

# THE LEGAL BRIEF

A Publication of the Thurston County Bar Association

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## President's Message By: Terry Church

On September 30, 2015, I had the pleasure of attending and saying a few words at the swearing in ceremony for several of Thurston County's newest attorneys in the courtroom of Judge Anne Hirsch. The excitement of the new lawyers and their families was palpable in the courtroom. There were friends, parents, young children and other relatives of the new admittees in attendance. The new lawyers were congratulated on the hard work and persistence that goes into graduating from law school and passing the bar examination. They were reminded to thank their friends and family members who had supported them through the arduous process.

The ceremony brought me back 25 years to my own swearing in at the Temple of Justice. I was reminded of my own feelings of joy, but mostly RELIEF as I stood in front of the state Supreme Court Justices taking the oath of attorney. I, like most of my classmates from the University of Puget Sound (now Seattle University) law school, had legal employment lined up; still I carried some doubt about how my legal career would progress and how my skills would stack up against other, more experienced attorneys.

In some respects, I think little has changed about new lawyers entering law practice over the last 25 years. However, what I do know has changed since 1990 is that the job market for lawyers seems to have become much more difficult. The realities of 2015 include newly minted lawyers working in volunteer or paralegal-type positions as they attempt to get their feet on the ground in this profession. Others are taking a shot at hanging out their own shingle and building a practice from the ground up. Of course in Thurston County we also have the biggest law firm in the state, but the Attorney General's Office also seems to have streamlined over the last 25 years.

When I started practice I was lucky enough to join a firm with a ready-made network of mentor lawyers who I could call and talk about issues ranging from court rules and substantive law to ethical issues. But not all new lawyers have that luxury.

So how can the practicing bar help our newer members? First, realize that mentors can come from many different levels of experience. Those who have been practicing law for just a few years can help out by sharing knowledge in a specialized area of law or by sharing more recent experiences on starting their legal career. Those of us with greater longevity in practice can help with the longer term view.

Here are some things that I have either done or seen others do over the last 25 years:

- Even when your firm is not hiring you can do "informational interviews" with young lawyers and share information about the tradition of practicing law in Thurston County.
- Do the same thing over coffee or lunch monthly or quarterly.
- Share names, or even better yet, introduce them to lawyers/firms you know who might be looking for an associate or someone to do project work.
- Refer cases to a lawyer who you know to be attempting to build a practice.
- Sign up with the Thurston County Bar Association to be a mentor.

I think that the best thing a more seasoned lawyer can do to ease the challenges of new practitioners is to remember what it was like as we started our careers and to be willing to share time, knowledge and wisdom about the journey from new admittee to experienced lawyer.

## A View From the Bench

By Judge James Dixon  
Thurston County Superior Court Judge



### 20 Helpful Courtroom Tips for New Attorneys

As a general rule, law schools educate students on substantive law. Law schools rarely, if ever, educate students on the art of practicing law. The latter includes appearing in court. It is a pleasure for me to witness the progression of many new attorneys in my court and to periodically offer suggestions on courtroom protocol. I appreciate this opportunity to do the same for new(er) attorneys who may not have appeared in front of me.

1. Please be on time. Time is valuable. Calendars in my courtroom begin precisely as scheduled, not one minute early or late. If you must be in another courtroom or or delayed, please advise the clerk or judicial assistant in advance. I understand lawyers sometimes need to be in two different courtrooms.
2. Stand when addressing the Court.
3. State your appearance. The Court Reporter needs to know who you are.
4. Speak slowly, with a clear voice and do not speak over others. If you do so, you will become a favorite of the clerk and the court reporter.
5. Please do not have ex-parte conversation with the Court. Please do not approach the bench and engage in sports or news-related conversations. There are people in the courtroom who understandably do not appreciate a lawyer having a private conversation with the judge.
6. Be aware of space. Do not sit in the well of the courtroom with your back to the court or invade the space of the Court Reporter or Clerk.
7. Be aware of time constraints. There are many cases on the docket.
8. Please do not speak simply for the sake of speaking. Sometimes, a “no objection,” or “we concur” is adequate.
9. Address the Court, not opposing counsel. If you have a question for opposing counsel, ask the court to address the issue.
10. “Offer” an exhibit; do not “move for the admission” of an exhibit. A motion requires a writing and notice.
11. Please properly address the Court. There is a difference between the Court and a Judge.
12. Please prepare your client to appear in court.
13. Take off your coat. It is rarely raining inside the well of the courtroom.
14. It is rude to interrupt and, more importantly, difficult for the court reporter to accurately transcribe such conversations. And, remember that everything said in court is on the record, so please do not engage in unnecessary communication.
15. Speak at the lectern (no, it is not a podium).
16. Watch and learn from the best. There are several well-respected lawyers who appear regularly on civil and criminal dockets. Their reputations are the result of professional appearance, being prepared being respectful of others.
17. Be mindful of the fact that there is always someone in the courtroom who is observing court for the first time. Not only does the Court take note of professionalism, so does the public.
18. “Invite” the Court’s direction to a document or exhibit or a particular page of a pleading; do not “direct” the Court’s attention ...
19. If you need to confer with your client, please do so outside the presence of the court and the public.
20. Set an example. There are other new lawyers and peers in the courtroom. Take every opportunity to distinguish yourself from others.

I appreciate the fact that we are all very busy and court appearances can be routine, but please be respectful of the process, what the legal process is designed to accomplish and the efficacy of the adversary system at work.



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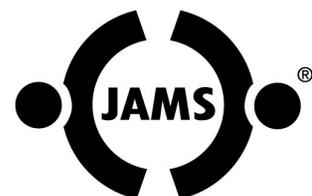
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## YOUNG LAWYER SPOTLIGHT

BY: MEGAN RUE, YL CHAIR

### **Tali Elizabeth Smith, WSBA No. 49997**

[tali@redfordlaw.com](mailto:tali@redfordlaw.com) (360) 570-0907



Tali was born and raised in Olympia and attended Pacific Lutheran University in Tacoma. She graduated from Seattle University School of Law this past May and was just recently sworn in by the Honorable Anne Hirsch on September 30<sup>th</sup>, 2015.

She is the recipient of the Twinstar Scholarship and the Union Plus Scholarship. She is currently a member of the Seattle Christian Legal Society and the Washington Women Lawyers. Tali previously worked for Pierce County Department of Assigned Counsel and King County Prosecutor's Office and was an extern for the Honorable Judge Leighton.

Tali married her husband in 2012 and enjoys yoga, bowling, rock climbing, tennis, golf, traveling, photography, and movies. She currently practices in the areas of family law and domestic violence at the Redford Law Firm here in Olympia.

**I became a lawyer because:** I wanted to be a voice for victims and make a difference in my community. I wanted to practice law in a way that would help positively impact issues with human trafficking, domestic violence, homelessness, veterans, and education.

**One of the greatest challenges in law today is:** Creating and using just laws to meet society's evolving needs where legal issues are not one size fits all.

**If I could change one thing about the law, it would be:** Making the legal system in practice more about restoration and bettering the community towards just outcomes.

**Currently playing on my iPod/CD player/record player:** Brandi Carlile, Ed Sheeran, Halestorm, and Francesca Battistelli.

**If I could live anywhere:** It would be somewhere warm surrounded by nature and the water.

**The hardest part of my job:** Helping people while dealing with new and different issues.

### Job Opportunity

Our growing Olympia law firm seeks Land Use and Environmental Attorney with 4+ years of experience.

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Please include cover letter, resume, references and writing sample.



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### **Bean, Gentry, Wheeler & Peternell, PLLC**

is pleased to announce

### **Cheryl L. Duryea**

has joined our firm as "Of Counsel."

Cheryl has been practicing law in Olympia since 1978 and focuses her practice in the areas of business, state regulatory matters, securities and municipal law, including bond work. Cheryl works with businesses and local governments on regulatory and licensing problems and helps them sort through financing and management issues. As a former business owner and government regulator, Cheryl understands the importance of practical and cost effective solutions.

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### **CONNOLLY TACON & MESERVE**

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We are pleased to announce that

### **AMY L. PERLMAN**

joined the firm in June of 2015.

**Amy** continues to practice in the area of family law and will continue to accept referrals/appointments as Guardian Ad Litem.

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## THURSTON COUNTY DISTRICT COURT

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Judge Kalo Wilcox  
Department 1

Judge Samuel G. Meyer  
Department 2

Judge M. Brett Buckley  
Department 3

Paul Wohl  
Court Commissioner

To the members of the Thurston County Bar:

Now that the amended Local District Court Rules have taken effect, we want to take this opportunity to thank you on behalf of the Thurston County District Court.

Thank you for assisting the District Court in this large project to amend the local District Court rules. We appreciate the time you took from your busy schedules to review the drafts and to make recommendations. Your comments and recommendations were invaluable and are incorporated into the final product.

Our goal was to streamline the rules while maintaining usability. As well, we wanted the local rules to reflect the District Court's confidence in the professionalism of the attorneys in our community to conduct business without much oversight from the bench. With your help, I believe we met our goals.

Looking to the future, the District Court will continue to strive to be collaborative and innovative. We encourage you to be a part of the process. Please continue to share your ideas with any of the Judicial Officers or with our Court Administrator so we can continue in our mission to "Serve Justice through Serving People".

Best regards from the District Court bench,

Brett Buckley  
Sam Meyer  
Kalo Wilcox  
Paul Wohl

2000 Lakeridge Drive SW, Olympia, Washington 98502-6045 Court: (360) 786-5450,  
Probation: (360) 786-5452 Civil Dept: (360) 754-4102 TDD: (360) 754-2933, FAX (360) 754-3359

The local District Court rules can be found at:  
[www.courts.wa.gov](http://www.courts.wa.gov), click on Rules, then District Court Rules, and then Thurston County.

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## The Washington Courts Historical Society Presents a CLE

**“From Runnymede to the Temple of Justice--the Continued Relevance of Magna Carta and Tips on Appellate Advocacy.”**

**Friday, November 20, 2015 9:00 am-4:30 pm  
Temple of Justice Courtroom, Washington State Supreme Court,  
Olympia, Washington**

The day-long seminar features nine presentations relating to the legacy of Magna Carta and appellate practice in Washington State. The seminar is approved by the Washington State Bar Association for 5.75 Continuing Learning Education (CLE) credits including 1 CLE ethics credit. The full program and registration are available on the Washington Courts Historical Society website at <http://wacourthistory.org/events/2015/>

### **Program Summary:**

The program kicks off with a scholarly presentation by Dean Robert Stacey of the University of Washington on Magna Carta as a touchstone of good government and a defining statement of liberty. Spokane attorney Bryan Harnetiaux will present on modern courts and Magna Carta. Justice Debra Stephens will present on the Open Courts Provisions in Washington’s Constitution, a legacy of the Magna Carta. During the lunch break, Seattle attorney Jon Bridge will share his visit to Runnymede on the occasion of the 800<sup>th</sup> Anniversary of Magna Carta.

The afternoon is devoted to appellate practice topics presented by Justice Mary Yu, Justice Charles Wiggins, Judge Brad Maxa and attorney Kenneth W. Masters who specializes in appellate matters. Retired Supreme Court Justice Gerry Alexander will preside over a panel discussion of the appellate presenters with audience questions. The program concludes with an ethics presentation by Doug Ende, Washington State Bar Association Chief Disciplinary Counsel.

### **Registration:**

Registration is limited to 115 persons and space will be allocated based upon date of payment. The fee is \$225, which includes coffee service and a box lunch, seminar materials, one year membership in the Washington Courts Historical Society.

Those who attended the fall 2013 Washington Court Historical Society CLE can register for \$200. Several places will be held for students at a \$25 fee. However, if we have an overflow attendance, we will ask students to watch on a monitor in the foyer of the Temple. No refunds after November 10, 2015. Registration ends November 17, 2015.

Online registration at: <http://www.brownpapertickets.com/event/2267350>  
or by submitting the form below.

### **Registration Form**

Name \_\_\_\_\_  
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WSBA# \_\_\_\_\_ Email \_\_\_\_\_ Phone \_\_\_\_\_

Make checks payable to Washington Courts Historical Society.

**ONE YEAR HAS FLOWN BY....**  
**As submitted by Thurston County Clerk, Linda Myhre Enlow -**

Hi everyone. Happy Holidays to each of you.

By the time this newsletter goes to print, the Thurston County Clerk's Office will have officially launched our new case management system aka Odyssey! From Odyssey 'basics' to maintaining criminal cases charges, every staff member in the Clerk's Office attended critical training involving learning the new processes associated with the new system. Education has been a key factor! Collectively, we have worked hard to create a successful implementation and have learned to highlight the many advantages for members of the public, the Court, the Clerk's Office staff and attorneys who will ultimately enter the wonderful world of Odyssey. From the business, technical and organizational readiness modules throughout present day, we are ready. Congratulations to the entire Odyssey team!

With Odyssey, all users will need to register onto the Odyssey portal on the Thurston County Clerk's Office website. We have provided self-registration instructions, an informative overview of the portal registration itself and the initial registration form. Check our website at: [www.co.thurston/wa.us/clerk](http://www.co.thurston/wa.us/clerk).

We are very excited to bring the e-filing of Superior Court documents service to you. Think about it... most of the time, you won't even need to come to the courthouse and try and find a parking spot. Just think of the cost and time savings of e-filing! Everything you need is on our website.

Thank you to the Thurston County Bar Association for inviting me to share in your newsletter. There will be more updates to come. This is an exciting and rewarding time to work in the Clerk's Office!

**Job Opportunity**

Elder Law Attorney in Olympia, Washington  
Cullen Palmer Law Office LLP seeks an elder law attorney with a proven ability to build a client base; a litigation and trial background is preferred.

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- 1/ honesty;
- 2/ commitment to excellence in legal services;
- 3/ friendliness;
- 4/ joy; and
- 5/ care for the lives of our stakeholders.

This attorney must share our mission: Every Client Absolutely Matters. And, applicants must strive to thrill clients, fulfill staff, enrich our community, and leave a legacy; all while producing superior financial stewardship. Applicants must be licensed in Washington State for at least two years. Compensation is negotiable. To apply, please send a cover letter and résumé to David K. Palmer at [david@cullenpalmer.net](mailto:david@cullenpalmer.net) or 606 Columbia St. NW, Suite 104, Olympia, WA 98501.

## 2015 United Way Day of Caring

Kudos to members Allen Miller, his assistant Andrea Adler, Taylor Wallace, Terry Church, Stacia Hollar, Kevin Hochhalter and Trevor Zandell for representing the TCBA at Thurston County United Way's 23<sup>rd</sup> Annual Day of Caring on September 25. For the second straight year, the TCBA team supported the Olympia Downtown Association in cleaning and painting in downtown Olympia. Participation was down a little bit this year. We look forward to a renewed effort next year for our county's largest single-day public service initiative.



On September 30<sup>th</sup>, 2015, at 4:00 p.m. at the Thurston County Courthouse, The Honorable Anne Hirsch presided over swearing in of new attorneys in Thurston County who passed the Summer 2015 bar exam. Sworn in were Jeanju Choi of Olympia, Christopher Gerard of Lacey, Deborah Reback-Cushman of Olympia, Tali Smith of Renton, Kara Tebeau of Olympia, and Matthew Weeks of Tumwater. Congratulations to all!



## TCBA & Other Upcoming Events

### Red Lion

The next lunchtime CLE is on Friday, November 13, 2015 at 12:00 p.m. at the Red Lion. The topic is *A Civil Right to Counsel (CRC): It exists in Europe. Imagine it here. What would it mean for fairness and your practice?*

**Thurston County Superior Court Free CLE:** November 18, 2015 at 12:00 pm at Thurston County Superior Court, court room 102. The topic is *Understanding Medication Assisted Treatment in the Drug Court System.*

### 2015 Holiday Lunch:

Save the date for the 2015 TCBA Holiday Lunch...*Friday, December 11, 2015 at 12:00 p.m.* at the Red Lion in Olympia.

### January 2016 Issue of the Legal Brief

There is a deadline of December 27, 2015 for submission of articles and advertisements to Heather Ligtenberg at [tcba.info@gmail.com](mailto:tcba.info@gmail.com).

### Save the Date:

The Annual Meeting and Dinner will be on Friday, May 13, 2016 at Indian Summer Golf & Country Club.

Please refer to the “News & Events” section of our website for a full list of upcoming events:  
[www.thurstoncountybar.com](http://www.thurstoncountybar.com)



[Nick@jessicajensenlaw.com](mailto:Nick@jessicajensenlaw.com)

## Welcome Nicholas Milner

Business  
Wills—Trusts—Estates  
Personal Injury

We are pleased to welcome Nick Milner as Associate Attorney with Jessica Jensen Law PS.

Nick comes to the firm from Spokane, Washington where he focused on Estate Planning, Business Formation and Dissolution, Probate, and Real Estate matters. He served on the board of the Spokane AIDS Network and was an active member of the Inland Northwest Business Association. He also volunteered at Northwest Harvest Food Bank, Habitat for Humanity, and The Boys and Girls Club.

Nick looks forward to being active in the Young Lawyers Section of the Thurston County Bar Association.

Please join us in welcoming Nick to Jessica Jensen Law PS.

[www.jessicajensenlaw.com](http://www.jessicajensenlaw.com) 360-705-1335





**Thurston County Volunteer Legal Services**  
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**(360) 688-1376 – Director's phone**

### THANK YOU!

TCVLS exists to support your commitment to providing pro bono services. Attorneys in Thurston County have already donated over 1,250 hours of legal services this year!

There are a special group of volunteers that make it possible for attorneys who don't practice family law to volunteer at our clinics. "Mentors" have significant family law and general practice experience and consult with volunteers who practice in other areas. Some of our mentors have been volunteering for TCVLS for years; others are fairly new. A special thank you goes out to all of them!

<i>Rich Adamson</i>	<i>Christine Meserve</i>
<i>Paul Battan</i>	<i>Jennifer Pearson</i>
<i>Gina Bissell</i>	<i>Christine Pomeroy</i>
<i>Virginia Clifford</i>	<i>Pat Rawnsley</i>
<i>Melissa Denton</i>	<i>Ann Redford-Hall</i>
<i>Steve Foster</i>	<i>Laurel Smith</i>
<i>Larry Hoffman</i>	<i>Forrest Wagner</i>
<i>Robert Houle</i>	

### FREE CLE CREDITS!

TCVLS will have another FREE day of CLEs Saturday, November 14th. The day will begin with coffee at 8:30 a.m. and the first presentation will begin promptly at 9:00. Topics for the day include housing issues (with emphasis on landlord tenant laws and mobile homes), employment, and consumer debt. The day will end with an hour-long ethics presentation. The location is the

Tumwater Office of the Attorney General.  
 Register by contacting Rachael at  
[director@tcvls.org](mailto:director@tcvls.org).

Five general and one ethics credit are pending WSBA approval.

### MARK YOUR CALENDARS!

The Spring Fundraising Breakfast has already been scheduled for Tuesday, May 3<sup>rd</sup> beginning at 7:00 a.m. at the Red Lion. While details will follow, please consider becoming an event sponsor. If you are interested, please contact us!

### INTERESTED IN SERVING ON THE TCVLS BOARD OF DIRECTORS?

TCVLS is governed by a Board of Directors. Because the Board adopted term limits, each year there are opportunities for new directors. If you are interested in this form of volunteerism, please contact Rachael or one of current Directors.

*Grace O'Connor, President*  
*Heather Welch, Vice President*  
*Stephen Manning, Treasurer*  
*Anne Egeler, Secretary*

<i>Samantha Adams</i>	<i>Judy Luther</i>
<i>Geoff Arnold</i>	<i>Laura Watson</i>
<i>Bob Houle</i>	<i>Michael Young</i>
<i>Mary Kendall</i>	

### TCVLS Staff:

*Rachael Lundmark, Executive Director*  
*Christa Lenssen, Clinic Coordinator*



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Avelin Tacon**

as *Super Lawyers*, and

**Carter Hick**

as a *Rising Star*.

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## NATIONAL ADOPTION DAY CELEBRATION

Everyone is invited to join in Thurston County's 11<sup>th</sup> year  
celebrating National Adoption Day on **Wednesday, November 18,  
2015 at 4:00 p.m. at Thurston County Family and Juvenile  
Court.** National Adoption Day is now celebrated in all 50 states  
and the District of Columbia. Thurston County's special event will  
celebrate all families who adopt and hopefully also help raise  
awareness of the nearly 1,668 legally free children in Washington  
State foster care awaiting a forever family. Many committed  
judges, government agencies, lawyers, private individuals, families  
and programs will join together to commemorate this special day.  
The highlight will be publicly finalizing the adoption of twelve  
children into seven families.

Here in Thurston County, over a thousand children have  
been adopted by stepparents, domestic partners, individuals and  
couples since we started celebrating National Adoption Day in  
2004. These families make a real difference in the lives of  
children and our community. Please come and join us in our  
celebration!

## Thurston County Bar Association

# Holiday Luncheon

*Friday, December 11, 2015*

*12:00 pm*

Registration and social hour to begin at 11:30am

*Red Lion Hotel*

*2300 Evergreen Park Drive SE, Olympia, WA 98502*



### BUFFET TO INCLUDE:

Maple Glazed Roasted Turkey with Riesling Gravy  
and

Penne Primavera with mixed seasonal vegetable sundried  
tomato, mushrooms, olive, and spinach in a rich tomato herb  
sauce with shaved parmesan

Also included:

Mixed Greens with Washington Apples, Bleu Cheese Crumbles,  
and Candied Walnuts with Champagne Vinaigrette,  
oven roasted red potatoes tossed with olive oil and herbs,  
traditional green bean casserole, and fresh rolls and butter

*Assorted Holiday Dessert Bars*

\*Meals include coffee/tea and water, tax and gratuity.

Cost is \$26 per person paid in advance or \$30 at the door

**Please Note: Pre-payment  
by check or online is  
required by**

**Monday, December 7th**

Please register and pre-pay on the  
TCBA website,

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

or send your \$26 check to TCBA,

PO Box 1653, Olympia, WA 98507

Once your check or online payment is received  
you will be placed on the RSVP list.

Cash or checks payable to TCBA at the door

### ADOPT-A-FAMILY

The Thurston County Bar Association will host the Annual Salvation  
Army Adopt-A-Family drive

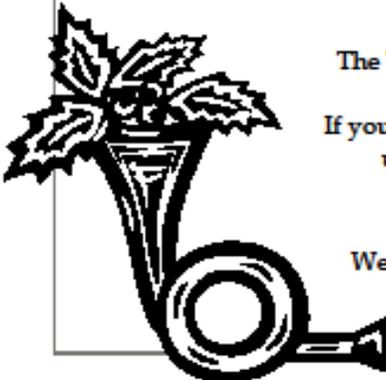
If you would like to participate in the Adopt-a-Family program but are  
unable to attend the luncheon please send your donations to:

TCBA @ PO Box 1653, Olympia, WA 98507

Donations should be made payable to TCBA

We will need to receive your check by **Monday, December 7, 2015**

Please indicate Adopt-a-Family



Dear TCBA Members:

With the holiday season fast approaching, it is time, once again, to ask for your assistance with the Thurston County Bar Association's participation in the Salvation Army's Adopt-A-Family Program. As most of you know, the Adopt-A-Family Program matches impoverished families with individuals or group sponsors who will provide them with gifts and other necessities listed on the families' "wish list." The "wish list" includes requests for toys, clothing, sport and electronic equipment and other household essentials like blankets, towels and sheets. Sponsors are asked to provide three or more wrapped gifts (plus stocking stuffers) to each family member on either Monday, December 14, 2015, 9:00 a.m. to 4:30 p.m. or Tuesday, December 15, 2015, 9:00 a.m. to 4:30 p.m. The wrapped gifts should be delivered to the Salvation Army building at 1505 4<sup>th</sup> Avenue East in downtown Olympia. The assignment of families is scheduled to start by November 16, 2015 and we hope to get the families to our sponsors before Thanksgiving.

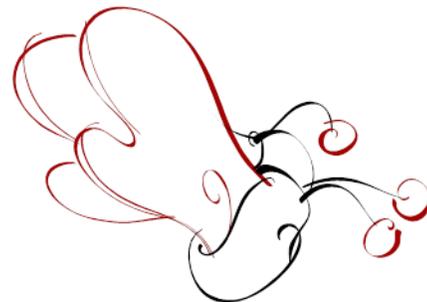


For the 2014 Holiday Season the TCBA sponsored 28 families (108 individuals) and helped them have a happy holiday season. We are hoping to help and support even more families this year. To sponsor a family please email TCBA Administrative Assistant Heather Ligtenberg at [tcba.info@gmail.com](mailto:tcba.info@gmail.com) with your information and request for a family. The families are categorized as Small (one to three persons), Medium (four to five persons), and Large (six or more persons). Please let Heather know as soon as possible (and no later than Monday, December 7, 2015) if you are willing to participate in this most rewarding event.

The TCBA will continue the tradition of having some individual family members available for adoption at the December 11, 2015 Holiday Luncheon. We are, however, once again encouraging members and firms to sponsor an entire family prior to the Holiday Luncheon. This allows the TCBA to not only sponsor more families, but also allows the membership to have more time for socialization during the luncheon. We are hopeful that those members that cannot attend the luncheon or those who would like to make an early commitment to adopt a family will let us know as soon as possible so the TCBA can continue to make a difference in our community during this holiday season.

I thank you on behalf of the Thurston County Bar Association Board of Directors.

Leonard K. Lucenko, Jr.  
Committee Chair



Ethics Corner: Civility and the Myth of the Duty of Zealous Representation  
By: Christopher Lanese

When discussing the importance of civility and professionalism in our profession, a significant number of attorneys continue to cite their “duty” of zealous representation as a limiting factor on their ability to be civil and professionalism.

There is no duty of zealous representation in the Washington Rules of Professional Conduct.

When the ABA established their first model ethical code in 1908, the code included the following language: “a lawyer owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights.” In 1969, the ABA amended its rules to require that attorneys represent their client’s interests “zealously within the bounds of the law.”

In 1983, Washington parted ways with the ABA’s model rules and eliminated the word “zealous” from its rules. In 2006, Washington also removed “zealous” from the Preamble to the RPCs, and replaced it with “conscientious and ardent” in statements such as the following: “These principles include the lawyer’s obligation conscientiously and ardently to protect and pursue a client’s legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.” (emphasis added).

While there is no explicit “civility duty” under the RPC’s beyond what is stated in the Preamble, there are several rules that indirectly support civility. RPC 3.5(c) prohibits conduct intended to disrupt a tribunal. RPC 4.4(a) prohibits conduct with “no substantial purpose other than to embarrass, delay, or burden” another person. RPC 8.4 prohibits dishonesty, discrimination and conduct prejudicial to the administration of justice, which case law has construed as prohibiting conduct such as racial slurs, physical attacks, and abusive language. When admitted to the Bar, each attorney takes an oath agreeing to “abstain from offensive personalities.” Admission and Practice Rule 5(d)(7). This is a reference to attorneys not engaging in conduct that would be perceived as demonstrating an offensive personality, rather than requiring attorneys to stay away from offensive individuals. In addition, the U.S. District Court for the Eastern District of Washington has a civility code in its Local Rule 83.1 (“Courtroom Practice and Civility”), and the WSBA has an aspirational Creed of Professionalism for its members.

The most important rule related to this issue, however, may be RPC 1.1 requiring competent representation of the client. The Thurston County judiciary has been clear in the pages of this publication and elsewhere that civility and professionalism is expected of all attorneys who appear before them. And there are endless examples of attorneys who chose to take the less-than-civil path ending up with worse results for their clients as a result. It is not an exaggeration to suggest that attorneys who decide to pursue zealous representation at the expense of civility and professionalism may not be providing their clients with the competent representation they are entitled to.

*Christopher Lanese is a member of the WSBA Committee on Professional Ethics, and the Attorney General’s Office’s Ethics Committee. The opinions expressed in this article are his own. You may contact him at [christopherl@atg.wa.gov](mailto:christopherl@atg.wa.gov) with suggestions for future topics.*