

# THE LEGAL BRIEF

A Publication of the Thurston County Bar Association

Volume 38 Issue 4  
September 2020

## Inside this issue:

<i>President's Message/Board Members</i>	1
<i>View From the Bench</i>	2,6
<i>Classifieds/Ads/Misc Updates</i>	3,5,6,7, 8,10,11, 15,16
<i>Young Lawyer's Spotlight</i>	4
<i>Washington State Law Library Article</i>	8
<i>Trial by Referee By J. Michael Morgan</i>	9,10
<i>TCVLS Updates</i>	12
<i>In Re: Anne Wilson</i>	13
<i>Public Service &amp; Leadership Award Winner Ingrid Zerpa</i>	14

## TCBA Board of Directors 2020-2021

### Officers:

**James Laukkonen**, President  
james@laukkonenlaw.com

**Geoff Hulsey**, President-Elect  
geoff@buddbaylaw.com

**Patrick O'Connor**, Secretary  
patrick.oconnor@co.thurston.wa.us

**Heidi Raedel Magaro**, Treasurer  
HRM@lifetime.legal

**Laura Murphy**, Immediate Past President  
lauramurphy2003@comcast.net

**Trevor Zandell**, Board Member  
tzandell@phillipsburgesslaw.com

**Amy Perlman**, Board Member  
aperlman@olylaw.com

**William B. Pope**, Board Member  
attorneys@wbpopelawfirm.com

**Michael Young**, Board Member  
Michaelmyoung@yahoo.com

**Wayne Graham**, Board Member  
wayne.graham@co.thurston.wa.us

**Matt Huot**, Board Member  
Matt@Huotlaw.com

**John A. Kesler III**, Board Member  
JKesler@bgwp.net

## President's Message By: James Laukkonen

Looking back over the last twelve months, I think that I can safely say that none of us expected things to go the way they did. At the time I am writing this, we are heading into election season. Most of us remain in various levels of lockdown. Some of us are relatively unaffected of course. Some are finding new practice methods. We need to be mindful though, that some are struggling just to pay the bills. When we look beyond the legal community, the situation is even more dire. Housing and jobs are the worst they have been in ages, we have protests over ongoing racial injustices, and even people who were fairly stable six months ago have found themselves on the street. If you are struggling, or even just feeling a bit adrift, you are not alone. Reach out to one of your colleagues. Reach out to me. This is a fairly tight community, and we will help support you in any way we can. Although we are distanced, we are all in this together.

For many of us the normal social outlets are simply nonexistent right now. I have always looked forward to the monthly member lunch and CLE. The lunches were a time to see old friends, to catch up with colleagues, or to meet someone new. We are looking into options to have the lunches virtually, but part of the social aspect will be hard to replicate. I (and I suspect many of you) have been fortunate to be able to connect with my neighborhood. We have formed a local network to provide assistance as needed. We have also been talking more than ever before.

In "better" times, I was usually at work during the day, as were my neighbors. We would wave as we passed on the street, but that was about all. Now, I am often home during the day. We might not be having a neighborhood barbecue, but we are chatting (masked and distanced) over the hedges. We are becoming united in ways that our society has been forgetting. This is an excellent opportunity, and I strongly urge each of you to take this chance to get to know your neighbors.

Many of us are working from home. I'm personally aware of several firms that have switched to a virtual office system. They are renting shared conference rooms and a business address, but almost everything else is done from the home office. Court now is frequently by video or agreement. Former opportunities to work out deals while waiting our turn in court have turned into giant games of phone tag. Emails or calls might get missed while we are in the other room fixing a snack.

The current situation highlights how important it is that we keep an eye on our obligations, on our clients' well-being, and on our own mental fitness. We all need to make sure that we are staying in contact with our clients and opposing counsel. We need to ensure that we maintain proper security and client confidences, especially as we try new work places and methods. Can your client conversations now be overheard by a nosy neighbor? What about your home wireless? Can it be compromised? Is your VPN secure? Do you have a separate work space at home? A separate business phone?

WSBA has some CLEs that relate to our current circumstances that I found useful, but they also have practice management assistance and member wellness resources. Make use of as much as you can. If work has slowed a bit while your office is partially shut down, maybe spend some of that time looking at ways to improve your work life for when you return or looking for other ways to help your neighbors. At the same time, the TCBA is working hard to create new learning and networking opportunities to provide you with the resources you need to serve your clients and the community.

Take care of yourselves, take care of each other, and I really meant it when I said that you can contact me – not just if you are struggling, but especially if you are.

## A View From the Bench

**By Judge Brett Buckley  
Thurston County District Court**

### **COURT IN THE TIME OF CORONA**



The world is flat. At least, so it seems, in the first seven tumultuous months of 2020. Even this early in the new decade, I am not sure I can even remember how life used to be. And I don't even have children at home. I don't know how you parents of young children are managing to move forward.

What I can describe is how Thurston County District Court, as an organization, is attempting to put one foot in front of the other and embrace this new Covid reality. Our organizational mission is "Serving Justice through Serving People". How do you do that when the people we serve might be the recipients of, or the carriers of, the deadliest virus the world has seen in more than a hundred years? You do it by having creative, compassionate and flexible leadership willing to consider operational methods that, months ago, were not in anybody's playbook. The District Court team, led by Court Executive Officer Jennifer Creighton and Court Operations Officer Frankie Peters, have been brilliant in constructing a new infrastructure that enhances our ability to protect staff, counsel, parties and the public while still meeting our constitutional obligations to provide justice services. You also do it with a staff that is devoted to doing whatever is necessary to accomplish that mission, be it from a laptop at home or masked up and appropriately distanced at the courthouse.

When the threat of the virus became obvious, we responded by locking the doors to the courthouse and, initially, doing only In Custody calendars by video from the County and Nisqually jails. We had been doing those calendars in that fashion for many years so that transition was seamless. Most of the cases we heard were requests from counsel to consider release of their clients to reduce the threat of the virus spreading through the jails. Recognizing that, human behavior being what it is, we would develop a growing backlog of new cases, we slowly began to add certain types of hearings to our calendar. A judicial triage of cases led us to pause all civil hearings, with the exception of requests for protection orders, and schedule only necessary criminal hearings. The public health necessity of reducing in person contact to reduce transmission was the guidepost we used in determining how to do our business. Speedy trial was, and still is, stayed for all criminal proceedings.

Starting in April, we slowly began to add more criminal calendars to our schedule to address issues of public safety. By order of the court, we limited admission to the courthouse to only parties and counsel. Our facility is quite small and does not allow for adequate spacing. At the request of the county Prosecutor's office we addressed the constitutional requirement of open courts by entering a Bone Club order that determined we could satisfy our constitutional obligations by broadcasting our court proceedings via YouTube. Of course, it took our Judicial Assistant, Leidy Castillo Caro, a young lawyer from Columbia, to show us how to do that. Talk about a game changer. It then became apparent, even to the judges, that we could do hearings entirely remotely. With the use of Zoom, an easily accessible video conference on steroids, we were able to add many cases to our calendar. Even though the impact of our brilliant words was sometimes lost because of our failure to unmute, we adapted and found we could accomplish a lot by allowing people to participate from their office, car, living room, backyard, wherever. Those without access to the necessary technology are given the option of phoning in, coming to court and put in a private room with a laptop or put on one of our limited in person calendars. Non English speakers are able to participate with translators appearing remotely and the wonder of breakout rooms for confidential discussions with counsel.

The solutions are not ideal. Document signing is problematic. The pace is slow and we can't work through as many cases. We occasionally get some buffering on our Zoom calls. It can be difficult to hear folks in the courtroom through their masks. My glasses fog up after a few hours of masked hearings. None of these obstacles are insurmountable.

In fact, from obstacles come opportunities. We have learned that protection order hearings are much less contentious when the drama of personal appearance is removed. Evidence is easily available to all parties through an electronic file. We don't need security in the courtroom. For fully remote hearings, we don't even need a courtroom. The success of our civil protection order hearings has allowed us to contemplate opening up some civil and small claims calendars. We conduct name changes remotely and folks seem to be thrilled to be able to do it without having to come to court. Our traffic infraction calendars are likely to remain remote, Covid or not. Staff have had to learn new skills associated with broadcasting our hearings on YouTube. Whoever thought we would become the training ground for future television producers?

(Continued on page 6)



# Washington State Neutrals

**Mediators. Arbitrators. Neutral Evaluators. *Problem Solvers.***



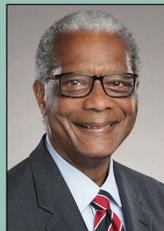
Judge Sharon Armstrong (Ret.)



M. Wayne Blair, Esq.



Fred R. Butterworth, Esq.



Judge Ronald E. Cox (Ret.)



Judge William L. Downing (Ret.)



Judge Anne L. Ellington (Ret.)



Judge Deborah D. Fleck (Ret.)



Judge Helen L. Halpert (Ret.)



Justice Faith Ireland (Ret.)



Judge J. Kathleen Learned (Ret.)



Ann T. Marshall, Esq.



Judge Richard F. McDermott (Ret.)



Judge Thomas McPhee (Ret.)



Lawrence R. Mills, Esq.



James F. Nagle, Esq.



Douglas S. Oles, Esq.



Judge Jeffrey Ramsdell (Ret.)



Judge Michael J. Trickey (Ret.)



Comm. Eric B. Watness (Ret.)

To schedule an in-person or virtual mediation or arbitration, please visit [jamsadr.com/seattle](http://jamsadr.com/seattle) or call 206.622.5267.



## YOUNG LAWYER SPOTLIGHT

BY BROOKE FRICKLETON, YL CHAIR

**BREANNA M. KNITTLE**

**Breanna@wwolaw.net**

**WSBA # 52787**



- ◆ **Areas you practice:** When I first started, I was practicing administrative law but I am now in the workers' compensation world.
- ◆ **The hardest part of being a young lawyer is:** Constantly having to look things up due to not having concepts or cases memorized yet.
- ◆ **If you weren't a lawyer what would you be:** Social Worker or Hospital Administrator.
- ◆ **Trait I admire in other attorneys:** A trait I admire in other attorneys is the inherent need to do the right thing for a client. The ability and need to fight for what is right and not settle with good enough.
- ◆ **Law school activities:** President of the Health Law Society, Member of Women's Law Caucus.

- ◆ **Best stress reliever:** volleyball.
- ◆ **Three favorite places in Thurston County:** Capitol Forest, Olympia Farmers Marker, any of the lakes.
- ◆ **Book I would recommend to others:** Whisper Network by Chandler Baker.
- ◆ **Favorite song right now:** One Man Band by Old Dominion.
- ◆ **What you like about being a part of TCBA:** The small community of people willing to help.

**About me:** I am an Olympia, Washington native – born and raised. I received my B.A. in Sociology from Gonzaga University and then went on to receive my law degree from Gonzaga School of Law, graduating in 2017. I studied abroad the summer going into my 3<sup>rd</sup> year of law school in Italy which stole my heart and ignited my lust to travel. I am newly engaged and also a fur mom to two dogs and two cats.

**If you would like to be featured in the Young Lawyer Spotlight or know someone you would like your fellow lawyers to get to know, email Brooke at [bfrickleton12@gmail.com](mailto:bfrickleton12@gmail.com).**

### COST-EFFECTIVE NEUTRAL SERVICES

- **Mediator**
- **Referee** (RCW 4.48)
- **Discovery Master**
- **Arbitrator** (MAR/ RCW 7.04A/TEDRA)
- **TEDRA Special Representative** (RCW 11.96A.250)

Objective - Experienced – Prompt - \$295 hourly rate

J. Michael Morgan

J. Michael Morgan, PLLC

1800 Cooper Point Rd. S.W. Bldg. 12  
Olympia, WA 98502

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

Phone: 360-292-7501

E-mail: [mike@jmmorganlaw.com](mailto:mike@jmmorganlaw.com)



### Williams, Wyckoff & Ostrander, PLLC

We have spent over 30 years protecting injured workers in workers' compensation cases.

Williams, Wyckoff & Ostrander, PLLC  
2958 Limited Lane NW  
P.O. Box 316  
Olympia, Washington 98507

Phone: 360.528.4800  
Email: [wwo@wwolaw.net](mailto:wwo@wwolaw.net)  
Website: [wwolaw.net](http://wwolaw.net)

We provide free consultations to injured workers and we welcome your referrals.  
We also will associate on cases.



**CARTER HICK, PLLC**  
Attorney at Law

402 Capitol Way S., Suite 4  
Olympia, Washington 98501

P: 360-943-7744  
F: 360-943-5396

[carter@carterhick.com](mailto:carter@carterhick.com)

Practicing **Personal Injury** law since 2005.



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

*"I can hardly see why all who are governed by law should not have a voice in making it."*



-Daniel Bigelow Diary, 1 May 1854.

Pioneer Olympia lawyer and legislator D R Bigelow helped bring the rule of law to the Pacific Northwest and worked to ensure all had access to their rights.

You can help preserve the Bigelow family legacy and support the work of OHS&BHM in sharing our history to new generations.

Please support **OHS&BHM** by becoming a member!

Online at [www.OlympiaHistory.org](http://www.OlympiaHistory.org)

Name \_\_\_\_\_

Address \_\_\_\_\_

City, ST Zip \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

Annual Membership: \$35 Individual / \$25 Student and Senior  
\$50 Family / \$75 Pioneer / \$150 Third Century

Make Checks Payable to OHS&BHM  
PO Box 1821 Olympia WA 98507

(Continued from page 2)

View From the Bench By Judge Brett Buckley

Our next big challenge is restarting criminal jury trials. How can we in good conscience invite (require) members of the public to come serve as jurors in indoor facilities for hours on end? Having a large enough facility on a regular basis to accommodate distancing is required. The County is concerned about the rental costs for such facilities. One option being considered is remote voir dire. Once a jury is selected do we have everyone in the courtroom wearing masks? Counsel regularly appear remotely now. Does that continue? How can jurors, counsel, judges evaluate facial expressions and other demeanor clues if all you can see are eyes? Do we lock jurors in a closed room to deliberate? Many of these questions were discussed on the Supreme Court's Jury Trial Work Group that Judge Meyer and I were part of. I was greatly impressed by the willingness of the Supreme Court to urge trial courts to be open to the use of technology to solve some of the dilemmas caused by the need to restrict in person hearings.

We still have a lot of questions and the answers are not always obvious, but I know we can handle this. Opening our eyes to not easily seen opportunities will allow us to continue to serve justice through serving people while starving the virus.

### **Thurston County Bar Association Judicial Elections Bar Poll**

The Thurston County Bar Association is releasing the results from a recent Judicial Elections Bar Poll. The purpose of this poll is to express the preference of our members for the next judicial election to the Thurston County Superior Court.

Pursuant to our By-laws, each candidate who filed for candidacy with the Auditor's Office was listed on the ballot for the Position 8 of the Thurston County Superior Court.

Ballots were mailed to our membership which totals 310 attorneys. In response, we received 102 valid ballots.

The results are as follows:

#### Thurston County Superior Court – Position 8

Scott Ahlf	24 votes
Sharonda D. Amamilo	28 votes
David M. Hankins	16 votes
Jonathan A. Sprouffske	34 votes

### **ADVERTISING IN THE LEGAL BRIEF**

If you would like to advertise in the LEGAL BRIEF, please contact Heather Ligtenberg at [tcba.info@gmail.com](mailto:tcba.info@gmail.com)

- The cost for advertising is \$240 for a full page, \$120 for 1/2 page, \$55 for 1/4 page and \$27.50 for 1/8 page.
- All advertisements are subject to approval of the Legal Brief's Editorial Board.
- The LEGAL BRIEF is published bi-monthly (January, March, May, September and November).
- Visit [thurstoncountybar.com](http://thurstoncountybar.com) for more information on specs and to view past editions of the Legal Brief.

# OFFICE SPACE AVAILABLE

921 Lakeridge Way SW, Olympia, WA 98502



**Professional Office Suites Available Now!**

### Suite 100

- First floor availability
- Full-service lease (excl. phone & internet)
- Superior parking
- Walking distance to courthouse
- 24/7 maintenance staff

**CALL TODAY TO SCHEDULE A TOUR!**

**360-866-6633**

• [www.ThunderBayMgt.com](http://www.ThunderBayMgt.com) •  
 Please visit our website for additional available office spaces.

## Dixie Cattell & Associates

Certified Court Reporters and Videoconferencing

Serving the I-5 Corridor from Bellingham to Vancouver, WA, Since 1982



Let us handle all your court reporting needs. We provide prompt, high-quality transcripts and friendly professional service.

Please call us to schedule your next deposition or videoconference.

**360-352-2506**

*State-of-the-art, high-definition videoconferencing for remote witnesses*

- Depositions/Arbitrations/Interviews
- Online Scheduling
- Complimentary Conference Rooms
- Electronic PDF Transcripts
- Experienced Legal Videographers
- Hyperlinked Exhibits
- Online Transcripts Repository

2102 Carriage Drive SW Building C  
 Olympia, WA 98512  
[dcattell@comcast.net](mailto:dcattell@comcast.net)  
[www.dca-reporters.com](http://www.dca-reporters.com)

### News from the Washington State Law Library

The State Law Library reading rooms remain closed due to the COVID-19 public health directive (<http://www.courts.wa.gov/newsinfo/index.cfm?fa=newsinfo.COVID19>). While you may not be able to visit us in person yet, our services are still open and we are available to answer reference questions and provide research assistance. Please send an email to [Library.Requests@courts.wa.gov](mailto:Library.Requests@courts.wa.gov) or call 360-357-2136 to submit a request or speak to a librarian.

While we still offer free shipping of circulating materials to bar members, we are excited to announce that the law library now has curbside service for checkouts and returns each Tuesday and Thursday from 11 - 3. To use this service, please follow these instructions:

1. Use our online catalog to browse for books: <http://www.courts.wa.gov/library/>. We are happy to send you a table of contents via email in advance.
2. Call (360-357-2136) or email ([library.requests@courts.wa.gov](mailto:library.requests@courts.wa.gov)) with book title(s) and contact information.
3. Receive a notification when the book is ready for pickup. Books will be available for two weeks.
4. On curbside day, enter the capitol campus via Sid Snyder Avenue and drive around the barricade. Upon arrival, park or stand in the striped loading zone at the back of the Temple of Justice. Look for the orange cones with "Curbside Pickup" sign. Please do not use any other parking spots.
5. Call 360-357-2136 (printed on sign) and let library staff know you are here for curbside pickup and whether you are in a car or on foot. Please provide a description of your vehicle and notify staff of any special needs or instructions. If you do not have a cell phone, please call 360-357-2136 to set up an appointment so that we know when to expect you.
6. Follow these instructions to return books on curbside days. You can also return books via UPS or FedEx to 415 12<sup>th</sup> Ave. SW, Olympia, WA 98501.

We do not have a scheduled opening date, but will post any updates as soon as we get them on our website (<http://www.courts.wa.gov/library/>). You can also stay up to date through the law library blog (<https://medium.com/walawlibrary>). We look forward to seeing you back in the law library when we open our doors again.

- Contributed by Washington State Law Library reference staff.



**On September 30, 2020, the TCBA will be hosting a Judicial Candidate Forum for the open Thurston County Superior court seat.**

**The forum will be at 5:30 p.m. via Zoom. The Zoom invite will be sent to you at a later date. This is your opportunity to learn more about the two candidates, Scott Ahlf and Sharonda Amamilo.**

**Please submit any questions or topics you would like to be considered to the TCBA at [tcba.info@gmail.com](mailto:tcba.info@gmail.com) by September 11, 2020 at 5:00 p.m.**

*Freelance civil litigation paralegal with 25+ years experience available to help on your cases. Expertise in mediation statements, demand letters, discovery, document management, and trial prep. Remote work only.*

**Jan Swan Paralegal Services [civilparawa@gmail.com](mailto:civilparawa@gmail.com)**

## Trial by Referee

By J. Michael Morgan

The recent closures and gradual reopenings of court facilities and law offices has resulted in more creative and expanded use of video conferencing for depositions, arbitrations, mediations and most other court proceedings. However, even with our increasing efficiency through technology, an unfortunate consequence of Covid-19 precautions is the pushing out farther and farther of civil trial dates. While raising the MAR jurisdictional limit to \$100,000.00 has had a positive effect, it is of no help in cases where parties seek relief other than money, such as involving title to property or declaratory judgments. Also, if either party requests a trial de novo under MAR 7.1, the case goes back to the civil trial docket, where it must go to the end of the line to wait its turn for trial before the assigned judge. Since the challenges of Covid 19 are not going to go away anytime soon, I propose a reexamination of the little-used Trial Before Referee statute, first enacted in 1854, and currently codified in RCW 4.48. RCW 4.48.010 allows parties to consent in writing to have their civil case tried before a referee:

The court shall order all or any of the issues in a civil action, whether of fact or law, or both, referred to a referee upon the written consent of the parties which is filed with the clerk. Any party shall have the right in an action at law, upon an issue of fact, to demand a trial by jury. No referee appointed under this chapter may preside over a jury trial. The written consent of the parties constitutes a waiver of the right of trial by jury by any party having the right.

A referee must be: (1) qualified as a juror as provided by statute,<sup>1</sup> (2) competent to serve as juror between the parties<sup>2</sup> and (3) a duly admitted and practicing attorney. RCW 4.48.040. Under RCW 4.48.100, the parties can agree to share the referee's fees and other trial expenses, such as the cost of a court reporter. Trial before a referee proceeds more or less like any other superior court civil trial. RCW 4.48.060(1) provides in relevant part:

(1) Subject to the limitations and directions prescribed in the order of reference, the trial conducted by a referee shall be conducted in the same manner as a trial by the court. Unless waived in whole or in part, the referee shall apply the rules of pleading, practice, procedure, and evidence used in the superior courts of this state. The referee shall have the same power to grant adjournments, administer oaths, preserve order, punish all violations thereof upon such trial, compel the attendance of witnesses, and to punish them for nonattendance or refusal to be sworn or testify, as is possessed by the court.

Within 20 days after the conclusion of the trial (unless a later time is agreed to by the parties) the referee must serve on the parties a proposed report, consisting of findings of fact and conclusions of law. RCW 4.48.110(1). Finalization and filing of the findings and conclusions are similar to the process after a regular bench trial. The parties have 10 days after receipt of a copy of the proposed report to serve on the referee and the other parties written objections and suggested modifications or corrections to the proposed report. The referee then considers the objections and proposed modifications (for which the referee may hold additional hearings) and then prepares and serves a final report. RCW 4.48.110(2). Upon completion of the final report, the referee files with the court:

- (a) Copies of all original papers in the action filed with the referee;
- (b) Exhibits offered and received or rejected during the trial;
- (c) The transcript of the proceedings in the trial; and
- (d) The final written report containing the referee's findings, conclusions and judgment.

RCW 4.48.110(3). The referee's decision gets entered as a superior court judgment. Upon entry, it is reviewable by the Court of Appeals, just like any other superior court judgment. RCW 4.48.120 provides:

(1) Upon receipt by the clerk of the court of the final written report filed under RCW 4.48.110, the referral of the action shall terminate and the presiding judge of the superior court shall order the judgment contained in the report entered as the judgment of the court in the action. Subsequent motions and other post trial proceedings in the action may be conducted and disposed of by the referee upon order of the presiding judge, in the discretion of the presiding judge, or

---

<sup>1</sup>See RCW 2.36.070

<sup>2</sup>*Id.*

(Continued from page 9)

Trial by Referee By J. Michael Morgan

may otherwise be assigned by the presiding judge.

(2) The decision of a referee entered as provided in this section may be reviewed in the same manner as if the decision was made by the court.

The primary advantages of a RCW 4.48 trial before referee are: (1) the parties control the selection of the referee; (2) faster resolution; and (3) a direct right of appeal of the result to the Court of Appeals. This is distinguished from arbitration under TEDRA or the Mandatory Arbitration Rules, where an aggrieved party's only recourse is a trial de novo to the superior court under RCW 11.96A.310(9) for TEDRA cases, and per MAR 7.1 in MAR cases. There is no general right of appeal or for trials de novo for arbitrations under the Uniform Arbitration Act, RCW 7.04A, where the superior court's jurisdiction is limited to motions to vacate the award based on the narrow grounds specified in RCW 7.04A.230 and for modification or correction of the award on one of the grounds stated in RCW 7.04A.230.

In *Barnett v. Hicks*, 119 Wn.2d 151, 829 P.2d 1087 (1992), the Supreme Court emphasized that if parties intend to preserve their right to a direct appeal, they must strictly follow the statute. In *Barnett*, the parties submitted their dispute to arbitration by stipulation. After findings and conclusions were entered by the arbitrator, the parties sought full appellate review. The question presented to the Supreme Court was whether the proceeding below constituted a trial before referee hearing under RCW 4.48, as contended by the parties, which would be accorded full appellate review, or whether the proceeding was a private arbitration which would receive limited review as provided in the Mandatory Arbitration Rules, RCW 7.04.160-.170. *Id.* at 153-54. The Supreme Court concluded that the proceeding below was a private arbitration pursuant to RCW 7.04. The court reviewed the differences between a private arbitration and a trial before a referee. *Id.* at 154-57. The court then considered how the proceeding had been handled below. The court noted that the parties made numerous references to arbitration and the arbitrator, including in the stipulation and agreed order referring the case to arbitration. The parties' agreed order further provided for confidentiality and sealing of the record which was inconsistent with trial before a referee but entirely consistent with an arbitration. *Id.* at 158-63. Lastly, the court noted that the stipulation provided that any superior court order entered on a motion to confirm an order or award shall be subject to review by the appellate court. The court observed that reference to an "order or award" was consistent with an arbitration, but inconsistent with characterization of a referee's report. Similarly, if the parties were actually contemplating a reference hearing under RCW 4.48, the stipulation regarding appellate review was unnecessary because such review was already provided for under RCW 4.48.120(2). *Id.*, at 160. The court concluded that the proceedings below "were intended to be and were in fact proceedings in arbitration pursuant to RCW 7.04." *Id.* at 163.

In conclusion, although the RCW 4.48 procedure has been around a long time, to me it seemed cumbersome and did not make economic sense to make my clients pay referee's and court reporting costs. However, times have changed, and along with them the cost-benefit analysis of timely adjudication. A virtual trial before referee under RCW 4.48 can be had on most civil matters, provided the parties strictly follow the statute and take care to set up the record correctly. There is no restriction on summary judgment motions, where the statute allows parties to refer to the referee "all or any of the issues in a civil action, whether of fact or law, or both." RCW 4.48.010. The RCW 4.48 procedure should be amenable to trials on real estate cases affecting title to real estate; declaratory judgments; personal injury and other types of tort cases; and commercial and contract cases. I have not done the research to definitively answer the question of whether parties can stipulate to try equitable claims; however there is case law from other jurisdictions upholding grants of equitable relief by private arbitrators, where the parties stipulated to try such issues in arbitration. Also, it is beyond the scope of this article to address to what extent the statute might apply to guardianship, domestic relations and/or cases under probate jurisdiction, but I believe those areas certainly warrant further research and discussion.

### **Interested in getting more involved in the TCBA?**

A great way get involved is to join the TCBA CLE Committee!

Please contact Heather at [tcba.info@gmail.com](mailto:tcba.info@gmail.com) for more information.

## TCBA & Other Upcoming Events

**TCBA Annual Meeting & Dinner:** Due to the COVID-19 pandemic, the TCBA Annual Meeting and Dinner scheduled for Friday, May 29, 2020 has been postponed to December 11, 2020 at 12:00 p.m. during the holiday lunch at the Olympia Golf & Country Club.

**TCBA September Member CLE:** The next TCBA Member CLE will be on September 25, 2020 at 12:00 p.m. via Zoom. The topic is “Changing Failed Mediation to Successful Settlement: Tools for Overcoming Impasse” presented by Hon. Thomas McPhee (Ret.). To register for the CLE, email Heather at [tcba.info@gmail.com](mailto:tcba.info@gmail.com). The CLE is free. To register, email [tcba.info@gmail.com](mailto:tcba.info@gmail.com).

**TCBA Judicial Candidate Forum:** On September 30, 2020, the TCBA will be hosting a Judicial Candidate Forum for the open Thurston County Superior court seat. The forum will be at 5:30 p.m. via Zoom. The Zoom invite will be sent to you at a later date. This is your opportunity to learn more about the two candidates, Scott Ahlf and Sharonda Amamilo. Please submit any questions or topics you would like to be considered to the TCBA at [tcba.info@gmail.com](mailto:tcba.info@gmail.com) by September 11, 2020 at 5:00 p.m.

**September 2020 Issue of the Legal Brief:** The deadline to submit articles and advertisements for the November 2020 Legal Brief is October 20, 2020. Please email them to Heather Ligtenberg at [tcba.info@gmail.com](mailto:tcba.info@gmail.com).

**Save the Date:** The Annual TCBA Holiday Lunch will be on Friday, December 11, 2020 at 12:00 p.m. at the Olympia 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)

### Section/Committee Announcements...

#### Diversity and Inclusion Section

The next section meeting will be a CLE on September 30, 2020 at 12:00 p.m. via Zoom.  
The topic is “Ethical Elections: Judicial Races, Bias, and Woman Candidates of Color” #Ethical Elections.

Mike Martinez and Larry Jefferson are the Co-chairs of this section.  
If you have questions, please contact Mike at [Martinez.mike@hotmail.com](mailto:Martinez.mike@hotmail.com) or Larry at [LarryJefferson@comcast.net](mailto:LarryJefferson@comcast.net)

The section webpage is: <https://thurstoncountybar.com/diversity-and-inclusion/>

#### Criminal Law Section

The next meeting is on September 9, 2020 at 12:00 p.m. via Zoom.  
The section Chairs have planned a “Bail Bonds and Criminal Defense and Prosecution” CLE for the meeting.

Lindsey Trakel and Angela Colautita are the Co-chairs of this section.

If you have any questions, please contact  
Lindsey at [Lindsey.Trakel@co.thurston.wa.us](mailto:Lindsey.Trakel@co.thurston.wa.us) or  
Angela at [Angela.Colautita@co.thurston.wa.us](mailto:Angela.Colautita@co.thurston.wa.us).

The section webpage is:  
<https://thurstoncountybar.com/sections/criminal-law-section/>

#### Family Law Section

The next meeting is on Tuesday, September 8, 2020 at  
12:00 p.m. via Zoom.

Meredith Gerhart is the Chair of this section.

If you have any questions, please contact Meredith at  
(360) 350-6505 or [Meredith@gerhartlegal.com](mailto:Meredith@gerhartlegal.com)

The section webpage is:  
<https://thurstoncountybar.com/sections/family-law-section/>

#### Real Estate, Land Use and Environmental Law Section

Due to the COVID-19 pandemic, the next section meeting  
is to be determined.

Heather Burgess is the Chair of this section.

If you have any questions, please contact Heather at  
[hburgess@phillipsburgesslaw.com](mailto:hburgess@phillipsburgesslaw.com).

The section webpage is:  
<https://thurstoncountybar.com/land-use-section/>

#### Young Lawyer Section

Due to the COVID-19 pandemic, the next section meeting  
is to be determined.

Brooke Frickleton is the Chair of this section.  
Her email address is [bfrickleton12@gmail.com](mailto:bfrickleton12@gmail.com).

The section webpage is:  
<http://thurstoncountybar.com/sections/young-lawyer-section/>



## Thurston County Volunteer Legal Services

### APEX AWARD WINNER:

If you haven't heard, Thurston County Volunteer Legal Services and our 100+ volunteers were named 2020 APEX award winners by the Washington State Bar Association. **THANK YOU TO THE THURSTON COUNTY BAR ASSOCIATION FOR NOMINATING US** for Pro Bono and Public Service by a Group award. It really is meaningful that you are so supportive of our mission!

Local attorney, Nancy Koptur, was also awarded the Angelo Petrus Award for Lawyers in Government Service. Congratulations, Nancy!

### EQUITY BUILDING CHALLENGE:

The Board of Directors of TCVLS is committed to checking our policies and service delivery to make sure we are not perpetuating individual and system racism in our community. We are beginning this journey by educating ourselves and participating in a 10-week Equity Building Challenge to learn about racism, oppression and our own beliefs and perspectives. You can join us on Thursdays at noon through October 8<sup>th</sup>! Let Christa know if you would like to participate ([coordinator@tcvls.org](mailto:coordinator@tcvls.org)).

### COVID-19 NEWS:

**CLINICS INFO:** To protect our volunteers and clients, we have limited in-person legal advice during the last few months. Clinics are happening via phone four times per month and we are about to start SafePlace clinics again using Zoom. If you haven't been volunteering

and would like to start using phone or Zoom technology, get in touch with Christa at [coordinator@tcvls.org](mailto:coordinator@tcvls.org).

**GRANTS:** TCVLS has received two grants to provide civil legal aid to people impacted by COVID.

### **INDIVIDUAL AND FAMILY SAFETY:**

Domestic Violence has increased substantially with COVID causing great stress to many households. The Office of Civil Legal Aid has given TCVLS funds to hire an attorney to provide legal advice and representation to low income individuals and families who have been victimized or threatened by violence. This grant allows our staff attorney, Bonnie Aslagson, to continue the legal aid she was providing to eligible families the last few months. We are recruiting for another part-time attorney to also provide legal representation between now and June 30, 2021. Until we get someone hired, Bruce Conklin will be temporarily filling this role.

This project will allow us to represent impacted individuals and families throughout our service delivery area --- Thurston, Mason, Grays Harbor, Pacific and Lewis Counties.

**EVICITION DEFENSE:** We received a second grant through the Legal Foundation of Washington to hire contract attorneys to provide eviction defense. Although Thurston County benefits from a strong Housing Justice Project, we cannot say the same for the other counties we serve. This grant will make a difference in those communities.

**THANK YOU AGAIN FOR YOUR SUPPORT!**

## “In Re: Anne Wilson ”

By Heather Ligtenberg

**Name and year admitted to Bar:** Anne Wilson, 1994

**Areas you practice in:** Employment and labor law

**I became a lawyer because . . .** When I was young, I wanted to be President someday. It seemed like the best way to get there was by becoming a lawyer. Now I wouldn't be the President for all the money in the world.

**The hardest part of being a lawyer is . . .** Telling clients things they don't want to hear.

**I would give this advice to a first-year law student:** As my first year Contracts professor advised me – take classes you're interested in, not classes that will be on the bar exam. Bar prep classes tell you all you need to know, so as long as you're spending this much money, you might as well enjoy it.

**Traits I admire in other attorneys:** Straight talk. Sense of humor. Ability to get to the heart of the matter.

**If I were not practicing law, I would be . . .** Nina Totenberg.

**What is the first thing you will do when you retire?** Throw a party (assuming more than 10 people can gather at a time).

**If you could time travel, would you go to the past or the future? Why?** I would go to the past – the thought of what the future might look like is too frightening currently.

**What words of wisdom would you pass on to your childhood self?** Take more risks.

**What words of wisdom would you give to a young lawyer new to the profession?** Treat opposing counsel as you would like to be treated.

**Brief synopsis of you, your personal life, your work life, and any special awards or activities:**

I grew up in Spokane, and since then have lived in Seattle, Washington D.C., and Minneapolis, so was able to make an informed choice and return to the west coast. I started my legal career with Davis Wright Tremaine in Seattle, worked for a large firm and then as in-house counsel in Minneapolis, and now have the good fortune of working at Bean Gentry Wheeler Peternell – my 4-year anniversary is next month.

My husband, two sons, and I have lived in Olympia for 14 years and think it is an amazing place to raise a family. While living here, I have had the privilege of serving on the boards of the Hands On Children's Museum and South Sound Reading Foundation, and am about to join the Student Success Campaign Cabinet for South Puget Sound Community College. We are so lucky to have these great organizations doing important work in our midst!

**Contact information (work phone and email):**

Bean Gentry Wheeler Peternell  
360.357.2852  
awilson@bgwp.net

**CONGRATULATIONS TO INGRID ZERPA**  
**2020 – 2021 Public Service and Leadership Award Winner**  
**Washington Young Lawyers Committee**



Congratulations to Ingrid Zerpa, who was recently selected as a recipient of the 2020-2021 Public Service & Leadership Award by the Washington Young Lawyers Committee (WYLC). Ingrid was nominated by TWO people, including the Paige Dietrich at the Office of the Attorney General and Christa Lenssen at Thurston County Volunteer Legal Services.

Ingrid has truly demonstrated her commitment to public service and civil aid during her law school career, her time working in private practice, and now as an Assistant Attorney General for the State of Washington. Despite having a full caseload representing DSHS and the services it provides to vulnerable adults, Ingrid actively volunteers her time with Thurston County Volunteer Legal Services (TCVLS). She uses her legal knowledge to advise those in need, many of whom do not speak English. She mentors other clinic attorneys who are not familiar with family law. Ingrid joined the TCVLS board in early 2020 and is active as a catalyst on the newly formed Equity committee focusing on the organization's anti-racism work.

Ingrid is the former chair of the Thurston County Bar Association's Young Lawyers Section. In that role, she organized swearing in ceremonies for new attorneys and planned opportunities for young lawyers to become better connected in their communities. Ingrid always promoted volunteerism in her role as chair of the Young Lawyers Section. Before COVID-19 interrupted legal clinics, Ingrid was recruiting legal assistants and assistant attorney generals from her division to volunteer at a legal clinic to introduce more legal professionals to pro bono work.

In 2015, Ingrid received the prestigious Legal Foundation of Washington's Goldmark Legal Internship. This is a highly competitive internship with only one law student in Washington being selected each year. Ingrid served her internship at the Successful Transition and Reentry (STAR) Project. As a Rule 9 intern, she represented clients in Walla Walla Superior Court and successfully set local precedent to reduce or eliminate pre-Blazina Legal Financial Obligations (LFOs).

**CONGRATULATIONS, INGRID!**



**Thurston County Volunteer Legal Services needs YOU!**

We are always looking for new volunteers to help give legal advice to low income individuals and families who are self-representing on civil matters. Most often these are family law and housing issues. We have mentors who will help you if these are not your practice areas.

Contact Christa Lenssen at TCVLS:  
360-915-7488 or [coordinator@tcvls.org](mailto:coordinator@tcvls.org).

**Now scheduling in-person  
depositions!**

2401 Bristol Court SW  
Suite C-103  
Olympia, WA 98502

PH: 360.352.2054  
[scheduling@capitolpacificreporting.com](mailto:scheduling@capitolpacificreporting.com)



*We're ready for you to join us  
in our Olympia office for  
in-person depositions. We have  
socially distanced our  
conference rooms and have  
countertop screens set up for  
each participant!*

*Call or e-mail us today to  
schedule!*



**STAND  
UP FOR  
EQUITY  
AND  
JUSTICE**

The Campaign for Equal Justice funds

**30+**

legal aid programs to advance justice for communities of color, immigrants, and all who suffer the injustices of poverty.

**LEGAL AID IS NEEDED NOW MORE THAN EVER. YOUR DONATION HELPS:**

- PREVENT EVICTION**  
Legal aid lawyers keep families in their homes by defending tenants against eviction, which disproportionately impacts Black renters.
- SECURE UNEMPLOYMENT BENEFITS**  
Legal aid lawyers help workers secure unemployment insurance and appeal wrongfully denied claims at a time when people of color have lost jobs, hours, and wages at higher rates than white workers.
- DEFEND IMMIGRANTS**  
Legal aid helps immigrants access benefits, enforce their health and safety rights in the workplace, particularly for farmworkers, and release ICE detainees at risk of COVID-19.
- SUPPORT DOMESTIC VIOLENCE SURVIVORS**  
Legal aid lawyers help people isolated in abusive homes secure protection orders and enforce parenting plans.

Donate to the Campaign for Equal Justice at [www.legalfoundation.org](http://www.legalfoundation.org)



**Help Us Create A World Where Justice Is Equal & Accessible To All.**