

# THE LEGAL BRIEF

A Publication of the Thurston County Bar Association

Volume 30, Issue 4  
September, 2012

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## TCBA Board of Directors 2012-2013

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## President's Message

By: John Skinder

After the Annual Dinner in May, I reflected on how excited and honored I was to be selected by all of you to be President of the Thurston County Bar Association (TCBA). Our association is made up of over 300 dedicated attorneys and I am proud of the professionalism and collegiality of our members. I firmly believe this is an excellent community to work in and call home. I will work diligently and earnestly as your president.

### GO WEST!

For those of you who don't know me, I made my way out West back in 1993 when I moved from Alexandria, Virginia to Tacoma, Washington. I attended law school at the University of Puget Sound which was then sold to Seattle University half-way through my first year (I had never heard of such a thing happening but it worked out great!). I graduated in 1996 and went to work in 1997 at the Lewis County Prosecutor's Office. While I worked in Chehalis, I made Olympia my home. In the summer of 2000, I had the opportunity to work in the Thurston County Prosecutor's Office. At the Prosecutor's Office, I have been a team leader for the domestic violence prosecution team, the juvenile justice team, and I currently lead the special victims team. I take a lot of pride in being able to help children and their families in our community.

### FUN STUFF!

We recently had a Family Picnic on August 12, at Burfoot Park; it was a really fun event! It was wonderful to see TCBA members with their families at a social event on the weekend. BBQ King (and TCBA President-elect) Larry Jefferson did a phenomenal job grilling; I served as his able assistant. My wife Angela helped organize and was a fabulous hostess. Board members Terry Church, Brent Normoyle, and Erik Price helped in many ways (including Brent putting on a clinic in bocce ball, Erik showing why he is a lawyer and not playing for the Seahawks, and Terry saving the day by getting some last-minute emergency picnic items). I also want to thank everyone who came and brought a dessert or side dish. I hope this picnic will become an eagerly-anticipated annual TCBA social event.

### MORE IDEAS!

Our Board of Directors is made up of 11 volunteer attorneys that represent a cross-section of the legal community in Thurston County. The benefit of this diversity is we can better represent the interests of all of our members and serve as points of contact for our members to give us ideas to make the TCBA even better. I see my role of President as an opportunity to serve all of you and make the TCBA the best organization it can be. I know the other members of the Board feel the same way. I heartily encourage you to talk with your Board members and to be actively engaged in the TCBA. We are open to any and all ideas to improve our association and make our legal community even better!

SAVE THE DATE:  
FRIDAY, DECEMBER 7, 2012  
TCBA ANNUAL HOLIDAY LUNCH

## “Mentoring Maven”

Reprinted with permission from UW Law School newsletter Spring 2012  
submitted by Judge Lisa Sutton

“I’d describe Carol’s style as ‘mentoring on steroids,’” daughter-in-law Leonor (Leo) Fuller ’84 said.  
“So many of the women judges in Washington state were her mentees.  
Almost every female judge in the state knows who she is.”

“How can I make your job easier?” were the first words Carol Fuller ’54 said when asked for an interview about her career as a judge. This question was not empty; clearly it had been said hundreds, if not thousands, of times before and she meant it.

As the first woman judge in the state of Washington outside of King County, Fuller had few role models. Therefore, whether it was intentional or not, she blazed a trail for all women judges who came after her. Her daughter-in-law Leo Fuller ’84 is betting that it was deliberate. “Carol has never forgotten the challenges encountered by a trailblazer,” Leo Fuller explains. “However, the experience never hardened her. Carol is a relentless optimist and, in this way, has inspired others notwithstanding how hard it was to achieve what she did.”

Judge Fuller of the Thurston County Superior Court was appointed by former Governor Dixie Lee Ray in 1979 after five years on the bench in Mason County as a District Court judge. After receiving this appointment, she went on to win a landslide victory in the Thurston and Mason County general elections.

In 1981, Ken Valz, an attorney in Tumwater, Washington, wrote of Judge Fuller in the *Washington State Bar News*, “As women attorneys continue their advancement in the legal profession, let’s not forget those who led the way.”

Then on February 9, 1989 Judge Fuller was recognized during the 10th anniversary dinner of the Northwest Women’s Law Center (now Legal Voices) at the Seattle Sheraton. Judge Fuller received an award for her outstanding contribution in advancing the legal rights of women in the Northwest. Nearly 1,300 people attended and author/activist Gloria Steinem was the featured speaker.

Carol Fuller began her journey to becoming a ground-breaking judge and mentor when she entered law school in 1951 on the advice of a junior college teacher who said that women “should have good work to do.” While there were four women in her class, three graduated and only two of those passed the bar exam.

In law school, Judge Fuller enjoyed the challenge of the material.

“There was so much to learn,” she said. “I was devoted to learning the law and to learning how to practice the law.”

She also met her husband Herb during the first month of law school. They met in Contracts class and married in 1954.

After graduation, the Fullers moved to France where Herb Fuller served in the U.S. military for five years. They then returned to Olympia. In 1969, at the age of 39, Judge Fuller felt that their family was “stable enough” for her to resume her law career. Their youngest daughter was 9-years-old and although Judge Fuller had not worked since graduation, she took a job with Legal Services in Tacoma. In 1971 she joined her husband in his private practice.

Recently retired Judge Christine Pomeroy was in the fifth grade when she met Carol Fuller. “Somebody told me she was a lawyer,” Pomeroy said. “That really impressed me. I didn’t think women could be lawyers so I asked her. She replied ‘Yes, dear, they can be.’”

Inspired by Judge Fuller, Pomeroy attended law school. After graduation, Judge Fuller mentored Pomeroy and the young lawyer practiced in front of Judge Fuller for 15 years before being elected to take Fuller’s position on the bench, an honor not lost on Pomeroy.

Pomeroy said the most important lesson Judge Fuller taught her was “civility.”

“In Family Court, Carol always suggested settlement,” Pomeroy said. “She would say, ‘Let’s have a cup of tea’ and both sides would sit down to talk. Everyone was happy with the settlement. It taught me that it didn’t matter what happened— just focus on what you want to get across to the judge, focus on your role to advocate and to inform. She also gave me good advice when I became a judge. She taught me how to get along with people, how to be gracious. She’d tell me to really look at the person in front of you. Make them feel at ease.”

Pomeroy said Judge Fuller’s graciousness extended far beyond the courtroom.

“She would ask ‘How are you?’ of everyone she met,” Pomeroy said. “She’d be interested in your case, your children. She would take your hand and hold it a minute or two.”

Judge Lisa Sutton met Judge Fuller through her mother-in-law, Mary Stuart Lux. According to Judge Sutton, then-Representative Mary Stuart Lux and Judge Fuller were among the first women in politics in Thurston County. A number of years later, in 1984, Sutton, a law student at the time, applied for and was accepted for an internship at the Thurston County Supreme Court. Judge Fuller hired her and also served as her supervisor. A lifetime friendship ensued.

Sutton, like Pomeroy and many other women law professionals in Thurston County, consider Judge Fuller a mentor and friend.

As a judge and as a person, Carol was humble, compassionate and always wanted to resolve everything,” Sutton said. “Carol promoted alternative dispute resolution well before that concept was used as it now is.”

Sutton recalls the graciousness of Judge Fuller during her first court hearing as a new assistant attorney general practicing in front of Judge Fuller.

(cont. on next page...)

**Carol Fuller & Mary Stuart Lux**



"As a judge and as a person, Carol was humble, compassionate and always wanted to resolve everything, Carol promoted alternative dispute resolution well before that concept was used as it now is."

Judge Lisa Sutton

"She asked me and the opposing attorney if we had discussed resolving the case," Sutton said. "We had not, so she asked us to meet in her chambers where we had a cup of tea and talked about how to obtain a mutually agreeable settlement."

**Chief Justice (Ret.) Gerry Alexander '64** lived in the same neighborhood as Judge Fuller.

"I always admired her," Alexander said. "It was tough on her at first, being the only woman judge, but she never showed it. It didn't seem to get under her skin."

After seeing a documentary on women in the legislature in the late 1980s, Fuller was inspired to create a video recording on the history of women judges in Washington state. The Northwest Women's Law Center agreed to produce the film with the help of Susan Starbuck.

In classic "Carol" fashion, Judge Fuller gives Starbuck all the credit for the award-winning film.

"Susan had the energy, intelligence and fundraising abilities," she said.

Before retiring from Superior Court in 1993, Judge Fuller presided over thousands of

important cases including the overcrowding of Echo Glen Children's Center near Snoqualmie, the ruling on tax exemptions relating to heart-lung machines and hearing aids, the halting of logging in Snohomish County, and cases involving fish trafficking. But when asked about her most important or significant cases, Judge Fuller said she considers every case to be significant.

"If I put myself on the other side of the bench, I can only feel that every case is important," she said. "Especially in

family law. I know how important a judge's decision is to the family."

Although Judge Fuller retired from the bench in 1993, she returned to her husband's firm Fuller & Fuller, a regional law firm emphasizing accident/injury law and medical malpractice law. The Fullers have always emphasized the importance of family. Also practicing at the firm are their son, Jay, daughters **Marya '85** and Nina and their daughter-in-law Leo.

The firm is currently celebrating its 40th year. Grandson **Evan Fuller '14** is now at the UW School of Law, class of 2014. "She is incredibly humble. Her calm, peaceful, insightful nature teaches me never to make assumptions about other people," Evan said. "She has laid a solid moral foundation for our family."



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## YOUNG LAWYER SPOTLIGHT

### **Megan Bartley WSBA No. 42425**

*megan@morganhill-law.com*

(360) 357-5700

I'm from Bellevue. I've lived in Pennsylvania, Africa, and Idaho. I own four guitars, a clarinet, a saxophone, and an accordion (I can play everything except the accordion). I make a mean carrot cake. My parents think I'm neat.

☞ **Areas of practice:** Bankruptcy, primarily; Family Law, secondarily.

☞ **I became a lawyer because** like so many of my peers, I had a useless liberal arts degree, but I also had a desire to somehow be of use in this world. I wanted to give some meaning to my work and to provide assistance to people who needed it. I wanted to feel like I was making a difference for the better in someone's life. Becoming a lawyer seemed to be the clearest and most direct route for accomplishing that goal. Maybe the real answer is "because everyone else was doing it"?



☞ **One of the greatest challenges in law today is** Access.

☞ **The hardest part of being a young lawyer is** Figuring out what you don't know.

☞ **If I were not practicing law, I'd be a** midwife.

☞ **This is the best advice I have been given:** Once you graduate from law school, your time is no longer your own. In the professional legal world, you no longer work for yourself, you work for your clients; they own your time. Law school is the very last time in your life where your time will belong to you alone.

☞ **Traits I admire in other attorneys:** Professionalism, courtesy, and a good sense of humor.

☞ **Someone whose opinion matters to me:** The judge.

☞ **People living or from the past I would like to invite to a dinner party and why:** 1) My grandmother because she was an exceptionally good hostess and socialite. Plus she's dead and I miss her. 2) Bill Clinton because my grandmother despised the man and it would be fun to see her try to be nice to him after saying so many horrible things about him during his presidency. Plus I think he'd be charming and engaging dinner company. 3) Anyone from the Blue Man Group. They would HAVE to be lots of fun.

☞ **I am most happy when:** Working on art projects.

☞ **I am most proud of this:** Curbing my obsessive compulsive tendencies down to simply being neat and organized.

☞ **A book I would recommend reading:** I'm currently reading "West of Here" by Jonathan Evison. Two of the jacket reviews use the phrase, "riotously funny." I would not use that phrase to describe the book, but it is quite good nonetheless.

☞ **What keeps me awake at night:** Cases I've put on the backburner.

☞ **If I could live anywhere:** A sturdy Pacific Northwest house with a porch and a garden and a big kitchen.

☞ **This is the hardest part of my job:** Keeping my office warm.

☞ **This is the best part of my job:** The snack closet.



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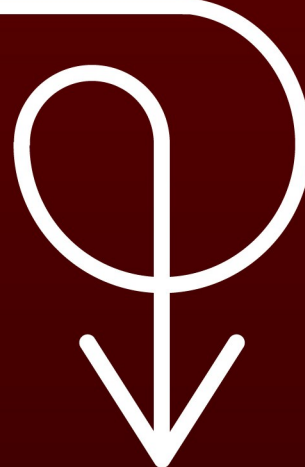
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## **THE CONTRACTUAL DUTY TO SUPPORT AN IMMIGRANT SPOUSE**

Lisa Ellen Seifert, Seifert Law Offices, PLLC  
[lisa@seifertlaw.com](mailto:lisa@seifertlaw.com)

Greg McLawsen, Puget Sound Legal, P.C.  
[greg@pugetsoundlegal.net](mailto:greg@pugetsoundlegal.net)

Ever heard of the I-864 Affidavit of support? If you might ever represent a noncitizen, or someone married to an immigrant, then read on. Your client may have signed a contract agreeing to support the noncitizen indefinitely.

**What is the I-864?** The I-864 Affidavit of Support is a contract between a citizen “sponsor” and the U.S. Government. *See* 8 U.S.C. § 1183a(a)(1). (The form is available at <http://www.uscis.gov/files/form/i-864.pdf>.) The form is required when an immigrant seeks permanent status based on a certain family visas, including those based on marriage to a U.S. citizen. The sponsor promises to support the noncitizen at 125% of the federal poverty guidelines – that’s \$13,963 for a single-person household plus \$4,950 for each additional member. The form is necessary to show that the noncitizen will not become a drain on public resources (i.e., a “public charge”).

Neither separation from a spouse nor dissolution of the marriage ends a sponsor’s duties to support the noncitizen. Only five events end the sponsor’s responsibilities: the sponsored immigrant (1) becomes a U.S. citizen; (2) can be credited with 40 quarters of work; (3) is no longer a permanent resident *and* has departed the U.S.; (4) after being ordered removed (i.e., deported) seeks permanent residency based on a different I-864; or (5) dies.

A sponsored immigrant is not permitted to receive means-tested public benefits. Means-tested benefit programs are those basing eligibility on a person’s financial resources, such as Food Stamps, Medicaid, and Supplemental Security Income (SSI); the category does not include short term non-cash relief programs such as emergency Medicaid. Note that it is permissible for the immigrant’s U.S. citizen child to receive means-tested benefits.

If the noncitizen receives means-tested public benefits, the government can sue the sponsor to recover that cost. But a sponsor’s liability under the I-864 does not end with government programs.

**Suing on the I-864 contract.** Courts have uniformly held that a sponsor’s support obligations are contractually binding. *See, e.g., Shumye v. Felleke*, 555 F. Supp. 2d 1020 (N.D. Cal. 2008). This comes from the terms of the form itself, which meet the requirements for contract formation. Courts also look to the language of the Immigration and Nationality Act, including the “new” mandate that the affidavit of support be “legally enforceable” *See* 8 U.S.C. § 1183a(a)(1)(B).

The noncitizen may sue on the contract in state or federal court to enforce support obligations against the sponsor. To prove breach, the noncitizen shows that the sponsor failed to provide the required level of financial support. Courts have rejected a number of contract defense theories including lack of consideration and unconscionability (even given a short marriage). The measure of damages is simply the amount needed to restore the level of support required by the agreement.

**In a dissolution action.** The I-864 has been built into dissolution awards both as a factor in calculating maintenance and as a contractual award. Litigants can bring the I-864 into a dissolution action by pleading a contractual cause of action in the petition or the answer. *See, e.g., Marriage of Sandhu*, 207 P.3d 1067 (Kan. Ct. App. 2009). Courts sometimes consider the I-864 when calculating spousal maintenance. *See, e.g., Barnett v. Barnett*, 238 P.3d 594 (Alaska 2010). But it is not clear how the I-864 would factor into Washington’s statutory scheme for spousal maintenance. Under which statutory factor would an I-864 contract obligation fit? *See* RCW 26.09.090. Moreover, building an I-864 into spousal maintenance may raise constitutional concerns due to the special enforcement mechanisms available with regards to maintenance. *Cf. Love v. Love*, 33 A.3d 1268, 1279 (Pa. Super. Ct. 2011) (Freedberg, J., dissenting) (arguing that incorporating the I-864 into a maintenance order could lead to unconstitutional imprisonment for private debt); Const. art. I, § 17 (forbidding imprisonment for debt).

**Spot the issue.** Keep your eyes open for the I-864 when you encounter a case with a noncitizen spouse.

## Upcoming Local CLE Opportunities

(unless noted, CLE's are sponsored by the TCBA—some topics are still tentative)

1. Friday, Sept. 21, 2012—Ramblin Jacks will be a presentation by Paul Spizman
2. Friday, Sept 7, 2012—TCBA St. Martin's 3 hour seminar. "A Supreme Afternoon", featuring Supreme Court Justices: Susan Owens, Debra Stephens and Steven Gonzalez
3. Tuesday, Sept. 25, 2012—Family & Juvenile Court building "Case Law Update 2012"
4. Friday, October 19, 2012—Ramblin Jacks will be a presentation on the Family Safety Center
5. Tuesday, October 23, 2012—Family & Juvenile Court building "DV impact on children and parenting"
6. Friday, November 16, 2012—Ramblin Jacks
7. Tuesday, November 27, 2012—Family & Juvenile Court building "Wrap around services; Accessing appropriate Services"
8. Friday, December 14, 2012—TCBA St. Martin's Potpourri CLE. 1:00-4:30pm. There will be 6 courses to be announced
9. GLBA Ethics CLE—December 7 "save the date"



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Experience matters. Justice matters.

Contact our Personal Injury and Civil Rights Group to discuss how we can help you and your clients.





TCBA members arriving at the Burfoot Park Shelter ...

## BURFOOT PARK August 12, 2012

**THANK YOU TO ALL THE MEMBERS  
AND THEIR FAMILIES THAT CAME OUT  
TO THE FAMILY  
BBQ/PICNIC!!!**

Thank you to those who made a side dish or dessert and a big thank you for those that helped clean up!

What a fun day... can't wait until next year!



2012-2013 TCBA President, John Skinder and President Elect, Larry Jefferson AKA The BBQ KING making sure everyone had enough to eat.

Family friendly!



More Members enjoying food and conversation.



## TCBA Updates

### Monthly Luncheon at Ramblin Jacks

The next Ramblin Jacks lunchtime CLE will be held Friday, September 21, 2012. Paul Spizman will present "Understanding Competency to Stand Trial, Diminished Capacity, and Not Guilty by Reason of Insanity". There is 1 General CLE credit approved with the WSBA.

### 2012 United Way Day of Caring

Friday, September 21, 2012. If you would like to volunteer for all day or just part, please let Angela Skinder know at [tcba.info@gmail.com](mailto:tcba.info@gmail.com). It's not too late, we would love to see you there!

### November Issue of the Legal Brief

There will be a deadline of Thursday, November 1, 2012 for submission of articles and advertisements to Angela Skinder at [tcba.info@gmail.com](mailto:tcba.info@gmail.com).

### 2012 HOLIDAY LUNCH

Friday, December 7, 2012 from 12:00-1:00pm at Indian Summer Golf & Country Club.

Make sure to *save this date* for some annual holiday fun.

The TCBA will be sponsoring families through the Salvation Army again this year. More details to come in October.

### 1/2 Day—Low Cost CLE

Friday, December 14, 2012 the TCBA will be presenting a Potpourri CLE seminar at St. Martin's University. There will be 6 courses and you may choose which 3 you would like to attend. More details coming soon....

Please refer to the "Calendar" section of our website for a full list of upcoming events:

**[www.thurstoncountybar.com](http://www.thurstoncountybar.com)**

## Section/Committee Announcements...

### **CLE Committee**

The TCBA CLE Committee brings lower cost, local CLE opportunities to our bar. We always welcome ideas and suggestions for additional CLE's from our membership.

There will be a committee meeting in November to set dates and topics for 2013 CLE's. Please send any suggestions to [tcba.info@gmail.com](mailto:tcba.info@gmail.com)

### **Young Lawyer Section**

The Young Lawyer Section holds regular Monthly Meetings the second Wednesday of every month, noon at I.talia.

Please contact  
Megan Card at 352-8311 –  
or-  
[meganc@buddbaylaw.com](mailto:meganc@buddbaylaw.com)

Please visit the new webpage at  
<http://thurstoncountybar.com/sections/young-lawyer-section/>

### **Family Law Section**

The Family Law Section meets at 12:10 on the 2nd Tuesday of each month at the Family and Juvenile Justice Center.

If you have not received an agenda and would like to be added to the mailing list, please call William B. Pope & Associates at (360) 866-4000

Please visit the new webpage at  
<http://thurstoncountybar.com/sections/family-law-section/>

### **Land Use Section**

The Land Use Committee is co-chaired by Carmen Rowe and Jessica Jensen.

## THURSTON COUNTY VOLUNTEER LEGAL SERVICES WHAT'S HAPPENING...

BY REA HAGAN, EXECUTIVE DIRECTOR

*One person can make a difference,  
and everyone should try.*

-John Fitzgerald Kennedy

Thurston County Volunteer Legal Services (TCVLS) provides free legal advice, information, and direct representation to low-income people in Thurston and Mason Counties in civil matters only. Clients for the clinics are screened for financial eligibility and type of legal issue.

As of August 15, 2012 TCVLS provided services to 501 clients in our clinics. This breaks down to 702.9 hours of Attorney time, 222.7 Administrator hours and 78.2 hours of Clinic Mentor hours for a total of 1003.8 Hours. The 702.9 Hours of Attorney time includes 155.5 Hours of Court Room appearance on the Unlawful Detainer docket with a value of \$31,100.

Combined with \$87,070 of direct representation we have provided a combined value of \$227,650 in legal services

At our April Fundraising Breakfast I issued a challenge to increase our volunteer roster by ten people by the end of 2012. I am thrilled with the response!

We are being contacted weekly by enthusiastic and eager new volunteers. There are people with

a wide range of practice areas and interest enhancing our ability to serve more clients.

Please join us in thanking the following new volunteers who generously joined our group sharing their time and talents at our Family Support Center, Safe Place and Housing Justice Project clinics:

### ATTORNEYS:

Geoff Arnold  
Jodi Carpenter  
John Gray  
Thomas Moron.  
Lawrence Larson  
Julie Larson  
Jason Zittel  
Lloyd Huff  
Jennifer Ammons  
Rueben Schultz  
Courtney Lyon  
Paul Rietzke

### LAW SCHOOL INTERN/ INTERPRETER

Phillip Mason

### CLINIC ADMINISTRATORS:

Emily Kobylenky  
Sara Smith  
Anita Hamlin  
Syndi Carne

### INTERNS:

The end of summer marks the return to Evergreen State College of our incredible interns, Lawrence Novak and Skyler Schmitt.

Lawrence and Skyler provided administrative support to our clinics, conducted legal research and provided client intakes. They will

continue to volunteer at our clinics in the fall.

As we start the fall semester we will be joined by a new intern, Killian Dunkeson. Killian has been volunteering as an administrator at the HJP clinics for some time and will begin providing administrative office support as well.

### CONGRATULATIONS

Dan Goodell, member of our Board of Directors, was recently presented with the WSBA Local Hero Award, in recognition of his commitment to pro bono service and his work in revitalizing and supporting the Mason County Bar Association.

### READY TO HELP?

We would love to have you as a volunteer. If you are interested in volunteering your skills please contact Christine Lund, Program Coordinator at 360-705-8194  
[Christine@tcvls.comcastbiz.net](mailto:Christine@tcvls.comcastbiz.net)

### MARK YOUR CALENDARS

**Free CLE at Noon on the First Thursday every month in the 2<sup>nd</sup> Floor Conference Room of our Offices at 711 Capitol Way South, Olympia.**

September 6 – High Conflict Cases –Kristen Bishopp  
October 4 - TBA.

**For more information, or to register, please contact Christine at 360-705-8194  
[Christine@tcvls.comcastbiz.net](mailto:Christine@tcvls.comcastbiz.net)**

# The Thurston County Bar Association

PRESENTS...

## SEPTEMBER CLE LUNCHEON

*Friday, September 21, 2012 @ Ramblin Jacks*

Please join us for lunch and a presentation on

### **"Understanding Competency to Stand Trial, Diminished Capacity, and Not Guilty by Reason of Insanity"**

by Paul Spizman

**1 General CLE Credit Approved with the WSBA  
CLE credit is free**

Registration and "Social Hour" 11:30am – 12:00pm  
Presentation from 12:15pm-1:15pm

**Lunch will be served Buffet style and will include:**

12-Hour Brisket Sandwich  
Smoked Turkey Sandwich  
Spinach Salad

**\*Meals will be served with French fries and a beverage**

**Cost is: \$13.00/person (all inclusive)  
payable by cash or check to TCBA**

**Reservation Required  
By Wednesday, September 19**

Please email Angela Skinder at  
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**Lawyer:** "Trooper, when you stopped the defendant, were your red  
and blue lights flashing?"

**Witness:** "Yes."

**Lawyer:** "Did the defendant say anything when she got out of her  
car?"

**Witness:** "Yes, sir."

**Lawyer:** "What did she say?"

**Witness:** "What disco am I at?"



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