

# THE LEGAL BRIEF

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## President's Message

By: Larry Jefferson

Friends, Colleagues, Strangers, and legal minded associates, I want to welcome you and invite you to a new year with the TCBA. This year I want you to be as Bad, Bold and Beautiful as you can be! Yeah I said it! Vacation time is over and it is time for the kids to go back to school and for you to go back to work.

I want you to be Bad at work. I want you do 6 hours of legal work in 4. I want you to take those 2 hours and enjoy what got you here: Family, friends, dogs, boats, walks, breathing, writing, and dreaming. We work hard as lawyers. Any good lawyer knows there is always more work to do. Writing briefs, meeting clients, or doing more research. The pull to work more can be irresistible. For example, last Saturday, I was driving to work. I had a mountain of work to do, I felt guilty. I thought what am I doing? So I turned around and went home. I had the best Saturday of the summer. My son came home (without me calling him) and hung out with me for almost 2 hours. Not going to work was *the* best decision I could have made. Sometimes we have to say enough is enough.

I want you to be Bold. Make that objection! Stand firm for a cause. Make the uncomfortable suggestion. Scare yourself with a new challenge. The successes will be sweeter and the defeats crushing. My grandmother says you aren't living until you've failed at least three times! I questioned, "three". She was like yep, I know I lived it. (She was the first black woman to work with the printing press at the Chicago Sun Times). You'll start to do it once a week, maybe once a day. And you *will* be better for it. The world *will* be better for it. Because being bold requires you to live in the moment and to take real, meaningful chances.

I want you to be Beautiful. I said Beautiful. I want the real you to shine. It's hard to shine living a double life. Do things you believe in. Live one life. (Have you ever seen anybody that believes in what they are doing? It is magnificent. It's like all the poetry you will not find in this article.) Be beautiful with a client, an attorney and a friend. Treat them with kindness when you don't feel they deserve it. Stand up for others with no benefit. Say, that's not right, when it's not. This won't always be pretty; it will not always feel good. That's not the point. The most beautiful things you can do sometimes take more sacrifice than being bad or being bold. Being beautiful requires you to throw yourself out there on a limb. It requires you to let others catch you when you might fall or say the wrong thing. Those are beautiful things to me.

So with those humble words, I look forward to working with each of you this year and meeting those I have not met. See you around, I have to go do bad, bold and beautiful things in court...

Oh yeah, I wanted to remind you of a few things.

We are looking for leaders to head different sections in the TCBA. We have Pro Bono; Criminal; Family Law and Land use. We need leaders that will help a section grow, plan activities, and get us up to date. For instance, in criminal law section, I would like someone that could attend meetings with Superior Court and report on the upcoming changes to criminal practice. I want a leader that will sponsor a night out every couple of months or find a guest speaker for a CLE. With those thoughts in mind we are looking for individuals to write a short letter of interest by September 15<sup>th</sup> to allow us to make any needed decisions by our October meeting.

Thank you for participating.

## **EFFECTIVE NEGOTIATIONS—A VIEW FROM THE BENCH**

by Judge Lisa J. Sutton,  
Thurston County Superior Court

Family law matters are best resolved by the parties themselves. If a matter is not resolved before trial, the parties give up control over the outcome. In contested family law cases, Thurston County Family & Juvenile Court offers the parties a settlement conference lasting one hour. Settlement conferences are conducted by a judicial officer at no cost to the parties. The settlement conference is the party's only opportunity to talk with a judicial officer before trial. Also, for child custody and visitation disputes, these cases must be submitted to an approved family law mediator within 120 days after respondent files a pleading. If there are issues in addition to custody and visitation, either party also may request a settlement conference at the start of mediation. See LSPR 94.05. This article addresses the settlement conference process under LSPR 94.03D.



### ***How to Prepare for the Settlement Conference***

1. Both parties should exchange information in advance, discuss issues they disagree about in advance, and come to the settlement conference ready to problem solve.
2. To prepare for the settlement conference, each party should identify the information each has and what information may be needed. This list may include a list of debts and liabilities, property values, whether an appraisal is needed, Bluebook information in valuing automobiles, two years worth of pay stubs and tax information, and retirement/pension values (and payouts) and other similar information.
3. If there are children involved, the parties should prepare and propose a parenting plan that is in their children's best interest.
4. The Thurston County Local Rules, LSPR 94.03D, require each party (or attorney if represented) to exchange a written settlement conference statement 14 days before the settlement conference date. A working copy of the settlement conference statement and materials are provided to the judicial officer who will hear the settlement conference.
5. If a Guardian Ad Litem has been appointed to assist the court, the GAL will need sufficient time and the most current and updated information to complete his/her recommendations. It is incumbent on the parties to cooperate with the GAL so that the GAL's report can be submitted timely to the court. The court will review the GAL's recommendations prior to the settlement conference. The GAL also will attend the settlement conference and will be asked to provide his/her input to the judicial officer. The settlement conference date should be noted to occur after the GAL's report has been completed.
6. A party's settlement conference materials should be as complete as possible and attach any relevant documents. In the settlement conference document, a party should identify the key facts, the disputed issues, and the matters that are not in dispute or likely to be resolved, and any barriers to resolution.
7. There are several advantages to a party when a timely settlement conference statement is provided to the opposing party and the judicial officer. A settlement conference statement is the first real opportunity a party has to educate the opposing party (and his/her attorney) of the strengths of that party's position. It will become apparent what additional information may be needed to finalize any resolution. A party submitting a timely settlement conference statement demonstrates a desire to negotiate. Many experts in negotiation believe it is advantageous to make the first offer, rather than waiting to respond to the opposing party's initial offer. Settlement conferences provide a party the opportunity to learn about the weaknesses in his/her position and the opposing party's strengths and weaknesses.
8. The judicial officer will be better prepared to conduct the settlement conference if your settlement materials are timely.

continued from page 2

### ***The Settlement Conference Process***

1. Settlement conferences are not about “winning or losing” or being right or wrong. Settlement conferences should not be used to argue about one party’s position because that party’s position is set forth in the settlement materials. The parties instead should come prepared to make and respond to offers.
2. Each party will be given an opportunity to explain his/her position and make and respond to settlement offers. The judicial officer will provide input to the parties during the settlement conference process to encourage resolution. The judicial officer’s ability to provide input to the parties will be based on the quality and timeliness of the settlement conference materials, and the parties’ good faith negotiations in order to achieve resolution.
3. Certain ground rules apply during the settlement conference process. There is no name calling/rude behavior/talking over others. Everyone should be treated with respect. After presenting his/her position, each party (and his/her attorney) is expected to listen to what others have to say. If the judicial officer concludes that a party is not abiding by these ground rules, the judicial officer can end the settlement conference, and/or sanction that party.
4. The judicial officer should not be working harder than the parties to resolve their dispute.
5. In participating in a settlement conference, a party should always consider the following: What is the best possible outcome at a settlement conference given the risk, time, and additional cost of a trial?
6. If a full or partial agreement is reached, the parties will be sworn in and the agreement (under Court Rule 2A) will be placed on the record and recorded. Final paperwork will be entered at that time, or scheduled for presentation within 30 days or as soon as possible.

### ***What Happens Post Settlement Conference***

If resolution is not reached at the settlement conference, the following takes places:

1. The court will set a trial date (Court Administration provides the parties a trial week);
2. The parties are required to submit a written settlement offer to the other party within 30 days after the settlement conference, but not less than 21 days before trial;
3. The temporary orders already issued will remain in place until the court’s ruling at trial on that issue; and
4. The parties will incur more time and expense to prepare for trial. Additionally, the parties will be required to appear in court for a status conference, pre-trial conference, any motions noted, and for trial. If a party does not appear, the court may impose sanctions up to \$500.

### ***Why Cases Do Not Resolve***

Some cases do not resolve as a result of a settlement conference. The reasons can vary but can be summarized as follows: one party was not sufficiently prepared to resolve the matter or make meaningful progress; one party did not show up for the settlement conference or failed to fully participate in negotiations; additional information was needed to make meaningful progress in negotiations (often this information relates to pension/retirement accounts, current employment/pay information, or property values where an appraisal is needed); the parties used their time during the settlement conference to argue their positions rather than exchange offers and negotiate; or one or both parties failed to make their final and best offer before trial. Lastly, despite best efforts by the parties, some cases just cannot settle because there is a good faith disagreement.

# YOUNG LAWYER SPOTLIGHT

By: Megan Card, YL Chair

## CHRISTOPHER LANESE, WSBA No. 38045

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(360) 586-6300

My great-great-grandparents moved to the South Sound in 1891. After graduating from Dartmouth College and Harvard Law School, and working in private practice in Seattle for several years, I returned to my family roots by moving to Olympia to serve our community as an Assistant Attorney General. In this capacity, I represent the public's interests in complex lawsuits before state and federal courts at the trial and appellate level. I also serve as Vice Chair of the Family Support Center's board of directors and regularly volunteer with Thurston County Volunteer Legal Services.



- ② **Areas of practice** Government, Civil Rights, Constitutional Law, and Employment
- ② **I became a lawyer because** I wanted a career that requires strong analytical and writing skills to succeed, is collaborative and social in nature, and allows me to see the impact of my work in my community.
- ② **One of the greatest challenges in law today is** a lack of resources. Cuts in funding to the courts, public defender programs, and civil legal aid programs are worsening an already severe access to justice problem in our community.
- ② **This is the best advice I have been given:** What would you attempt to do if you knew you could not fail?
- ② **I would give this advice to a first-year law student:** Civil Procedure may be the most boring class you take in law school, but it is also the most important so pay attention and study up.
- ② **People living or from the past I would like to invite to a dinner party and why:** My grandfather, who was a B-29 pilot in World War II and then went on to graduate with honors from Gonzaga Law School, clerk for a federal judge in Tacoma, and practice law in Tacoma. He passed before I was born. I am sure I could learn a lot from him, and I hear that he was a great person.
- ② **My favorite vacation is** any road trip with my family. My wife and I just successfully completed our first family road trip to visit her grandparents in Ohio and Pennsylvania with our children (4 year old daughter and 2 year old boy-girl twins): 6,900 miles, 16 days, 12 states, and 15 National Parks/Monuments/ Memorials. It was a blast.
- ② **If I could live anywhere,** I would live here in Thurston County. The friendliness and familiarity of a small community with the resources and culture that come with being home to the state capital is a combination that is impossible to beat.

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## OFFICE UPDATE FROM THURSTON COUNTY CLERK'S OFFICE

There is a chill in the morning air which means summer must be nearing an end. Where does the time go? It's hard to believe that I joined this group almost a year ago. It has been a pleasure to work on new projects and to get to know all of you during the process.

### LEGISLATIVE CHANGES

I would like to share some information that may affect you while doing business with the Clerk's Office as a result of legislative changes that took effect in July.

1. **TEDRA FILINGS:** Historically, our office has allowed TEDRA's to be filed in an existing case, with payment of the required filing fee. The new legislation now requires all TEDRA proceedings to be commenced as a new action. If our office receives the documents with an existing case number and absent the required Case Information Cover Sheet, they will not be filed and will be returned to the submitting party.
2. **STALKING PROTECTION ORDERS:** There is now a new cause of action for Stalking Protection Orders. These actions are intended to address stranger-to-stranger stalking. If both parties are adults, the matter will be handled in District Court. If the Respondent is under 18, the matter will be addressed at the Family & Juvenile Court. The initial requests (temporary orders) will take place on the domestic violence calendars held daily at 1:30, and the permanent order hearings will be held on the Anti-Harassment calendar held on Wednesdays at 2:30. State pattern forms are available at [www.courts.wa.gov](http://www.courts.wa.gov).

### E-FILING REMINDERS

The following are some common errors we find with e-filings that result in a lot of staff time and/or the rejection of your documents:

1. For confidential documents, please remember that you must first file the document, with the confidential coversheet as the first page. You must then ALSO file the coversheet separately as a second e-filing.
2. It is important that the top, right corner of the first page of each document remain blank. This is where the automated time stamp is placed upon e-filing. If your document has writing in this area, use a coversheet for the first page.

Just as a general reminder, please note that the Family Law Notice of Issue was updated on June 27, 2013. Please delete any previous versions that you may have as they are no longer accurate and have caused some scheduling issues.

As always, I welcome suggestions for topics that you would like me to address in an upcoming issue. Until next time...

THURSTON COUNTY CLERK'S OFFICE



YVONNE L. PETTUS  
Chief Deputy Clerk



Gordon Thomas Honeywell LLP  
Personal Injury & Civil Rights Group  
Attorneys James Beck, Andrea McNeely, Eric Gilman,  
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(360) 357-2136   8-5 Mon. – Fri.

### **Join us for these free training sessions:**

Casemaker for WSBA members:

October 15<sup>th</sup>, 1:30-3:30pm

October 16<sup>th</sup>, 9-11am

RSVP by October 11<sup>th</sup>

Westlaw Classic:

October 29<sup>th</sup>, 1:30-3:30pm

open to everyone, seating is limited

RSVP by October 18<sup>th</sup>

Call (360) 357-2136 to RSVP!



# Calling All Justice Seekers

**By: Bruce Conklin and Becca Glasgow**

Thurston County Volunteer Legal Services (TCVLS) and the Campaign for Equal Justice invite you to join us at Thurston County's annual phonathon on October 16<sup>th</sup> and 17<sup>th</sup>.

The Campaign for Equal Justice is Washington's annual fund drive, which secures vital operating support for over 20 civil legal aid and volunteer lawyer programs across the state, including TCVLS. By running a statewide collaborative campaign, more resources are pooled together to work toward a future where no individual or family is denied basic human needs – like housing, income and safety – because they cannot afford legal help. For every \$1 donated in Thurston, \$1.80 is returned to support TCVLS. That is a 180% return on your investment.

There is a myth that volunteer lawyer programs do not need funding because volunteers run them. However, other costs such as client intake, paperwork, additional staff and overhead cost all need funding to allow the volunteer lawyers to serve clients.

Please consider the reasons that you decided to become a lawyer – to help others, to fight injustice, to make a good living. Consider these reasons and then consider what a donation of one billable hour could do in your community. Your gift could...

...keep a family safe from domestic violence.

...help a family avoid unlawful eviction or negotiate with a landlord.

...protect elderly consumers from predatory lenders.

...help seniors and veterans access their benefits.

...restore faith in our justice system.



Do you need more incentive than ensuring access to justice and receiving a 180% return on your gift? All donors who make a gift during the phonathon will be entered to win one free round-trip domestic airfare ticket for 2014!

23% of the Thurston legal community already gives to the Campaign. Join us in our effort to create a level playing field for all Thurston County residents to access the justice system. We need more volunteer callers! If you are interested in volunteering to call during the phonathon, please contact Megan Brownlee at (360) 705-8194 or via email at [coordinator4vls@gmail.com](mailto:coordinator4vls@gmail.com) by October 7<sup>th</sup>. Food and beverages will be provided. Join us for an afternoon of calling friends and colleagues for a great cause!

Thank you to everyone in Thurston County who has already made a gift this year. Donations can also be made online at [www.c4ej.org](http://www.c4ej.org) (mention this article to be entered into the drawing) or mailed to the Campaign for Equal Justice, 1325 Fourth Avenue, Seattle, WA 98101.

## Superior Court is Streamlining Trial Scheduling

by Commissioner Rebekah Zinn  
Thurston County Superior Court

The leaves are beginning to turn, the night air is becoming chilly, and the spirit of change is upon us once again. At Thurston County Superior Court, we are implementing changes that we wish to share with you. You will read about our budget forecast elsewhere in this newsletter. This budget shortfall has caused us to search deeply for efficiencies in our administrative procedures.

We identified one major area for efficiency: the manner in which we schedule civil trials, administrative law reviews, and district and municipal court appeals at the main campus courthouse. (This does not affect criminal trials or any matters heard at Family & Juvenile Court.) Instead of in-person or telephonic conferences, the court has adopted a model for scheduling trials that is similar to many other counties in our state and the federal system.

The court sought to implement best practices in our new process. We learned that the best practice for scheduling civil trials is to schedule the trial early in litigation and to have the trial date be fairly firm. Although continuances will always remain a factor in civil litigation, having a firm trial date promotes settlements, results in better case management, and increases efficiencies for the court and litigants.

We encourage you and your staff to review Thurston County Local Court Rule 40 for the details of the new process, which begins September 3. The rule and the new forms are available on the web site for Thurston County Superior Court. The key components of the new process are:

**Trial Scheduling Date.** The “trial scheduling date” is the date on which a judicial assistant will issue a trial date and case schedule order, if the case is ready. This will occur at court administration. The parties will not be present in person or over the phone. When the plaintiff or petitioner files a case, the clerk’s office will give him or her a “notice of assignment and notice of trial scheduling date.” This document will explain (a) which judge is assigned to the case, (b) the trial scheduling date, and (c) the deadlines leading up to the trial scheduling date.

**Scheduling Questionnaire.** The clerk’s office will also give the plaintiff or petitioner a blank scheduling questionnaire. This is a one-page document that asks the parties for information that the court needs to know in order to schedule the case.

**Service.** The plaintiff or petitioner must serve the notice of assignment and a blank scheduling questionnaire on the other parties at least 14 calendar days before the trial scheduling date for the case. The same rule applies to counterclaimants and cross-claimants.

**Completing Questionnaires.** All of the parties are highly encouraged to complete, serve, and file scheduling questionnaires. Failing to file a scheduling questionnaire means that the court will schedule the case without your input. Parties are encouraged to submit a joint questionnaire. The deadlines will be in your notice of assignment document.

**Communications with the Court.** The court can no longer accept phone calls, e-mails, and other communications about scheduling trials, modifying case schedule orders, or continuing trials. Instead, communicate with the court through a scheduling questionnaire or a motion to the assigned judge. We hope that this new process will allow court staff to be more available to help with complex cases, unusual situations, and procedural problems.

**Readiness for Scheduling.** The court will schedule a trial only if the case is “ready.” Whether a case is ready to be scheduled depends on a number of factors that are explained in local court rule 40(b)(3). If a case is not ready, you will not be notified directly. Instead, you will need to look at the case file to learn what happened.

**Obtaining a Different Trial Scheduling Date.** The court will give you a trial scheduling date, but you may want a different date. To obtain a different date, simply file and serve a notice of issue form, and then follow the procedures that are explained above.

**Changing the Case Schedule Order.** There are now two different methods to change a case schedule order. First, you can present an agreed motion to amend the case schedule order ex parte if: (a) the agreement does not change the deadline for dispositive motions, alternative dispute resolution, or the trial date, (b) the motion explains the proposed change, and (c) the parties certify that the agreement will not serve as a basis to change the trial date. Second, all other motions must be scheduled for a hearing on the assigned judge’s civil motion calendar.

**Trial Continuances.** Motions to continue a trial date, even if agreed, must now be scheduled for a hearing on the assigned judge’s civil motion calendar. Please do not contact the judicial assistant before the hearing to ask which trial dates are available. If the judge grants the motion, you can then file a notice of issue form to obtain a new trial scheduling date.

This process for obtaining a trial date should take less time for you, your staff, and your clients. The process should also look familiar to many attorneys who practice in other jurisdictions. Our judicial assistants have already started a pilot program with some attorneys and have received positive feedback.

We always appreciate working with the local bar in partnership to improve Thurston County Superior Court. We welcome any comments you have on this process or other local procedures. You can direct comments to Rebekah Zinn at [zinnr@co.thurston.wa.us](mailto:zinnr@co.thurston.wa.us) or 2000 Lakeridge Drive SW, Building Two; Olympia, WA 98502.

## Judges Corner

by Judge Chris Wickham

**"[A]t some point, slashing state court financing jeopardizes something beyond basic fairness, public safety, and even rule of law. It weakens democracy itself."**

— New York Times editorial, Nov. 24, 2009.

For many the recession of 2008 has receded. While the economy is not as robust as we would hope, it is certainly improving. Unfortunately, the impacts of the recession, along with rising costs of goods and services continue to cause local governments to reduce spending to match flat or declining revenues. Moreover, state and local governments must deal with the uncertainties caused by the federal sequestration. That is the situation Thurston County government must grapple with in constructing the 2014 budget. With a projected six million dollar shortfall in the General Fund, the County has requested all agencies and branches of government to provide five and ten percent budget reductions.

As agents of the State, counties are tasked with providing essential services such as courts, jails, social and health services. They must provide those services within a fiscal framework that provides few opportunities to raise revenues at the local level. District and Superior Courts are almost entirely funded through county general funds. Washington State ranks last-50<sup>th</sup> in the nation in regards to the level of state funding for its trial courts.

Nearly every county in Washington spends approximately 75% of their General Fund dollars on law and justice services, which in Thurston County totals nearly 69 million dollars out of a total general fund budget of 92 million dollars. The Superior Court operating budget is six and half percent of those funds or six million dollars. Most of those dollars are spent on personnel costs. Our budget reduction for fiscal year 2014 could be as much as \$600,000 – meaning a loss of as many as eight positions. Those are positions that provide security in our courthouses and have a direct impact on the population in our jail and public safety.

So how can the superior court respond to the need to reduce our expenditures when our workloads continue to grow? We continue to review our processes, procedures, and rules to determine if we can eliminate unnecessary and redundant work. This is not a new thing for us – we've been doing this since 2008. For example, you'll read elsewhere in this newsletter, about our new civil trial scheduling process necessitated in large part because we lack the staffing to continue with the current practices. We continue to reevaluate our priorities within the framework of our mission **"to serve the public through the prompt resolution of civil and criminal cases in a manner that ensures access to fair treatment."**

We in the courts often say we cannot change because of constitutional or statutory mandates. Some of us respond to that challenge by asking why not make the structural changes needed to fix a broken public finance system and challenge each other to examine the role and structure of Washington courts in the 21<sup>st</sup> century. We have to ask ourselves **what is in the best interest of the public we serve**, rather than what is in our own best interests. That is a challenge for members of the Bar as well.

Each legislative session the courts are given more work and our counties required to absorb more costs – in particular costs previously borne by the Department of Corrections. We continue to struggle to convince the legislative and executive branches that robust, well funded courts are necessary to protecting individual rights and, that the rule of law is essential to economic vitality. These conversations become more difficult with fewer and fewer lawyers sitting in state legislatures and in other elected offices.

We intend to fully and honestly work with our partners in county government during this difficult budget process. We will do our part to help the county meet its financial responsibilities. However with that goal achieved, let there be no doubt that services will be reduced, waiting times will increase, and those most needing our services will not be well served. Many of you now receive civil trial dates between 14 and 18 months from filing – you may start to see that stretch to 24 months or more as the Court attempts to meet time standards for criminal matters and dependency cases. You may experience gaps in services as positions are vacated. Telephone calls and e-mails may not be answered. Despite our best efforts to do more with less – we will do less – period.

Moving forward, we ask your assistance in helping us identify where we can find efficiencies and ask that you contact our presiding judge Chris Wickham with your suggestions. Your thoughtful input to the Board of County Commissioners and State Legislature is also appreciated.

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Inviting Floor to Ceiling Glass Entry

ADA Accessible

Receptionist Coverage

Modern Decor

## Building Amenities

\*High Speed Internet

\*Large and Small Conference Rooms

\*Full Kitchen

\*Beautiful Landscaping

\*Abundant Onsite Parking Spaces

\*Deluxe Custom Interiors



## UPCOMING EVENTS

### Phonathon

October 16<sup>th</sup> and 17<sup>th</sup> - 1 to 5 p.m.

This event will raise charitable support on behalf of the Legal Foundation of Washington. Donations provide for continued volunteer legal program funding. If you are interested in volunteering or donating, please contact:

Megan Brownlee  
[coordinator4vls@gmail.com](mailto:coordinator4vls@gmail.com)

### TCVLS CLE Boot Camp

October 26<sup>th</sup> and November 2<sup>nd</sup>

Looking for CLE credits?

TCVLS is hosting a Boot Camp, offering 8.25 FREE credits for current and prospective volunteers. Topics will cover family law, the Landlord-Tenant Act and consumer issues.

RSVP

Megan Brownlee  
[coordinator4vls@gmail.com](mailto:coordinator4vls@gmail.com)

### We Will Miss You!

For many years, Ralph Thomas has been a dedicated volunteer at our Housing Justice Project. Despite retiring from practice, he continued to donate his time each week for those in need of legal help. We will miss his expertise with Landlord-Tenant law, dedication and friendly face.

Enjoy your well-deserved retirement, Ralph!

### A Warm Welcome!

We would like to introduce our new Program Coordinator, Megan Brownlee. Megan has been a wonderful addition to our organization. She handles the herculean task of coordinating our legal clinics, volunteers and administrative duties with ease and grace. Her positivity and dedication are inspirational, driving our organization forward.

Welcome, Megan!

*"Volunteers do not necessarily have the time; they just have the heart."*

Elizabeth Andrew

As always, TCVLS is in need of volunteer attorneys.

Our legal clinics provide a friendly and comforting setting for low-income clients facing various legal issues. Without the kind hearts of our volunteers, clients would not otherwise be able to receive advice. Attorneys are encouraged to volunteer, regardless of experience or expertise in particular areas of law. Each legal clinic has a mentoring attorney in attendance, providing assistance and support for attorneys with any questions that may arise during a consultation.

Be a part of this truly gratifying and inspirational experience!

If you would like to attend or volunteer at a legal clinic, please contact:

Megan Brownlee  
[coordinator4vls@gmail.com](mailto:coordinator4vls@gmail.com)

## TCBA Upcoming Events

### **2nd Annual Member Appreciation Picnic/BBQ**

The Board of Directors would like to THANK all of the members who were a part of this event on Saturday, September 7th.

### **Request for Volunteers**

There will be a FJC Lunchtime Ed Planning Group meeting in early October. They are looking for three or four attorneys who practice in this court and would like to participate on this work group. If you are interested please contact Bev Morgan (asap) at (360)709-3232 or via email at morganb@co.thurston.wa.us

### **United Way Day of Caring**

This year the Day of Caring will be held on Friday, September 27, 2013. Trevor Zandell is our Captain this year. Please email tcba.info@gmail.com if you would like to participate for 1/2 or full day. Location still to be determined.

### **Monthly Luncheon at Ramblin Jacks**

Ramblin Jacks lunches will resume on Friday, September 20, 2013 with a presentation by Kurt Lundquist, titled "Law Firm Partner Compensation Systems: How to Split the Profit Pie".

### **1/2 Day-Low Cost CLE**

When: Friday, September 27, 2013 from 1pm-4:30pm at the Temple of Justice. There are 3 general credits pending with the WSBA. The three Supreme Court Justices speaking on various topics will be Chief Justice Barbara Madsen, Justice Mary Fairhurst and Justice Sheryl Gordon McCloud... Check your email soon for a flyer with all the details.

### **November Issue of the Legal Brief**

There will be a deadline of Thursday, October 31, 2013 for submission of articles and advertisements to Angela Skinder at tcba.info@gmail.com.

### **2013 Holiday Lunch**

Mark your calendars for the TCBA Annual Holiday Lunch. This years' event will be held at Indian Summer Golf & Country Club on Friday, December 6, 2013.

This event is always fun and festive, where you have the opportunity to help families in need for the holidays.

### **1/2 Day-Low Cost CLE**

There will be one last 1/2 day CLE in 2013 on December 13. Topics to be announced closer to December.

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

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



**Avista Management v. Wausau Underwriters Insurance**  
U.S. Dist. Court Mid. Dist. Fla. (June 6, 2006)

**Rock, Paper, Scissors - I Win!** In a case where a hotel investment firm sued an insurance company for allegedly not paying an insurance claim fast enough after Hurricane Charley, attorneys for the parties seemed at odds with each other from the get-go. When it came down to where to depose a witness, the attorneys would do no better. Not being able to select a location between themselves, the court was asked to intervene. U.S. District Judge Gregory A. Presnell was not amused. After chastising the attorneys for not being able to agree on even the most simplest of things, Judge Presnell issued his written ruling:

"[T]he Court will fashion a new form of alternative dispute resolution, to wit: at 4:00 P.M. on Friday, June 30, 2006, counsel shall convene at a neutral site agreeable to both parties. If counsel cannot agree on a neutral site, they shall meet on the front steps of the [Courthouse]. Each lawyer shall be entitled to be accompanied by one paralegal who shall act as an attendant and witness. At that time and location, counsel shall engage in one (1) game of 'rock, paper, scissors.' The winner of this engagement shall be entitled to select the location for the 30(b)(6) deposition to be held somewhere in Hillsborough County during the period July 11-12, 2006."

\*\* The two lawyers met on June 7, 2006, a day later, and agreed to the location for the deposition, making the game unnecessary. For fear of being held in contempt of court, defense counsel filed a motion asking the judge to call the game off. Plaintiff's counsel joined in the motion. The judge vacated his previous ruling with the following, "With civility restored (at least for now), it is ordered that the motion is granted."

## The TCBA Electronic Service Consent Agreement

With the Thurston County Clerk Betty Gould's implementation of a paperless office, it is a good time to revisit the TCBA's Electronic Service Consent Agreement. In my office, we file and serve electronically whenever we can and there are many reasons that you should, too.

First, with regard to e-filing documents with the court, if you have not started yet, please give it a try. It is easy and convenient. You can find all of the information you need about this on the Clerks website at:  
<http://www.co.thurston.wa.us/clerk/efiling.html>

With regard to serving electronic documents, you may remember that several years ago, when ABC Legal Messengers announced that they were raising their delivery rates astronomically, the TCBA took on the sponsorship of the Electronic Service Consent Agreement and began to maintain the Electronic Service Consent Agreement Group. The members of the Group consent to electronic service in lieu of paper service. You can find all of the information you need about this on the TCBA website at: <http://thurstoncountybar.com/home/electronic-service-agreement-list/>

(You will find this link hiding under the "Home" tab on the website.) For your convenience the agreement has been added to the next two pages, if you wish you may fill it out, detach from the newsletter and return to TCBA.

What are the benefits of filing and serving electronically? You will save time and money in many ways: You will avoid last minute trips to court to file, or to another attorney's office to serve. You and your staff can forward to your clients electronic copies of the documents you send or receive without spending time and money copying and mailing them. An additional benefit is that your clients will receive copies of these documents the same day you send or receive them - perhaps the same minute you receive them. You will save postage. You will save copying costs. You may choose to end your use of ABC Legal Messenger Service. In my office this would be a savings of \$1,000 a year. If you still buy printed stationary and pleading paper you can start having it printed on inexpensive stock, since the original will rarely leave your office when you file and serve electronically.

Finally, an environmental reason. So far as I know, sending an electronic document creates no waste and requires little fuel. Mailing or delivering paper copies creates a lot of waste and burns plenty of fuel.

The more of us who participate in the Electronic Service Consent Group, the better it will function. If you are one of the 85 attorneys who have already joined the group, please go to the TCBA website and check that your contact information is current. If you have not participated before, this is all you need to do to join the group: Go to the TCBA website and read the agreement. If you want to join the Group, sign the agreement and send it back to the TCBA to be added to the Group. Then be sure to let other attorneys know that you are part of the Group and will accept service electronically, and that you expect them to reciprocate.

By Paul Battan

### **ATTENTION Members:**

If you have **not** provided the TCBA with an email address you may be missing out on important notifications for CLE's and social events.

The Legal Brief is the only thing to be printed and mailed in an effort for the TCBA to work towards going green.

Please contact [tcba.info@gmail.com](mailto:tcba.info@gmail.com) if you have any questions.

Also, please remember to notify us when you change your email address or change addresses. We want to make sure you do not miss anything.

If you are interested in contributing a column to one of our Legal Brief Newsletters, we want to hear from you!! Funny, interesting, educational or even controversial articles written by our TCBA members are always welcome.

Please submit to [tcba.info@gmail.com](mailto:tcba.info@gmail.com)

**THURSTON COUNTYFAX AND ELECTRONIC SERVICE OF DOCUMENTS**

June 14, 2011

The purpose of this document is to memorialize consent among the participating attorneys (members of the group) to accept service of documents from each other by facsimile (fax) and/or electronic means (email) in lieu of service of hard copies. Such consent is allowed by CR5(b) (7), Service by Other Means, which provides.

Service under this rule may be made by delivering a copy by any other means, including facsimile or electronic means, consented to in writing by the person served. Service by facsimile or electronic means is complete on transmission when made prior to 5:00 p.m. on a judicial day. Service made on a Saturday, Sunday, holiday or after 5:00 p.m. on any other day shall be deemed complete at 9:00 a.m. on the first judicial day thereafter. Service by other consented means is complete when the person making service delivers the copy to the agency designated to make delivery. Service under this subsection is not effective if the party making service learns that the attempted service did not reach the person to be served.

The effect of this agreement is that consent to fax and/or email delivery of documents will be reciprocal, such that members who wish to serve by fax and/or email will also accept service by one or both of those means. This agreement clarifies expectations and agreements regarding fax and email service of documents as a delivery option; it does not require fax or email service.

The members of this group agree as follows:

1. **Fax and Email Address** Each member will designate a fax number and/or email address for the receipt of service of documents for that attorney. A member may designate either or both. A member may request email service to two addresses at the same time so that, for example, both the attorney and the attorney's legal assistant will receive service. Those fax numbers and email addresses will be listed on a master list of signors to this agreement (members) which will be updated by the agreement administrator whenever necessary, but no less than monthly, and will be placed on the website.
2. **Courtesy Telephone Call** In conjunction with faxed and electronic delivery, the sender will notify the recipient of delivery by a courtesy telephone call. Leaving a message with a staff person or voice message will comply with this requirement. Each member will designate one telephone number for the receipt of this notice. Those telephone numbers will be listed on a master list of signors to the agreement which will be updated by the agreement administrator whenever necessary, but no less than monthly and will be placed on the website.
3. **Reference to Service in Message** The subject line of the sender's fax cover sheet or email message will reference the fact that the fax or email is serving documents, the hearing date for which the documents are served, and the case name. *For example, Subject: Service of documents for July 1 hearing in Marriage of Jones.* The body of the message should include a clear description of each document sent. Any recipient who becomes aware of missing documents, or who cannot properly open or print sent documents in the event of electronic delivery, will promptly notify the sender.
4. **Page Limitation** Unless consented to in advance, no more than 50 pages of documents will be delivered per day per case by fax or electronic mail.
5. **Hard Copies Will Not Be Sent** Hard copies of documents sent by fax or electronic mail will not be sent, except when requested by the recipient for good cause. *For example, if the faxed or scanned and emailed documents are exhibits, such as cancelled checks, that are not legible and hard copies would be more legible.*
6. **Format of Documents** When sent by electronic mail, documents should be sent in Word, Word Perfect or PDF format, unless otherwise agreed by the sender and recipient in advance.

7. **Proof of Delivery** A sender's fax confirmation sheet, or sent email message, will be proof of delivery. If requested, receipt of service will be acknowledged by reply email or telephone call.
8. **Resolving Problems with Delivery** Delays in delivery due to system or compatibility issues will be addressed and resolved as expediently as possible by members of this group. Any recipient who becomes aware of such issues will promptly notify the sender. All members of this group will make a good faith effort to work collaboratively to resolve such problems, accomplish timely delivery or otherwise agree on a mutually acceptable solution. (*Such solutions may include: re-sending documents at a later time or in a different format, faxing documents, agreed-upon additional time for responses or agreed-upon continuances of hearing dates.*)
9. **Changes to Agreement** Any member may propose a change to this agreement. After an opportunity for consideration and discussion, the proposed change will be presented by the agreement administrator to a vote of the members. A proposed change supported by the vote of a majority of the members will be made to the agreement.
10. **Withdrawal from Agreement** A member may withdraw from this agreement at any time, by notifying the agreement administrator. A withdrawal will be effective when the next master list of members is distributed by the agreement administrator.
11. **Agreement Administrator** *The agreement administrator, as of June 14, 2011, Thurston County Bar Association Administrative Assistant, PO Box 1653, Olympia, WA, 98507, email:tcba.info@gmail.com.*

I agree to the above and wish to be a member of this agreement, and any modified subsequent agreement, unless I give notice of withdrawal.

WSBA No.	Print Name	Signature

Fax Number	Telephone No.	Email Addresses (no more than 2)

Please scan and email back to:  
 tcba.info@gmail.com  
 or print and mail to:  
 TCBA  
 PO Box 1653  
 Olympia, WA 98507