

Mentors: An Enriching Relationship

by Jody Lee Campbell

Most young lawyers, along the way, will find a mentor or two to help them out. So far, in my career, I have been very lucky to have had several very valuable mentors. I have an official firm mentor, a WSBA mentor, a parental mentor, a family friend mentor, and a peer mentor. These are the people I come to with problems and ask for professional advice. These are the people who have formed my idea about how to get along in my career. These are the people I count as friends and who I would like to thank. Having mentors is one of the most enriching parts of my career.

Because of its small size, my firm does not have a lot of structured professional development activities. However, I was delighted that a few months after starting work here, the firm decided David was to be my official mentor. All of the partners, and the other associate here, have mentored me in various ways, and I have learned a lot from all of them. However, because of the fact that they made David my official mentor, I knew who it was I was supposed to go to when I had a problem, or to ask about CLE credits, or what to wear to the holiday party. The fact that David has been my official mentor has allowed me to grow professionally in ways that I would not have otherwise, and has

allowed me to fit in here and feel comfortable as the only female attorney here and the youngest attorney by fifteen years. I would have gotten along fine without an official mentor, because all of the guys are wonderful and helpful, but with David as my mentor, the experience of being a lawyer at this firm became even more positive.

I have been lucky also to have a mentor through the WSBA Lawyer-to-Lawyer Program, Soojin. I waited about a year and a half to be matched up with her, but it was well worth the wait. She is a wonderful mentor, and helps me with many questions and problems that I either don't want to ask the attorneys at my firm, or that I want to ask her as a successful woman in the profession. Not only that, but I count Soojin as one of my true friends. She is the custodian of my secrets, my advisor in an emergency, and the kind of person that everyone should know because of her kind and generous spirit. For all of you who cannot be matched up with Soojin because she is already my

mentor, I am sorry. But, there are many attorneys out there who might be just as good, so if you haven't already, sign up for the Lawyer-to-Lawyer Program. I know that when I have a bit more experience, I will volunteer as a mentor (for details, please visit www.wsba.org/lawyers/services/lawyertolawyer.htm).

I have been lucky enough to have several informal mentors, as well, including a parent who is a lawyer. My mom is the original mentor, and not only can she answer questions about the law and professional life, but can also tell me how to get along with my sister and how often to wash my dishes. But, even if your parent is not a lawyer, a parent or family member is invaluable as an advisor in the real world. Sometimes you need to break out of lawyer mode and look to what is really important in your life, and what your true priorities should be. Parents and loved ones can be great mentors in this aspect.

Sarah, who always introduces herself as "a friend of Jody's mom," is really my secret weapon. She doesn't know this, but she is. She has a large network of acquaintances and friends in the legal community. In addition, she has worked at several firms in Seattle, and has made partner at a large prestigious firm. She then decided to go out on her own as a solo practitioner. Her experience has given her the tools to be able to help me clarify professional decisions with amazing logic and reason. I will always be grateful to her for her advice on what direction to take my career. She has been spot-on every time, and I know I can count on her to help me evaluate the pros and cons of life-changing decisions, as well as to get me in touch with some of the people in her network. She is enrolled as a mentor through the Lawyer-to-Lawyer Program. So sign up; you may just be lucky enough to be matched up with her.

I also have a wonderful peer mentor I met through the WSBA Young Lawyers Division, Sasha. She probably wouldn't call herself my mentor, but I have learned as much from her as any of my other mentors. Hearing from her how she handles things such as demanding senior partners and cranky judges has been most enlightening. I love being able to learn from one of my closest friends.

I only hope that my mentors also find some benefit to being my mentor. I thank them all from the bottom of my heart and I count every single one of them as a good friend. My advice to anybody who does not have a mentor yet – sign up for the Lawyer-to-Lawyer Program. If you don't have an official mentor in your firm, ask for one. Or simply call up somebody you admire and take her out to lunch. Ask questions and follow up with your mentor every so often, and you will learn an amazing amount through sharing and hearing their stories. And also, remember that mentoring is a reciprocal relationship. Your mentor may whip out her wallet when the bill for lunch comes, but you should pick up the tab every once in a while. She will appreciate that you don't take her for granted, and that you value her advice enough to pay for a meal.

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Editor's Column

by Eric B. Martin



On a recent holiday weekend as I was returning from an ice-fishing trip to southern Idaho, I drove into some freezing rain, lost control of my car, went off the road, and slammed into a large

rock formation. My car was totaled, but fortunately I was not. After being checked out by the appropriate medical professionals, I checked into a hotel, arranged for a rental car, called my secretary to have her rearrange my appointments and notify the people who needed to be notified. I took several days off to recuperate, but as I write this, I'm back to work full-time.

So, why am I writing about my car wreck here?

My experience brought to the forefront of my thoughts how fortunate I am compared to many individuals in our society. I have an understanding employer who allowed me the time I needed to recover. I have great coworkers who could cover any work that needed to be done. I make enough money to be able to rent a hotel room and a car without sacrificing any basic needs. I have insurance and know how to deal with an insurance company to make certain I am properly compensated for the loss of my car. I have a good enough credit to buy a replacement car.

While I can usually take those things for granted, too many in our society cannot. For many people the loss of a car might mean the loss of all family transportation, and the loss of a job dependant on that transportation. For many, unexpected expenses means leaving some bills unpaid, or going without basic necessities. And for many people, dealing with an insurance company or the legal system is a daunting task.

While we may never be able to solve all of these problems for all people, as lawyers we are uniquely qualified to address the last problem. We can devote a portion of our time to assist those who need a lawyer but cannot afford one. We all know that those in the criminal system who cannot afford an attorney will have one appointed to serve at the public's expense. However, no such guarantee exists for those in the civil system.

I know you know all of the reasons to do *pro bono* work: the satisfaction of helping

those in need, the experience gained, the chance to meet other lawyers doing similar work, etc. I also know that you have demands on your personal and professional time that make doing *pro bono* work difficult. It's easy to let each day, week, and month slip by without taking the steps that need to be taken to make *pro bono* happen. After all, your boss isn't asking you where your *pro bono* work is, your family isn't urging you to stay at the office a bit longer, and your accountant (or accounting software) isn't telling you that you need to do some more free work. But the fact of the matter is you are needed.

I was recently chatting with a talented young lawyer and, as these things do, we eventually got around to discussing why we became lawyers. She said that she became a lawyer because she wanted to save the world, but now that she had her new bar card, she wasn't sure how to do that. Unfortunately most of us think that the way to save the world is to find the big issue and be the lawyer who argues the Supreme Court case that changes everything. As exciting and rewarding as that would be, the fact is most of us will never have that chance. Instead, the best way to change the world is to change one small piece at a time. Right now in your community someone needs a lawyer and cannot afford one. Someone is threatened with eviction. Someone needs help getting Social Security benefits. Someone needs a guardianship established so that he will have someone responsible handling his finances.

Pick a tiny corner of the world and save it. If you don't know how to get started, call your local bar association.

In a closely related matter, I would like to point out that the Washington Board for Judicial Administrative Court Funding Task Force has recently published the "Justice in Jeopardy" report (available at www.wsba.org). I commend this report to you and urge you to contact your legislators and ask them to support fully funding the court system. The report points out the severe need and the dire ramifications we face if we ignore those needs.

Eric B. Martin practices litigation and appeals at Davis Wright Tremaine in Seattle. He is the editor of De Novo. He can be reached at ericbmartin@dwt.com or 206-903-3975. All opinions expressed are strictly his own.

What to Expect from Mediation

by Susan Rae Sampson

“**M**ediation” is a meeting at which opposing parties meet with a neutral facilitator to try to negotiate a settlement of their dispute.

Mediation is voluntary; the mediator cannot require any defendant to make a settlement offer, or require a plaintiff to make any specific settlement demand. Mediation is one form of alternative dispute resolution, or “ADR,” which is often required by court rules before a case actually goes to trial, so you may find yourself in mediation because the court requires it, but what happens at mediation is still voluntary.

Mediators are chosen by the opposing parties jointly, and the parties typically share the mediator’s bill equally. Mediators can be selected from a number of businesses or individuals who do mediations, either full-time or part-time. They succeed in their businesses as mediators only if they win the confidence of both parties and usually succeed in having the parties come to a mutually agreeable result, so can be counted upon to be reasonable and fair. Most mediators who work with parties to lawsuits have backgrounds as lawyers, but not all mediators have legal backgrounds. For example, the American Arbitration Association offers mediators from accounting, construction, architecture, and other backgrounds as well.

The parties who attend the mediation are those who have the authority to make a decision ending the case, plus their attorneys. In employment cases, that would be the employer and the employee. In a personal injury case, that would be the injured party on one side, and an insurance adjuster on the other. Sometimes an adjuster is on the telephone to his or her superiors during the mediation, and sometimes the Department of Labor and Industries is available by phone during the mediation if it has an interest in recovering part of the money it has paid to an injured worker.

One firm rule applies to mediations: The procedure is confidential. The parties cannot be quoted at court for anything they say in a mediation. That is because the court wants the parties to communicate freely at mediation, without fear for anything that might be said, in order to encourage settlements. The mediator will not tell the other side what you have said without first having your permission to do so. Nobody may call the mediator as a witness at trial. (Of course, for every rule, there is an exception: If the mediator discovered that

a party was abusing a vulnerable person such as a child, elderly person, or disabled person, confidentiality would not apply.)

Besides informing you about confidentiality, mediators sometimes make a point of telling you that they will not give you legal advice; they just try to help you settle with the other side.

Before the mediation starts, parties are invited to submit memos to the mediator about what the case is about. The memos may be shared with the opposing party, or may be confidential.

Mediation usually takes place at the mediator’s office, but can take place in any office or space large enough for the parties to meet in separate rooms as well as in any joint session. A mediation may begin with a joint meeting of all parties, especially if they have dealt only through attorneys and have never met each other in person, or it may begin with each party to a dispute together with his or her attorney assigned to a single room. The mediator typically starts with an explanation of the mediation process and asks the parties to sign a mediation agreement indicating that they understand the confidentiality rule. The mediator then may ask the parties, jointly or separately, to explain some details of the case as they see it. As the mediation continues, the mediator will ask the plaintiff to make a settlement demand, and will present that proposal to the defendant to ask for a responding settlement offer.

Typically, the defense sees the plaintiff’s opening demand as being much too high; and the plaintiff sees the defendant’s opening offer as being ridiculously low. However, nobody should become angry over the numbers; rather, the exchange should be seen as part of the give and take of negotiations. As the case progresses, the plaintiff will be asked to make a lower demand and the defendant will be asked to make a higher settlement offer. The parties should not tie their offers or demands dollar-for-dollar to the other party’s movement; that is not useful in settling the case. There is no point in comparing how much one party has given up, either in numbers or percentages, because the parties will move unequally. Rather, the role of the parties is to negotiate until one party or the other makes a last and final offer; then the parties should decide if that is good enough to settle the case.

Mediations get complicated if more than one plaintiff is involved, since a defendant is unlikely to want to settle with just one party, but still face the risk and expense of trial with another, so joint plaintiffs should be prepared to allocate any single lump-sum settlement among themselves. Defendants will likely offer just one single sum, and all costs, fees, attorneys fees, and reimbursement of health insurance providers has to come out of that. In personal injury cases, awards are not presently taxable, but awards in employment cases typically are subject to taxes.

If the parties cannot agree on a last and final offer, the mediation is concluded unsuccessfully and the parties’ next effort at resolution might well be trial.

If the parties do agree to a last and final offer, then the mediator will write the key terms of the settlement in a document for each party to sign. The understanding may require the parties to prepare other documents, such as a detailed release, or a motion to dismiss the case from court, but it will have enough terms to be a legal, binding contract that settles the case once and for all, forever.

The primary benefit of mediating successfully is allowing the parties to control the outcome of their case; they agree to settle on certain terms. They do not take the chance of having a judge or jury determine their fates for them, and they do not incur the extra expense of going to trial. Second, a mediated settlement allows the parties to agree to terms that a judge or jury cannot provide. The judge or jury can only award money; a mediated settlement can involve terms that are not strictly monetary, such as time payments for a defendant who is strapped for funds, or a letter of recommendation or restructured job for a plaintiff in an employment setting.

Mediation is an intense, exhausting experience, so parties should be sure to sleep the night before, and to eat a good breakfast before the session begins.

Feel free to call with any questions or concerns that you have regarding the mediation procedure.

Susan Rae Sampson is an attorney with 25+ years of experience, and has been involved in countless mediations both representing a party and serving as a mediator. She can be reached at 425-235-4800.

WYLD/ATJI Immigration Clinic a Huge Success

by David East

The WYLD Public Service Committee and the Seattle University Access to Justice Institute (ATJI) teamed up for the third time in two years to present a free, confidential legal clinic at the Rainier Community Center in Seattle on January 27. The focus of the clinic was to provide information to citizens with immigration-related issues. The two previous clinics had helped approximately 140 individuals and families gain access to quality legal consultation, and if the results from the third clinic are any indication, the need for assistance with immigration issues is as great as it has ever been.

Thanks in large part to advertisements in local print and radio media, flyers handed out in the Rainier Valley and Central Districts, and to such a positive response to our two prior clinics, participants showed up early, and in large numbers to meet with one of the 20 experienced immigration attorneys who volunteered their time and expertise. In all, approxi-

mately 50 individuals and families met with attorneys for consultation sessions that lasted between 30 and 45 minutes. Sudha Shetty, Ahoua Kone, Lupe Ceballos, Tiffany Tull and other members of the ATJI supervised the intake process and helped match participants with translators. WYLD Public Service Committee members Erin Hall and Leigh-Ann Higashi coordinated the volunteer attorneys and conducted exit interviews of the participants. The feedback from the participants was overwhelmingly positive. As Ms. Higashi noted, "The participants seemed to be really appreciative of the experience and of the generosity of the attorneys who donated their time."

The WYLD Public Service Committee and ATJI are grateful to everyone who volunteered their time and efforts to make this a successful event, and in particular, to the immigration attorneys who helped so many people get a bet-

ter understanding of their immigration issues and the options that are available to them. We look forward to conducting another immigration clinic in 2006.

For more information about the WYLD Public Service Committee and to get involved, please visit www.wsba.org/wyld or contact David East.

David East is the chair of the WYLD Public Service Committee and can be reached at deast@perkinscoie.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.

Third-Party Liability Information

A Message from the Department of Social and Health Services

If your client is involved in a personal injury case and has received or is receiving medical assistance (Medicaid) payments for their medical care, you are required to contact the Department of Social and Health Services (DSHS). RCW 43.20B.060 places a lien against any settlement or judgment your client receives from a third party that is responsible for your client's injuries in order to reimburse the medical bills that have been paid by Medicaid.

Before settling your client's claim with the third party and/or their insurance company, please contact the COB Casualty Unit of DSHS at 1-800-562-6136 or COB Casualty Unit, PO Box 45561, Olympia, WA 98504-5561 to supply the information that DSHS requires or visit our website at <http://fortress.wa.gov/dshs/maa/ltp>.

Failure to pay any lien imposed by the department on any settlement or judgment obtained by your client can subject you to personal liability for any funds improperly distributed (RCW 43.20B.070).

WSBA Ethics/ Professional Responsibility Program

Washington lawyers may call the WSBA Ethics Line (206-727-8284) and speak with the professional responsibility counsel who will discuss the situation with the caller to help clarify the ethical issues involved so that the inquirer is able to make a decision consistent with the requirements of ethical behavior.

Telephone inquiries concern all aspects of the Rules of Professional Conduct. Most lawyers call seeking help with questions about handling trust accounts, maintaining client confidences and secrets, avoiding client conflicts, problems caused by the termination of a lawyer's services, transference of client files and lawyer advertising.

The WSBA Ethics Line operates during normal business hours Monday through Friday. If the number is busy, a caller may leave a detailed voice mail message. Every effort is made to return all calls within one business day.

I Know What I Did Last Summer

by Katrina S. Zafiro

The invitation, as any gastronomically related invitation would be to this wannabe gourmand, was tempting. “Flee to the hills and learn how to live off the wYld by foraging for berries and mushrooms at Ollalie Meadows and Snoqualmie Pass.” The invitation, sent to the WYLD Membership Committee e-mail distribution list, further boasted about the possibility of being led by a mushroom guru and about finding mushrooms “as big as cantaloupes.” How could I resist?

And so, on that chilly Saturday morning of September 11, I, along with 13 other WYLD members and friends, armed with grocery bags (both paper *AND* plastic), netted laundry bags, Gladware, and not enough layers of warm clothing (brrr!), fled to the hills. Leading the fungal hunt was a WYLD friend, Lizz Kopecek, and mushroom guru, Raoul LeBlanc, the person who taught Lizz all she knows about mushrooms.

Four carloads of WYLD and WYLD-ly related people left the Park and Ride at Issaquah at 9:30 a.m.. After stopping at a Shell station for our last contact with civilization as we knew it, we finally arrived at the Pass at 10:45. First thing on the agenda was our official mushroom hunt lesson.

Lesson number one: DON'T EAT THE MUSHROOMS RAW! Lesson number two: Have Lizz or Raoul check the mushrooms before deciding to take them home. We were then given handouts and photos on what types of mushrooms we should expect to find during the hunt. (*Boletus*, *Chanterellus* and *Hericium*.

I know. I know. One can never escape the claws of the Latin language.) I, of course, had to ask what the “magical” mushrooms looked like. Fellow WYLD member, Jesse Salomon said that he once heard that they had blue rings around their stems. Note to self: I can look at but not touch blue-ringed mushrooms. Lesson number three: the mushroom guides and WYLD are not legally liable for any injuries that may result from the consumption of mushrooms.

Fifteen minutes into the “world’s least dangerous hunt,” as it was touted, a bolete was found. Boletes are the mushrooms that were touted “as big as cantaloupes.” Finder of the bolete was WYLD-ly related Nathan Lockwood, a professional chef specializing in Italian food. This was his first mushroom hunt as well as his first encounter with a bolete. He said that he has cooked with several kinds of mushroom before but definitely none of them bolete. Despite the chilly, chilly weather, we eagerly (and wYld-ly) searched for mushrooms, high and low, under wet bushes and through soggy ground. We hunted to the background music of the rushing water from the stream. From time to time our quiet search was interrupted with shouts of glee as we found what we thought would be the mother lode of mushrooms. We found mushrooms that were pink, mushrooms that



ZensPhoto '04

were orange, mushrooms that were greenish, mushrooms that tasted like licorice, mushrooms that looked like marshmallows, and mushrooms that were so sensitive that if you touched them, the part you touched would turn a different shade. We also found an abundance of wild blueberries (tart!) and huckleberries. Those, we could eat raw.

After lunch, we drove to another site. Most of us hit jackpot at the second site. We found lots of the marshmallow-looking mushrooms, which Raoul identified as the “Puffball” variety. (I would have never guessed that “puffball” was Latin.) At the end of the hunt, at about 2 p.m., hunt organizer and fellow WYLD member Rob Gaudet graciously presented Lizz three glass jars to store the dried mushrooms she collects. Then we all went home, our bags full of mushrooms, our memories filled with the thrill of the hunt, and our bellies filled with berries. We were eager to have a taste of our “kill.” (I, to sauté it with olive oil and shallots. Others, having it with their omelettes for breakfast the following day.)

Our fellow WYLD member Lisa Ellis observed that it seemed to her that people who like to hunt mushrooms are “people who are intelligent at identifying and thinking critically.” It sounds like an apt description of WYLD members.

Katrina Zafiro works for Davidson, Czeisler & Kilpatric in Kirkland and can be reached at katrina@kirklandlaw.com. Those interested in organizing their own free mushroom hunt may contact Raoul LeBlanc at raoulleblanc@earthlink.net.

2005-2008

WYLD 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 At-Large
- Trustee, North Central District
- Trustee, Northwest District
- Trustee, South Central District
- President-elect, Washington State

Applications must be received by 5:00 p.m. on Monday, May 2, 2005.

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

Family Law from a Different Vantage

by Douglas Pierce

As a sole practitioner who hung his shingle the day after receiving his bar number, I found myself working in family law, with a case load that included child custody matters. I dug into the statutes, relating the law to the fact patterns that arose. I went to court, made the arguments that my clients needed made. I lost some, and won some. I took retainers, submitted bills, and got paid. As far as I was concerned, I was “practicing law” and making a go of it. It was exciting. Then, on a drive across the state in the company of a great restaurateur and my charming and beautiful wife, I had an epiphany – I am doing my job, but the lawyer’s part is only a small bit of the family law case.

Working in Pullman, I often have to drive across the state to go to King, Pierce, or Thurston Counties. While driving from Pullman to Tacoma with my wife, we stopped at our favorite half-way point, Blustery’s Drive Inn in Vantage. It was a Friday, late December, early evening when we pulled in to get our burger-and-fry fix. While waiting for Blustery’s owner, head cook, and chief waiter, Jeff, to bring us our food, I watched several “exchanges,” that is to say, moms and dads trading kids for a visitation. I pointed out the exchanges to my wife, who said “that’s probably why they call it ‘Blustery’s.’”

After watching three or four of the exchanges, I began to think – many of these people had lawyers just like me. Their lawyers had to make similar arguments, deal with similar teary-eyed parents, stoic kids, sincerely concerned psychologists and therapists. Other than the tension in court, I had never really put much action to the effect after the proceedings, i.e., what happened after I considered myself as being “done” with the case.

My thoughts turned to what happens after the court battle. I tried to imagine the inner conflict and turmoil of the parent who had fought for, and lost, the battle for custody. I tried to imagine what it must be like for the parent when the judge tells him or her to turn the child over to the other parent, the parent who “won” the custody fight. After all, as we all know, when you “win” a custody battle, you have convinced a judge that it was “in the best interest of the child” that your client be allowed to have the child for a specified amount of time.

Or perhaps custody was never the issue during the divorce proceedings. Perhaps the issue was infidelity. Perhaps a former husband has to meet his former wife and her new husband, whom she left him for after a lawyer said “Washington is a no-fault state; you don’t need to show adultery. Let’s just do a parenting plan and work out the financial numbers” – taking away the much desired opportunity for revenge.

No matter what the circumstances, during that Friday dinner hour in Blustery’s, I could see the tension in everyone’s eyes. I could feel the stress that had been building since everyone got into their cars in Spokane and Seattle two and a half hours ago – to meet half way.

Letting my imagination get the best of me, I asked Jeff how many times he had to call the Vantage Police Department because of a domestic dispute that flared up – he chuckled and said “more than once, but not as many as you might expect.” I then proceeded to grill (bad pun) Jeff about operating an unofficial “trade-off point.” Jeff agreed that he sees more than his share of swaps. The physical make-up and location of Blustery’s is ideal. There are windows 270 degrees around the circular building, providing an excellent view of Interstate 90 in both directions. Vantage is almost exactly halfway between Spokane and Seattle. It is in the Gorge, so both parties must drive down the long steep side, and then back up. Jeff said the restaurant provided the first person there about 90 seconds from the time they first see their ex-spouse take the exit off the interstate until they have to deal with that awkward moment of “hello.”

I was fascinated, and Jeff was willing to share, letting his wife take over the kitchen and register, while he talked to me and watched their adorable girls in the dining room, so I kept asking. I asked what he saw regarding how the former families worked through their problems. Jeff said he sees three distinct phases, usually taking between six to eighteen months, and coming through in varying degrees.

Phase one is the silent treatment. A typical scenario: Dad gets there first, sits down, maybe orders coffee, maybe not, or maybe never even gets out of his car. If he does come in, he just states that he is meeting someone and won’t be ordering anything. He keeps his eye on the I-90 Bridge over the mighty Columbia, glancing back and forth between his watch and the bridge. When he sees the car, he makes a heavy sigh, slaps his knees as he gets up, and goes outside. The car pulls into the parking lot, the kids get out with backpacks or roller carry-on-size Sponge-Bob suitcases, and the car drives away – the total silent treatment.

I was surprised. I told Jeff I would have expected he sees tempers flare and lots of yelling. I thought the fight that I saw (the argument I made?) in court would go on, but Jeff pointed out that at Phase One, the couple had recently been told by the judge what to do and what *not* to do and that is what was fresh in their mind. Further, they really had nothing more to say to each other, or at least nothing that could be said in such a public place as Blustery’s. But then, after a few weeks or months, they move to Phase Two.

Something has happened since court, maybe a broken arm, illness, or failing grades. One parent says, “I can’t believe you [yadda yadda yadda]”; voices get loud, doors slam, fingers point. Jeff says it is Phase Two where there is trouble, and upon reflection that stands to reason. It is Phase Two where divorce lawyers get a call, and have to go to the “closed” cabinet to dig up the file. We read it to refresh our memory, and maybe let the thought sneak into our heads: “it was a workable deal, why can’t they just get along?” Maybe we draft a letter, maybe we reply to a letter. The couple may have to go to mediation, maybe court, maybe not. But the crisis is dealt with and the file gets returned to the “closed” cabinet. Never to be dug up because after this spat, they enter Phase Three.

Jeff said at Phase Three, the couple gets out of their cars with the kids and have a normal conversation. They talk about school, their new jobs, ask about each other’s folks, etc. They have reached a point where they both realize that they no longer are part of each other’s lives, except that of raising the children they had made together at a different time. Jeff said he often sees hugs, hears caring phrases like “sorry to hear about your mom” with a reply of “thanks” instead of “you never liked her anyway.”

I now think of the three phases during a family law case and most especially when I close a file. For me at least, it reminds me that my clients and opposing counsels’ clients will still have a relationship long after I am done. I have tried to use my conversation with Jeff to become a more complete, and hopefully better, family law attorney. As a new attorney, I concentrated on what facts I could use and how to show what my client needed shown. I read the law and made my arguments. But when the job (dare I say journey?) is done for us lawyers, it has only just begun for our family law clients. Unlike interpreting a contract or drafting a will, when the lawyer is out of the picture for the family law client, their “issue” is only beginning.

Douglas Pierce is a sole practitioner with a general practice in Pullman, Washington, and is currently in Japan serving as an educational consultant for Washington State University. He can be reached at Douglas_Pierce@turbonet.com.



Dear Family Lawyer

A column answering family law questions

“Dear Family Lawyer” is prepared for De Novo by the Family Law Section of the Washington State Bar Association

Dear Family Lawyer:

What’s the best way to avoid premature bankruptcy? I need your help.

Signed,
Desperate

Dear Desperate:

Your question is something that we have all gone through at one time or another. After practicing for many years, we have a tendency to forget how difficult it is to actually generate business and be successful in this profession.

With that thought in mind, I solicited other responses, and hopefully our collective thought process will assist you in some fashion.

The following ideas are not all-inclusive but hopefully they will be helpful. Please keep in mind this is an ongoing process for your entire professional career.

1. Try to keep your **overhead as low as possible**, but sometimes that can be self-defeating. You may have to make an initial investment for advertising, websites, etc. to get your name out to the community. At minimum, take out a **yellow page ad** in the general portion and the specialty portion of the telephone book.

In addition, although many practitioners do their own work, it can be disruptive to do all the administrative items yourself.
2. Give some thought to packaging your **services in a non-traditional fashion**, such as offering unbundled legal services.
3. Even though you probably feel desperate for clients, **be careful which cases you agree to take on**. If you feel it’s a bad idea to take a certain client when her expectations are completely unrealistic or she has been through two to three other attorneys and she is upset, then it’s probably not a good investment on your part. That is the type of case that you will lose money on and which will result in further frustrations.

4. Do not underestimate your abilities—**charge appropriately and bill on a regular basis**. You can always make adjustments to your time and billing if you wish, but show your clients what efforts you put in on their behalf; and show them that you did in fact make some adjustments if that’s what you wish to do.

Keep in mind that if a client feels he has taken advantage of you financially, then that client will refer you other clients who will have the same expectation. That type of practice will certainly cause you to be less than successful.

5. Attend **law office management seminars**.
6. As part of your practice, **learn client control** and do not get the attitude that you need to win at any cost. Do not get a reputation that you are the most difficult person in the county, because referrals, first of all, will not be given to you and secondly, others’ lawyers will never cooperate with you when you do need a continuance or anything that can be accomplished by stipulation. Learn to control clients’ unreasonable expectations.

7. It is very important that you **collect appropriate fees** based on anticipated time involved in your representation of the client. You need to acquire a perception of self-worth and a concept of how valuable you are to this client. If you do not achieve that, then it will be very difficult for you to ask people for thousands of dollars to represent them and it will be even more difficult for you to collect any money after the work has been completed. You need to learn to say “no” if it’s appropriate, and you need to learn to firmly collect for the time expended.

8. If you are not getting the **proper results from each client in your collection efforts**, you need to learn to immediately remove yourself from further representation of that client. That is a difficult task, but it’s imperative if you wish to be successful in your practice.

9. You need to **establish a good relationship with your banker**. You need to try to establish a line of credit to be used only if absolutely necessary, because there will be times in all of our careers where that is in fact necessary. There will be slow months that you need to get through, and it’s important that you don’t get frustrated to the point that you give up.

10. If at all possible, try to put yourself in a situation where **expenses are shared**, e.g., either by going into an arrangement with other individuals who will share the rent, office staff (including receptionist), or finding an appropriate established organization and renting minimal space from that organization.

11. Until you build up your practice, also consider doing **contract work** for other law firms. Talk to all the lawyers in the practice area you are interested in and tell them you are willing to work at a lower hourly rate to assist them with cases on a temporary basis. This will give you more experience, and it will get you into the door of firms with instant referrals.

Lastly, it **takes time** to develop a good practice, it takes time to develop good clients, it takes time to learn the concepts that I have discussed. Instant gratification is possible but not probable, and that has to be recognized.

We presented other ideas in the December 2004 issue of *De Novo* that also may be of assistance. Good luck in your professional endeavors.

If you have a question you want answered in this column, send it to: “Dear Family Lawyer” WSBA Family Law Section, 2101 Fourth Avenue, Suite 400, Seattle, Washington 98121-2330.

“Dear Family Lawyer” is prepared for De Novo by the Family Law Section of the WSBA. Nothing in this column is an official opinion of the Family Law Section. To learn more, or to join the Family Law Section, please visit www.wsba.org/lawyers/groups/familylaw.

Secondary Traumatic Stress: What You Don't Know Will Hurt You

by Jennifer L. Favell, Ph.D. –
WSBA Lawyers Assistance Program

When I presented this paper to our WSBA senior attorneys discussion group, one commented, “I wish someone had talked to me about this when I started practice. It could’ve made a big difference in my marriage, my family, with my law partner, and my practice.” So how does working with distressed clients put you and your staff at risk for secondary traumatic stress? What do you need to look out for? What can you do to lead a long, satisfying and healthy life as an attorney? We at LAP are convinced that without an understanding of how you can be affected by others’ distress, you will suffer personally and professionally.

Trauma. During or after the time an attorney works with someone affected directly by violence or trauma, it is natural to feel somewhat stunned and unable to believe that what he or she has heard or seen is real. It’s possible that some of your clients’ cases are nightmares too horrible and terrifying to fit or belong in anyone’s internal world. People do unimaginable things. We, the helpers, bear witness to this and often absorb it. Here’s an example.

Doug. Your client may be someone like Doug, a 52-year-old Caucasian male who needed a Will redraft. That seems simple enough. However, Doug needed a new Will because his sister had committed suicide by overdose. Doug described to his attorney how he had started drinking after a ten-year period of sobriety, how it was a miracle he and his wife were still together despite his “letting his appearance go, his 50-pound weight gain, his isolation, his arranging and rearranging things on the shelves, his swollen feet, his broken glasses, his not sleeping, the rashes, his guilt and overwhelming self-blame. Who would not see and feel his suffering?”

As Doug described the two years of desperation he and his family had been through and the final scene of his sister’s death, the attorney said he began to imagine it himself. He himself began waking in the middle of the night, imagining this happening to someone in his family. He made sure everybody had a cell phone, and he called them frequently.

Of course you will see clients who are in varying levels of distress, but every one of them has tried to solve their problems themselves before “giving up” and seeking your help. They are all upset, demanding, unhappy, frustrated, not at their best, vulnerable and

sometimes desperate. My point is that clients may transmit their distress to you, their attorneys. This is the secondary nature of traumatic stress. It adds to the stress you deal with on a daily basis in your personal life and in the practice of law.

Clients whose internal world is in chaos often adhere to helpers, expecting them to know the answers, to know how to deal with the system, to bring justice and a sense of closure. And you have to live with knowing there are many limits.

If you begin to feel you are the client’s only hope, overwhelmed by their demands and expectations, don’t cover your feelings with denial, telling yourself that you knew practicing law was going to be difficult and you just have to get used to it. Maybe you got through law school that way, but it won’t work for the long term. Don’t pay with your own life.

Here’s What to Watch For. There are six main areas of concern. They are behavioral, psychological, physical, spiritual, personal, and professional.

Behavioral signs include the following:

- #1: Alcohol, substance, and/or prescription drug abuse
- Not returning client calls
- Procrastination
- Road rage
- Use of pornography
- Overeating, binging, purging, restricting
- Disrupted sleep
- Avoiding reminders
- Isolating yourself
- Skipping routines
- Shopping/overspending

Psychological signs include the following:

- Shock and numbing
- Feeling possessed or haunted by a case
- Intrusive imagery/thoughts

- Helplessness
- Confusion
- Lack of concentration
- Depression
- Nightmares
- Suicidal thoughts
- Generalized anxiety
- Feelings of dread

Physical signs include the following:

- Jumpiness; feeling on alert and revved up
- Heart palpitations
- Anxiety attacks
- High blood pressure
- Weight loss/gain
- Irritability; short fuse
- Grinding intestines
- Lethargy

Spiritual signs include the following:

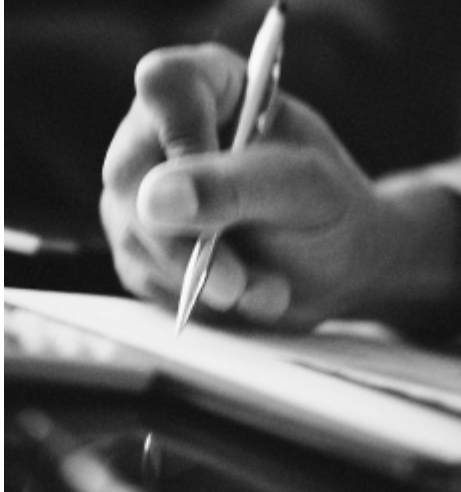
- Loss of meaning
- Don’t care any more
- No pleasure in anyone, anything, anywhere, any time
- Despair
- Grandiosity
- Unrelenting pessimism

Personal signs include the following:

- Resentment
- Getting no satisfaction from helping others
- Becoming someone you never wanted to be
- Living your life in parallel to others who care about you
- No passionate interests
- No friends
- NO BALANCE

continued on next page

Soliciting Writers, Articles, and Letters to the Editor



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 March 7, 2004. The next *De Novo* will be published in April 2005.

Send submissions to:
denovo@wsba.org

If e-mail is not possible,
send by mail to:

De Novo
c/o Lisa Harper
WYLD Liaison
Washington State Bar Association
2101 Fourth Avenue, Suite 400
Seattle, WA 98121-2330

Secondary Traumatic Stress from previous page

Professional signs include the following:

- Poor client communication
- Missed deadlines
(the top two kinds of grievances)
- Lateness
- Disappear
- Disorganized
- Unprepared
- Work 24 x 7
- Can't get started
- Staff dissatisfaction; turnover
- Grievances
- Consider leaving the practice

What Can We Do? If you recognize these signs of burnout and fatigue in yourself, don't think you're weak, doomed to failure, or that there's no help. Recognition is the first step. WSBA offers many kinds of support. ASK.

Lawyers' Assistance Program. The Lawyers' Assistance Program (LAP) offers counseling on a sliding-scale basis; we can make referrals statewide; we listen. We can put you in touch with our peer counselor network, people like you who've been there and are concerned about people in the profession. They're volunteers who will share what they know. Issues could be career development; life transitions; recovery; life balance; and/or retirement. We can also write third-party letters if you're concerned about a colleague.

Law Office Management Assistance Program. The Law Office Management Assistance Program (LOMAP) can help you learn

to run the business end of a law practice so you can practice law. Focus is on the solo or small practice. Learn tools, skills, resources, and systems to manage clients, your practice, your time, and the constant demands and pressures.

Lawyer-to-Lawyer Program. If you contact LOMAP, you can be matched with an experienced attorney/mentor who has volunteered to be of service. Quarterly roundtables are also offered. Come and hear what others like you have to say. You are NOT the only one out there who could use some support.

Ethics Line. Call our Ethics Line to talk with one of our two attorneys about questions or situations before you have a problem. The service is free to WSBA members and can be provided on a no-names basis. They get more than 4,000 calls a year.

Alternate Dispute Resolution. A panel of attorneys is ready to help you resolve a dispute you may have with a client, with another attorney, or with another professional.

Summary. Any and all of these services are available to you. Your dues help pay for them. Give yourself CREDIT, not blame, for recognizing you might need support. You can have productive, creative, rewarding, meaningful and long-term careers in the legal profession. But you have to call us. We're here to help.

WSBA Contact Information

Lawyers' Assistance Program	206-727-8268
Law Office Management Assistance Program	206-733-5913
Ethics Line	206-727-8284
Alternate Dispute Resolution	206-733-5923
Calling long distance:	1-800-945-WSBA
On the Web:	

www.wsba.org/lawyers/services/default.htm

CLE Credits for *Pro Bono* Work? Limited License to Practice with No MCLE Requirements?

Yes, it's possible!

Regulation 103(g) of the Washington State Board of Continuing Legal Education allows WSBA members to earn up to six (6) hours of credit annually for providing *pro bono* direct representation under the auspices of a qualified legal services provider.

APR 8(e) creates a limited license status of Emeritus for attorneys otherwise retired from the practice of law, to practice *pro bono* legal services through a qualified legal services organization.

For further information contact Sharlene Steele, WSBA Access to Justice Liaison, at 206-727-8262 or sharlene@wsba.org.

WSBA CLE – The Innovator in Legal Education

Audio CLE Review Program

Earn free CLE credit while providing a valuable service to the WSBA CLE Department!

By reviewing the content and technical quality of recent WSBA Continuing Legal Education seminars on CD and audio tape, you can earn A/V credits, absolutely free!

To be eligible to participate in this exciting new program, you must be an active member of the WSBA. Interested in learning more? Please contact Stephenie Simon at stephenies@wsba.org or 206-727-8211.

YMCA Mock Trial Program Seeks Volunteers

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 on their presentations 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 18 through Sunday, March 20, 2005 at the Thurston County Courthouse in Olympia. **Attorney volunteers are needed!** To volunteer, please contact Janelle Nesbit at 360-357-3475 or youthandgovexec@qwest.net. Please visit www.youthandgovernment.org for additional details.

Networking Opportunities Through the WSBA Sections!

In addition to pursuing your interest in specific areas of the law, being a member of a WSBA section provides the opportunity to expand your contacts and your resources!

Among other benefits, sections offer CLEs relevant to the needs of their members. Being active in a section can provide a forum for mentoring and learning from knowledgeable and experienced colleagues. For more information on the benefits of joining a section—including access to member listserves, newsletters, publications, and more—check out the website of the following sections:

Administrative Law	Dispute Resolution	Labor & Employment Law
Animal Law	Elder Law	Law Practice Management & Technology
Antitrust, Consumer Protection & Unfair Business Practices	Environmental & Land Use Law	Legal Services to the Armed Forces
Business Law	Family Law	Litigation
Construction Law	Health Law	Real Property, Probate & Trust
Corporate Law	Indian Law	Senior Lawyers
Creditor/Debtor	Intellectual Property	Taxation Law
Criminal Law	International Practice	World Peace Through Law

To learn more about these sections and to join, please visit www.wsba.org/lawyers/groups/sections.htm. Law students may join a section as a “subscriber” for a \$7 dues fee, but without voting rights.

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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.

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Transactional Negotiation Tips & Techniques

Thursday, March 24, 2005

11:30 a.m. – 1:00 p.m.

WSBA Conference Center, Seattle

Approved for 1.5 CLE Credits

Ross D. Jacobson, of Williams, Kastner & Gibbs PLLC

will guide attendees through descriptions and comparisons of
two different transactional negotiation techniques.

Registration by March 18: \$15

Walk-In Registration: \$25

For additional details and to register, please visit www.wsba.org/wyld.