrp@pattersonbuchanan.com

WYLD Board of Trustees – 2007-2008

President
Mark W. D. O'Halloran
markohalloran@earthlink.net

President-elect
Jaime Hawk
jaime_hawk@fd.org

Immediate Past President
John M. Brangwin
john@wblawfirm.com

King District
David Estudillo
destudillo@estudillolaw.com

Pallavi Mehta Wahi
pallavi.wahi@stokeslaw.com

Michael Pellicciotti
pellicmij@hotmail.com

North Central District
Martha Amrine
mgrant90@hotmail.com

Northwest District
Amy Robinson
arobinson@brettlaw.com

Olympia District
Michael DeWitt
mikedewittlaw@yahoo.com

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

Pierce District
Kimberly April
kapril@tacomalaw.com

Snohomish District
Kari Petrasek
kari@carsonlawgroup.com

South Central District
Michael Talbott
michael.talbott@co.yakima.wa.us

Southeast District
Toni Meacham
tonipierson@rocketmail.com

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

Spokane District
Elizabeth Mosey
eam@winstoncashatt.com

GU Law Student Trustee
Casey Arbenz
carbenz@lawschool.gonzaga.edu

UW Law Student Trustee
Jika Gqjba-Knight
jikizizwe@gmail.com

SU Law Student Trustee
Alicia Kikuchi
kikuchia@seattleu.edu

Board of Governors Advisors
Carla C. Lee
carlaclee@comcast.net

WYLD Liaison
WSBA
1325 4th Ave., Ste. 600
Seattle, WA 98101
206-733-5944

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



Editor • Shelley Ajax
Desktop Publisher • Ken Yu/Quicksilver
Past Editors • Jason T. Vail, 2005-2007 • Eric B. Martin, 2004-2005 • Jeannie Huddleston, 2002-2003 • David Berger, 2000-2001 • Geoffrey Hymans, 1999-2000 • Evan Loeffler, 1995-1999 • Erin Moore, 1993-1995 • Todd De Groff, 1991-1993 • Steve Robinson, 1989-1991 • Scott Jackson, 1987-1989

De Novo Mission Statement

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

Readers are invited to submit correspondence and articles. They may be sent via e-mail to denovo@wsba.org. By submitting articles, the author licenses *De Novo* to publish and permit reprints of the author's article at the sole discretion of the editor. The editor reserves the right to edit articles and correspondence as deemed appropriate.

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

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

© 2008 Young Lawyers Division • Washington State Bar Association • All rights reserved.



Washington State Bar Association
Young Lawyers Division
1325 Fourth Avenue, Suite 600
Seattle, WA 98101
www.wsba.org/wyld

Nonprofit Org.
U.S. Postage
PAID
Seattle, WA
Permit No. 2204

Get Involved in the WYLD Membership Committee

Meeting Schedule: Meetings are generally held on the third Tuesday of every month from 6:00 p.m. to 7:00 p.m. at the WSBA offices, unless otherwise noted. Members not located in Seattle will be given a toll-free call-in number so they can participate. Please contact Amy O'Donnell at amyo@wsba.org or 206-733-5944 for more information, or to be added to the membership committee listserv. The membership committee organizes weekly social and networking events and being on the listserv gives you the latest information.

Meetings for the 2007-2008 year will be held on the following dates:

March 18

April 22

May 20

June 17

July 15

August 19

September – n/a

WYLD Express 10 will be held