

THE LEGAL BRIEF

A Publication of the Thurston County Bar Association

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March 2011

President's Message By: Toni Hood

Below is the TCBA's new policy regarding judicial portraits. The policy was adopted after significant discussion by the board. If you have any questions or concerns about this new policy please let us know. You can contact individually or through our administrative assistant Amy Robinson at amy.tcba@gmail.com:

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POLICY OF THE THURSTON COUNTY BAR ASSOCIATION RE: JUDICIAL PORTRAITS

RECITALS

Whereas the Board of the Thurston County Bar Association (TCBA Board) values the contributions made by the Thurston County judiciary and encourages the acknowledgement of these contributions, when exceptional, through judicial portraits for display at the appropriate county courthouse; and

Whereas the TCBA Board has coordinated the creation and presentation of these judicial portraits, but does not directly fund them; and

Whereas the TCBA Board desires to create a non-binding policy to govern future coordination of judicial portraits for judicial officers serving Thurston County.

POLICY RE: JUDICIAL PORTRAITS

NOW THEREFORE, the TCBA Board adopts the following Policy,

1. The TCBA Board will assist the coordination of the creation and presentation of a portrait for a retiring judge who meets the following criteria:

A. Served as a judge on the Thurston County Superior Court and/or District Court bench for a period of 14 years or more; and

B. Served with distinction.

2. This TCBA Board policy is non-binding and shall not limit future TCBA Boards to act outside its terms should extraordinary circumstances warrant.

3. This policy shall be appended to, but not part of, the TCBA By-laws.

Passed and Adopted this 8 day of March, 2011.

Vote certified/Quorum Present:



Officer - TCBA Board

The Legal Brief is published bi-monthly. Membership in TCBA is \$50 per year (New Lawyers receive a discounted rate).

To find out how to join TCBA, or to submit an item for publication in the Legal Brief, please contact Amy Robinson at amy.tcba@gmail.com

STAY CONNECTED!

If you have not received an email from the TCBA recently please email Amy Robinson at amy.tcba@gmail.com to update your email address!

OFFICE UPDATE FROM THURSTON COUNTY CLERK
MARCH 2011

Spring is not far away, and I think we all are anxious for more sun and the signs of life on the bare trees. This article for The Legal Brief contains information and issues that have surfaced the last few months. You will find information on TEDRA actions as we have found that more cases are being filed and our process and procedure have caused some confusion.

We have provided information on the Clerk's Dismissal process. It was brought to my attention that if an attorney had some advance warning of a case scheduled to be dismissed for this purpose, that they would have the opportunity to file the appropriate documents and avoid a Clerk's dismissal and the accompanying fee. The information about the new process is included in this article.

The last part of the article will provide information regarding Notice of Issues and Confirmation process. This still remains a tedious process requiring a lot of staff time so we have made a few changes to put more responsibility on the confirming party.

TEDRA ACTIONS

In a continuing effort to provide clarification of our procedures so that it is clear on how you should proceed, I would like to take this opportunity to share with you how TEDRA cases are handled in this office. There seems to be some confusion surrounding this matter, so it is my hope that this will clear up that confusion.

COMMENCING A TEDRA ACTION

RCW 11.96A.090(2) states:

"A judicial proceeding under this title may be commenced as a new action or as an action incidental to an existing judicial proceeding relating to the same trust or estate or non-probate asset."

To reduce confusion for attorneys and my staff, it is the practice of this office to commence the TEDRA action as a new action. This eliminates some technological obstacles for this office and provides clear direction for staff, attorneys, and the judges and commissioners.

If there are circumstances where it would be appropriate to commence the TEDRA action in an existing case, a request can be made for that to occur. However, a manager will review these requests on a case-by-case basis. Once commenced, the TEDRA action may be consolidated with an existing proceeding or converted to a separate action, upon the motion of a party for good cause shown or by the court on its own motion.

TEDRA FILING FEE

There is a civil filing fee, plus a \$30.00 surcharge put in place by the Legislature in 2009, in both instances of filing a TEDRA action; whether it gets filed as a new action or gets filed in an existing case. A TEDRA matter is classified as a new action to commence judicial proceedings and a summons and petition are required. Upon the filing of the initial summons and petition to commence the new action, a filing fee becomes due.

RCW 36.18.020(a) states, in part:

"...the party filing the first or initial document in any civil action...shall pay...a fee of two hundred dollars."

Further, RCW 36.18.020(f) states:

"In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first document therein, a fee of two hundred dollars."

CLERK'S DISMISSAL PROCESS

Pursuant to CR 41, it is the responsibility of this office to dismiss cases that have not had any activity for twelve months or longer or did not receive an order properly disposing of the matter. In January 2010, I implemented a policy that allowed a \$30.00 fee to be charged by my office for performing this service.

As a courtesy, our office will now post to our website a list of cases which we intend to schedule for dismissal or closure. The list will remain on our website for 30 days from the date the "Eligibility List" is posted. That timeframe should provide adequate time for a necessary action on your cases. A new list will be posted according to the following schedule but will only remain available for the 30 day period:

Date Posted (by):

April 5, 2011

July 5, 2011

October 5, 2011

January 5, 2012

The above list will be removed 30 days after posting and will be updated on a quarterly basis. To find the Eligibility List and the above schedule, simply click on the "Policies" link from our home page.

You can search the list to see if you are the attorney of record in any of the cases listed. If you are the attorney of record in an eligible case, and an action of record is taken or a status report (indicating the reason for inactivity and projecting future activity and a case completion date) is filed, then this office will not proceed with the dismissal. If no action is taken, our office will move for dismissal and impose a \$30.00 fee.

NOTICES OF ISSUE & CONFIRMATIONS

Our office continues to receive an insurmountable number of Notices of Issue and confirmations that contain errors. Each time, staff has to research the correct judge, calendar, case number, and/or date to ensure that the hearing is noted correctly or that the hearing gets confirmed. Many times, this entails a telephone call to the attorney to obtain clarification.

This process has begun to spiral out of control and I can no longer ask staff to continue pursuing the corrections. Effective April 1, 2011, Notices of Issue that do not contain the correct hearing/calendar information will be filed, but not placed on the calendar. Further, hearing confirmations that contain errors will no longer be confirmed.

Confirmations have been a pains-taking process for our office for quite some time. We are looking at how this process can be improved and hope to have a new procedure in place in the near future to provide some relief for all involved.


Again, please visit our website at www.co.thurston.wa.us/clerk for valuable information, resources, FAQ's, policies and procedures.

As always, I would like to hear from you if you have any questions or concerns and would welcome suggestions for topics that you would like addressed in an upcoming issue.

Betty J. Gould

THURSTON COUNTY CLERK

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Benefits to Establishing a Link from the TCBA Website to your own Website:

- ◆ The TCBA website is accessible through the major search engines, so potential clients looking for an attorney in Thurston County can easily find you.
- ◆ You can provide potential clients with information about you and your practice in an inexpensive, efficient and professional manner.
- ◆ The website is linked from the WSBA website so attorneys from outside of Thurston County can easily find attorneys here for various cases.

Cost:

\$25/year—Pays for a link from the TCBA website directly to your own website.

Be sure to mark on your membership registration and submit payment to start or maintain your link for 2010.

Membership registrations need to be received by April 1 to remain listed on the TCBA website!

Thurston County Bar Association Solicitation for Interested Candidates

Job Title: Administrative Assistant to the Board of Directors of the
Thurston County Bar Association

Support the Thurston County Bar Association Board of Directors in serving the interests of the 300 members of the Thurston County Bar Association. This is a wonderful part-time employment opportunity for a highly organized, self-directed, gregarious individual who is familiar and comfortable with event planning, communicating with attorneys and judges, computers and website management, newsletter production.

A background in basic accounting skills is also desirable.

Tasks include:

- Responding to the needs and inquiries of the TCBA Board, members of the association, members of the judiciary, and the public;
- Assisting the Board Treasurer in collecting & accounting for membership dues & other fees;
- Assisting the Board Secretary by recording and distributing the minutes of the monthly meetings to the Board members;
- Acting as the event planner for monthly luncheons, the bi-annual dinner meetings of the membership, bi-annual New Lawyer Swearing-In Ceremonies, annual United Way Day of Caring, and any other social or educational events undertaken by the Board;
- Communicating with the Washington State Bar Association for approval of continuing legal education (CLE) credits for events sponsored by the TCBA;
- Maintaining the TCBA website to include adding content at the request of the Board, maintaining an accurate membership roster, and working with vendors/contractors to update;
- Creating and distributing the TCBA newsletter to the membership, including solicitation and coordination of content submissions from the members, the judiciary and the public;
- Operation and care of the TCBA computer and other office equipment, including notification to the Board as to needed maintenance and updates;
- All applying candidates must be available to check e-mails on a daily basis and possess the requisite flexibility to respond promptly to the President, other Board members and the membership;
- All applying candidates must be available to attend monthly TCBA luncheon meetings on the 3rd Friday of each month, monthly evening board meetings on the 2nd Wednesday of each month and other annual events.

Compensation is \$14.00 per hour; hours are flexible, out-of-office, and provided on an as-needed basis.

See www.thurstoncountybar.com for more information about the TCBA.

Please send a letter of interest and resume including 2 references to:

TCBA, PO Box 1653, Olympia, WA 98507 to be received by Monday, March 21, 2011.

We heard you!
**Check out the NEW www.thurstoncountybar.com for
resources & news for our members**

TCBA Updates

Newest Member!

The Thurston County Bar Association Board of Directors would like to welcome it's newest Board Member, Terry Church! Terry joins the Board from Church Reitzke, PLLC. Please join us in congratulating Terry Church and welcoming him to the TCBA Board of Directors.

Bigelow Award

Nominations are now being accepted for the 2011 TCBA Daniel Bigelow Award. Daniel Bigelow arrived in Thurston County in 1951 as a Harvard educated lawyer. He was instrumental in the creation of the Washington Territory in 1853 and he was a vocal advocate of equal rights, women's suffrage and public education. This award is named in Daniel Bigelow's honor and is given annually to recognize outstanding professional and community service.

The recipient of the award will be announced and honored at the annual dinner on May 13, 2011. A nomination may be made by any member of the TCBA. The nominating lawyer must be a current member of the TCBA. The Board of Trustees will select the recipient of the award after carefully considering all of the nominations.

Please email your Bigelow nominations to Allen Miller at allen@atmlawoffice.com by April 5th, 2011.

Annual TCBA Golf Tournament

Annual Golf Tourney will be on May 7 at 11:00 at Olympia Country Club. Sign-up forms will be provided in mid-April., so stay tuned!

Upcoming Available Board Position

We are sad to see Allen Miller step down from the TCBA Board this coming May, as he has served as an asset to our organization for many years. However, we are excited to extend the invitation of an open position on the Board to interested members. Please email Amy Robinson at amy.tcba@gmail.com for inquiries.

TCBA Administrative Assistant

Support the Thurston County Bar Association Board of Directors in serving over 300 active members of the TCBA! Please see page 4 to view full job description, or email amy.tcba@gmail.com for questions and further details.



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Judge's Corner
Mediation Comes of Age
Judge Paula Casey

The courts have experienced dramatic changes in the last 20 years. Among the most remarkable and positive changes is the introduction of mediation as a non-adversarial dispute resolution model. Born from the cost and delays of courtroom litigation, mediation has brought with it opportunities to avoid the hostility and discord that often accompany litigation.

Mediation did not become a household word overnight. Over 35 years ago, Thurston County Superior Court began requiring participation in judge-conducted settlement conferences before trials in all family law matters. Shortly after the adoption of the authorizing law in 1979, Superior Court implemented mandatory arbitration, using local attorneys to resolve civil suits. In 1987, Superior Court began mandating mediation in parenting plan disputes before trials. In 1995, Superior Court created ADR Week, which brought no-cost, and later, low-cost, mediation and settlement conferences to the courthouse. Today, a mediation deadline is included in most civil case scheduling orders.

Each new program alternative dispute resolution initiative has been accompanied by energetic supporters and staunch skeptics. Willingness to try new processes has been, to some extent dependent on who was delivering the service, the reputation of the neutrals, and the recommendations of colleagues. Today, mediation and arbitration are both well-ingrained in the legal culture. These processes bring better resolutions for neighbors, those who work together, those who parent children in common, and many others. The resolutions accomplished through these processes also make more court time available for other cases.

I am highlighting mediation now because 2011 is the 20th anniversary of Thurston County's Dispute Resolution Center! The DRC was founded in 1991. The DRC has partnered with the courts since the beginning – participating in the early years of ADR Week, bringing mediators to the District Court to do on-site mediation of small claims disputes, providing mediators for Family Court's parenting disputes since the beginning, and staffing victim-offender mediation for Juvenile Court.

The Dispute Resolution Center reports that it has helped over 1,500 people in mediation and has provided telephone conciliation services for thousands more. Many of those served never see a lawyer; most do not see the court. Director Evan Ferber, his staff, his board, and his volunteers deserve our recognition for this good work.

The DRC has identified the following local attorneys who are serving or have served as volunteer mediators: Mary Barrett, Laura Eidal, Terra Evans, Jeff Fishel, Joel Green, John Hough, Paul James, Deborah Jameson, Hugh McGavick, Kathleen Moore, Leslie Owen, Ethan Sattelberg, Charity Atchison, Charley Barron, Vickie Kesala, Faith Lumsden, Matt Morbello, George Nesmith, Kris Zabriskie, Sarah Neyhart, Rob Wilson- Hoss, Stan Arnold, B. Jean Black, Larry Rogers, Melissa Burke-Cain, John Hamje, Blakely Lord, Anita Estupinan Neal, Heidi Robbins Brown and David Kauffman. Some names may have been mistakenly omitted. Additional attorneys and judges have served on the Board of the DRC. Currently, Stacie Dee Motoyama, Charley Barron, Judge Brett Buckley, Ethan Sattelberg and Rob Wilson-Hoss serve on the Board. These individuals deserve our thanks for their public service.

Join me in congratulating the Dispute Resolution Center for its 20 years of peace making in our community! And, use mediation whenever possible.

WANTED:

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

Contact Amy Robinson at amy.tcba@gmail.com

**TCBA
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2011**

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ADVERTISING IN THE LEGAL BRIEF

If you would like to advertise in the LEGAL BRIEF, please contact Amy Robinson at amy.tcba@gmail.com

- The cost for advertising is \$200 for a full page, \$100 for 1/2 page, \$50 for 1/4 page and \$25 for 1/8 page.
- ****PLEASE NOTE FEE CHANGE:** *Classified Advertisements for TCBA members regarding legal related items are now subject to the above fee scale.***
- All advertisements are subject to approval of the Legal Brief's Editorial Board.
- The LEGAL BRIEF is published bi-monthly. Contact Amy Robinson for the next deadline for submissions.

Section/Committee Announcements...

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

Young Lawyer Section

The Young Lawyer Section holds regular Monthly Meetings the third Thursday of every month, noon at I.talia. Please contact Julie Kamerrer with any questions (360) 754-3480 jkamerrer@lldkb.com

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 and welcome new members to the committee.

Please contact Elissa Kokis with your ideas or if you are interested in joining the committee.

elissa@jensenkokis.com

Land Use Committee

Stay tuned for more CLE events from the Land Use Committee, co-chaired by Carmen Rowe Hoogkamer, Robert Dengal and Jessica Jensen.

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