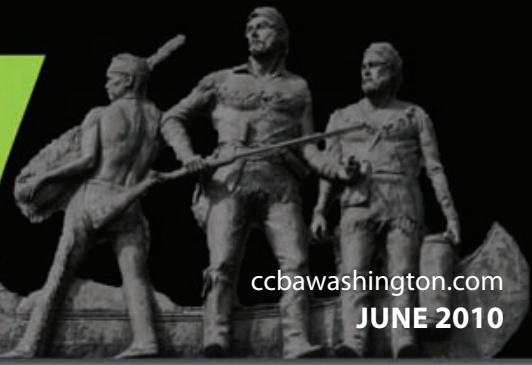
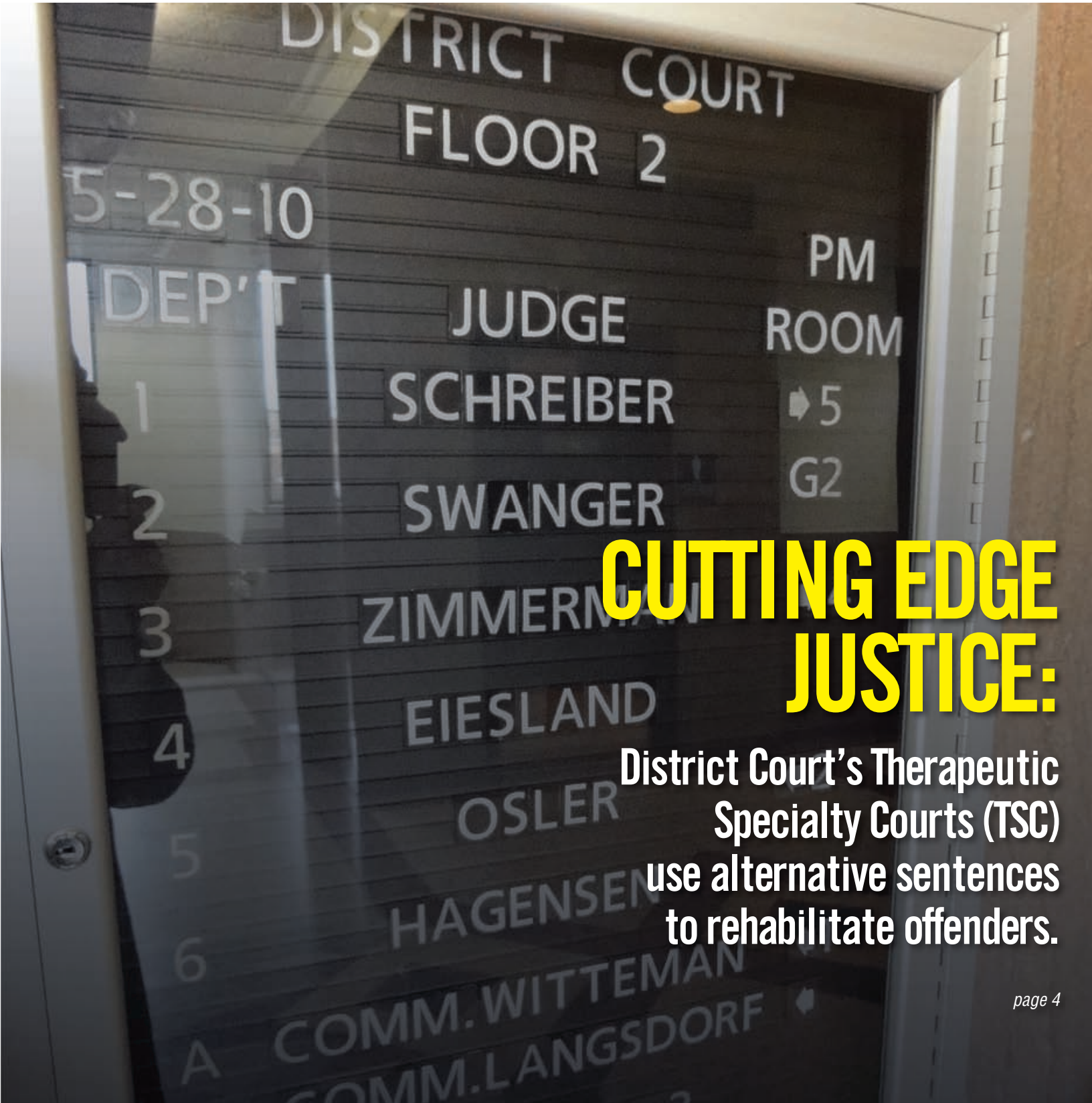


HEARSAY



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JUNE 2010

OFFICIAL NEWSLETTER OF THE CLARK COUNTY BAR ASSOCIATION



CUTTING EDGE JUSTICE:

District Court's Therapeutic Specialty Courts (TSC) use alternative sentences to rehabilitate offenders.

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An annual subscription is included with annual membership dues. Members may purchase additional subscriptions for \$40.00 each. Letters, news items, upcoming events and announcements are welcome. Articles by members are accepted. Submissions should be presented in Microsoft Word and may be edited for length, clarity and style. Submissions by members are published at the editor's discretion and space available. Views expressed in articles represent the authors' opinions, not necessarily the CCBA's. The publication does not purport to offer legal advice.

CCBA OFFICE HOURS: Monday through Friday, 8:00 a.m. to 5:00 p.m.

CLARK COUNTY BAR ASSOCIATION PRESENTS:

Using Medicare/Medicaid/Veteran's Benefits to Pay for Long-Term Care CLE

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June 29, 2010

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PRESIDENT'S MESSAGE

The Campaign for Respectable Rubber Stamps



DAVID W. RIDENOUR
CCBA President

These are tough economic times. Clark County has its budget woes, like everybody else. But you'd think with a bi-annual budget of nearly one billion dollars, they'd pony up the extra \$10.00 necessary to buy normally sized signature stamps for our new judges. Turns out that our vigilant county officials are carefully scrutinizing every expense. As a result, the Clerk's Office is now buying smaller rubber signature stamps for new judges. How much smaller? Go to the Clerk's counter and take a look at the new stamps for Judge Melnick. Can't find them? That's because they are so tiny! Here, I'll blow one up in a couple photos so you can see the problem...



We might let this slide in the interest of fiscal responsibility. But there are other consequences to consider:

1. You can't have a teensy-weensy bitty little signature stamp like that, and expect anybody to take you seriously. This issue goes to the very heart of maintaining a respectable judiciary! And how can Judge Melnick hold his own in Judges' meetings? If Judge Melnick ever expresses an opinion different than the other judges, they will simply say "my stamp is bigger than your stamp".
2. A legal question has been raised about the enforceability of orders executed with a stamp this small.
3. A dangerous precedent is being set. What's next? Mini-judicial robes? Just imagine our judges wearing only black half-shirts with their abdomens exposed for all to see. Nobody wants to see that.



One employee of the Clerk's Office, who spoke only on condition of anonymity, reported that this rubber stamp issue is a daily subject of comment at the clerk's counter. People ask why this stamp is so much smaller than the others. They ask whether the Judge knows that his stamp is so much smaller than all the others. They ask whether Judge Melnick is developing a complex. Several customers have taken pictures of the tiny stamp using their cell phones.

This will not stand. (I feel so Presidential right now...) So I am proposing a solution. I am requesting donations so that we can buy big signature stamps for Judge Melnick. I talked to a representative of the Clerk's Office and asked what would be needed to replace these toy stamps with grown-up stamps. I learned that the bigger stamps cost \$14.45 apiece. They need five new stamps, two for the public counter, two for the counter clerks, and one for the Judge's in-court judicial assistant. So we need at least \$72.25.

I have primed the pump with my own \$1.00 donation. We have nearly 500 members in our Association. If only 100 of you donate \$1.00 each, we can cover the cost of the stamps with enough left over to buy my lunch at Island Café. We'll publish the names of all contributors in next month's issue of Hearsay. Be charitable! Be generous! Be concerned about what the judges are going to think about you if you DON'T contribute!

Continued on page 21



CUTTING EDGE JUSTICE: District Court's Therapeutic Specialty Courts (TSC) use alternative sentences to rehabilitate offenders.

BRADLEY ANDERSEN

Hearsay Special Correspondent

“Lock em up and throw away the key” has historically defined the criminal justice system’s response to repeat minor offenders. Sentences have typically consisted of jail, community service, probation, restitution and fines, or a combination of these. But the cost of incarceration, lack of jail space, understaffed probation departments, underfunded mental health facilities and perhaps a more advanced sense of what works, have rendered these traditional sentences ineffective for many low-level offenders. Perhaps because the criminal justice system is not fully equipped on its own to address them, courts have partnered with public/private social and mental health entities to confront the root causes of criminal behavior.

So over the past 10 years, the Clark County District Court has offered defendants, who suffer from a wide variety of mental disorders or drug addictions/dependence, alternatives to the traditional jail and probation sentences. Dubbed Therapeutic Specialty Courts (TSC), District Court has three separate specialized courts/programs: the Substance Abuse Court (SAC), Domestic Violence Therapeutic Court (DVTC) and the Mental Health Court (MHC). By tapping into community resources and using a multidisciplinary team approach, each of these courts provide evaluation, treatment, monitoring and incentives to offenders that wish to avoid jail, and perhaps better their lives.

Do they work? Yes. In addition to reducing the number of trials and the cost to jail or supervise offenders, these programs strive to reduce recidivism, and perhaps save or at least improve a few lives. And not just the lives of the offenders, but those affected by criminal behavior.

SUBSTANCE ABUSE COURT

In its 10th year, the SAC provides a twelve month, three-phased structured program that permits offenders to avoid a jail sentence if they successfully complete the program. The presiding Judge, newly appointed Kelly Osler, actively monitors the program through frequent court appearances and a graduated system of incentives and sanctions designed to assist the offender to make better decisions as they try to overcome their addiction or drug dependence. A team of substance abuse treatment agencies, probation officers, law enforcement and the court coordinator help Judge Osler administer the program. In addition to avoiding a jail sentence, the successful offender is honored at a graduation open to the public.

MENTAL HEALTH COURT

No, sorry, this is not for burned out attorneys to get some relief—Man I wish. Instead, the MHC, which started in April,



2000, allows those diagnosed with a serious mental health disorder (i.e. Schizophrenia, Psychotic Disorders, or Bipolar Disorder) to enter a treatment program to avoid jail and fines. While in the program, these offenders are eligible to receive housing assistance, inpatient or outpatient treatment and medication monitoring. In just over 10 years, presiding Judge Darvin Zimmerman has seen over 400 people graduate. Like the Substance Abuse Court, successful candidates are honored at a graduation ceremony. For many, public acknowledgment of their success leaves a lasting and encouraging impression on the offender.

DOMESTIC VIOLENCE THERAPEUTIC COURT (DVTC)

Started in 2008, DVTC is the newest of the therapeutic courts. Under presiding Judge James Swanger, this court provides an option for those “nonviolent” domestic violent offenders suffering from a substance abuse or “co-occurring disorder”. The offender must, over the course of a 15 month court monitored period, complete a domestic violence perpetrator treatment program and a substance abuse program. Instead of being punitive, the goal is to repair the dysfunction so that the family unit can be restored and the cycle of domestic violence curbed.

Do these specialized courts work? Judge Zimmerman sure believes so. He beams when he talks about those who have successfully completed the program and go on to live productive lives. For example, Judge Zimmerman refers to one offender who, after completing the program, became a successful businessman. “The gentleman believed so strongly in what we were doing that he volunteered his office to provide support groups.” Judge Zimmerman also notes that for many, “successfully graduating from a program provided them a new lease on life. Not only does the offender avoid jail, they have learned how to cope with their underlying problems, and how

to tap into community resources.” And as one who has been around a while, Judge Zimmerman added “while nothing is guaranteed to work every time, our specialty courts have proven to reduce the number of repeat offenders and to enhance lives, thereby improving the quality of our community. They work.”

For more information about the TSCs, contact the District Court Coordinator Shauna MCCloskey at 360 397 2431, or ask for a copy of the Clark County’s 2009 Year End Summary Report for the TSPs

Substance Abuse/DUI Court

Judge Osler presiding
 Every Tuesday at 10:30am and 2:00pm dockets
 Presently a total of 65 clients (some are out on warrant status)
 Graduated a total of 89 clients since inception
 12 month minimum program (participants complete Chemical Dependency treatment)
 (started SAC in 1999 and just recently added a DUI Court track in Oct. 2009 with help from a grant by the Washington Traffic Safety Commission)
 Clients pay a program fee of \$400

Domestic Violence Therapeutic Court (started DVTC in 2008)

Judge Swanger presiding
 Every Monday at 2:00pm docket
 Presently a total of 29 clients



Judge Zimmerman

Graduated 4 clients
 15 month minimum program (participants complete both Chemical Dependency treatment and Domestic Violence Perpetrator Treatment)
 Clients pay a program fee of \$400

Mental Health Court (started in April 2000 and just hit 10 years —Article in The Columbian on Sunday April 4th)

Judge Zimmerman presiding
 Every Wednesday at 10:00 am for docket
 Presently a total of 30 clients
 Graduated a grand total of 388 clients
 12-16 month minimum program (participants complete mental health and/or co-occurring treatment)
 Starting this year, clients will pay a \$75 program fee

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Free Legal Advice: “Don’t Drink and Squeeze”

Humor this month courtesy of the Court of Appeals..... enjoy!



DAVID GREGERSON
Hearsay Special Correspondent

STATE OF WASHINGTON, Respondent,
v.
MATTHEW AARON SCHMIDT, Appellant.
No. 38541-4-II
The Court of Appeals of Washington, Division Two.
Filed: April 27, 2010
UNPUBLISHED OPINION

QUINN-BRINTNALL, J. On October 31, 2008, a jury found Matthew Schmidt guilty of third degree assault on Deputy Craig Shelton and fourth degree assault on his wife, Tracie Schmidt. On appeal, Matthew challenges Deputy Danny O'Neill's testimony as a comment on his right to remain silent. We hold that O'Neill did not impermissibly comment on Matthew's right to remain silent..... We affirm Matthew's convictions.

FACTS: On December 31, 2007, Matthew and Tracie invited Tatiana Brown and Edward Paulsen to their home for a party. Everyone drank undetermined amounts of alcohol except for N.S. who was also home that night. Around 11:00 pm, Tracie felt ill from a combination of drinking and hot tubbing and Matthew put her to bed. Tracie woke up a short while later still drunk, found Matthew and N.S. in the hot tub and tried to persuade Matthew to get out of the hot tub, and then discovered Brown and Paulsen partially naked together in N.S.'s bed. Tracie began yelling and hitting Paulsen to get them out of N.S.'s bed. Around 12:45 am, on January 1, 2008, Tracie called 911 and reported that "my husband just beat the shit out of me." During the 911 call, Tracie stated that after she asked Paulsen to leave, her husband began beating her, dragging her across the house, and punching her. While Tracie reported that she did not know where Matthew was, she did hear sounds coming from downstairs and someone was "tearing it up." Tracie repeatedly told the 911 operator that her daughter presently had locked herself in the laundry room.

Around 1:00 am, six members of the Cowlitz County Sheriff's Office responded to Tracie's 911 domestic violence call. Deputies O'Neill and Todd McDaniel documented Tracie's injuries. Tracie told Deputy Ryan Plank that Matthew had dragged her so hard across the house that her pants and underwear came off. O'Neill took photographs of Tracie's underwear which were on the floor between the kitchen and living room.

Meanwhile, Deputies Shelton and Plank, and Reserve Officer Tagliano searched for Matthew. After searching downstairs, where Tracie had reported hearing noises, and outside, they entered a bedroom near the living room yelling, "Sheriff's Office. Come out." The deputies did not turn on the bedroom lights, but they testified that ambient light from the living room sufficiently lit the room to the point where they "could see faces." Plank shouted "[t]here's a foot" after spotting Matthew on the bedroom floor. Matthew stood up and aggressively approached Shelton, resulting in a fight between them. During the fight, Shelton defensively kicked Matthew in the abdomen, Matthew head-locked Shelton knocking Shelton's glasses off his face, and Matthew tugged at Shelton's belt near his weapon so hard that the belt buckle broke. The fight ended when Plank tased Matthew.

Deputy O'Neill arrested a still-intoxicated, half-naked Matthew and read him his Miranda rights. When asked if Matthew understood his Miranda rights, Matthew replied, "I choose to squeeze them." O'Neill responded, "You choose to `squeeze them?'" to which Matthew replied, "Yes." Then, because it was cold outside, O'Neill asked Matthew one more question — if he wanted his shoes and a shirt, which Matthew declined. Both before and after receiving his Miranda rights, Matthew spontaneously cried, yelled, and apologized for hitting his wife and Deputy Shelton.

.....
On January 3, 2008, the Cowlitz County Prosecuting Attorney's office charged Matthew with one count of third degree assault (Officer Shelton) and one count of fourth degree assault-domestic violence (Tracie). A three-day trial commenced on October 29, 2008. During the trial, Matthew moved for a mistrial, claiming that Deputy O'Neill improperly commented on his right to remain silent when testifying that Matthew "squeezed" his constitutional rights. The trial court immediately conducted a CrR 3.5 hearing to determine whether the statements were admissible. The trial court denied Matthew's motion to suppress the statements and found that "I choose to squeeze them" was a nonsense answer that did not clearly invoke lawyer or silence rights and, thus, O'Neill did not comment on Matthew's exercising of his Fifth Amendment rights. On October 31, 2008, the jury found Matthew guilty as charged. On November 4, 2008, the trial court sentenced Matthew. Matthew filed a timely appeal in which he challenges his convictions.

ANALYSIS: Miranda Rights: Matthew asserts that Deputy O'Neill improperly commented on his right to remain silent by testifying that Matthew stated that he chose to "squeeze" his rights when asked if he understood his Miranda rights. The State argues that Matthew's statement of "I choose to squeeze them" is an equivocal statement that did not invoke his Fifth Amendment rights. Thus, the State argues, O'Neill's reference did not imply guilt and could not infringe on Matthew's Fifth Amendment rights. We discern no error from the admission of this equivocal statement. Matthew's right to remain silent is contained within the Fifth Amendment, applied to the states via the Fourteenth Amendment, and article I, section 9 of the Washington Constitution. *State v. Easter*, 130 Wn.2d 228, 235, 922 P.2d 1285 (1996). The Fifth Amendment of the United States Constitution states, in part, that no person "shall be compelled in any criminal case to be a witness against himself." Similarly, article I, section 9 of the Washington Constitution reads, "[n]o person shall be compelled in any criminal case to give evidence against himself." We give the same interpretation to both clauses and liberally construe the right against self-incrimination. *Easter*, 130 Wn.2d at 235-36. When a defendant's challenge to the admission of his statements involves a question of whether he properly invoked his Fifth Amendment right to remain silent, we review the admission of any statements under an abuse of discretion standard. See *State v. Cross*, 156 Wn.2d 580, 619, 132 P.3d 80, cert. denied, 549 U.S. 1022 (2006); see also *State v. Stenson*, 132 Wn.2d 668, 701, 940 P.2d 1239 (1997) (decision to admit evidence is reviewed for manifest abuse of discretion), cert. denied, 523 U.S. 1008 (1998). When an individual receives Miranda warnings, "the invocation of the right to remain silent must be clear and unequivocal (whether through silence or articulation) in order to be effectual." *State v. Walker*, 129 Wn. App. 258, 276, 118 P.3d 935 (2005), review denied, 157 Wn.2d 1014 (2006). When invoking the right to remain silent is not clear or unequivocal, the police are not required to ask clarifying questions and may even continue interviewing a suspect. *Walker*, 129 Wn. App. at 276. Here, after being given his Miranda warnings, Matthew did not invoke his right to remain silent. Rather, when asked if he understood his Miranda rights, he made an ambiguous and equivocal response followed by numerous spontaneous statements and apologies for assaulting his wife and Officer Shelton. It is undisputed that Matthew received his Miranda warnings and that when asked if he understood his Miranda rights, he responded, "I choose to squeeze them." Even though Deputy O'Neill had no duty to clarify Matthew's response, he asked, "You choose to 'squeeze them'?" and Matthew responded, "Yes." [fn5] Matthew's response of "I choose to squeeze them" is an ambiguous and equivocal statement insufficient to invoke his right to remain silent. Accordingly, O'Neill's testimony repeating the ambiguous statement was not an impermissible comment on Matthew's right to remain silent. We also reject Matthew's argument that he must have invoked his Miranda rights simply because Deputy O'Neill did not question Matthew and decided to exercise caution and refrain from any actions that could impose on Matthew's Fifth Amendment rights.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered. BRIDGEWATER, P.J. and HUNT, J., concur.

[fn4] The trial court compared Matthew's response of "I choose to squeeze them" with a hypothetical response of "I support Ross Perot," finding that both statements would be nonsense responses to an officer's question of whether someone understands his/her Miranda rights and that both responses could be testified to at a trial.

[fn5] Matthew suggests on appeal that while "squeeze" was an odd word choice, that it showed his intent to "embrace" his right to silence." Matthew provides no authority supporting his interpretation of the meaning of "squeeze." The most common definition of "squeeze" is "to exert pressure [especially] on opposite sides or parts of." See Webster's Third New International Dictionary 2216 (2002); *State v. Hatcheney*, 160 Wn.2d 503, 518, 158 P.3d 1152 (2007) (supporting use of dictionary definitions for terms otherwise undefined at law), cert. denied, 552 U.S. 1148 (2008). Webster's Dictionary does include 24 alternate definitions for the verb "squeeze" of which only one, "hug," remotely supports Matthew's position. See Webster's Third New International Dictionary 2216 (2002). "Hugging" one's rights is not the same as invoking or exercising them.



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CCBA's Fifth "Quarterly" Meeting Well Attended



JEAN MCCOY

Hearsay Special Correspondent

CCBA held its fifth General Meeting of its fiscal year on May 3, 2010 at the Quay. President David Ridenour joked that lawyers can't count because the CCBA Bylaws require quarterly meetings, but then go on to describe the five months in which they must occur. This was the last meeting of the year before the Annual Meeting in September where the new officers are sworn in and the newly christened immediate past president receives his honorary gavel.

The May meeting was well attended, with over 50 people stopping in to share lunch and listen to the three candidates for Clark County Prosecuting Attorney, as well as Judges from the Federal Bench. Sherry Parker, our Superior Court Clerk, also reminded us to review the Clerk's Alert as published in last month's Hearsay regarding use of the proper forms for temporary restraining orders, and that a fee of \$220.00 is due when a Notice to Set for Trial is filed and the Mandatory Arbitration process is required. Before you begin complaining about budget cuts and increases in fees, this fee was instituted by the Clark County Commissioners in 2003, but not appropriately tracked until now.

The meeting program began with our own David Christel, United States Magistrate Judge, introducing our guests from the United States Federal Court for the Western District of Washington, Magistrate Judge Richard Creatura and District Court Judge Benjamin Settle. Judge Creatura spoke about the creation of the position of Magistrate Judge, or Article I Judge, late in the 1700's. At that time the Magistrate Judge was called a commissioner, but later the more reverent term of "Magistrate" was mandated. At one time, the Magistrates were addressed as "Your Majesty". Judge Creatura joked that we may address local Judge Christel as "His Honorable Majestic Your Honor" in order to do justice to the title. Judge Creatura told us that the designation of Magistrates as an "Article I" Judge relates to the fact that Congress created the position, and Congress was created by Article I of the Constitution. Article III Judges, which are the District Court Judges, were created by Article III of the Constitution, and thus that designation. In his comments Judge Settle chimed in that the only difference between Article I Judges and Article III Judges are that the Magistrate Judges are actually appointed solely by merit and not through any type of political process so they are more qualified to serve.



Magistrate Judges Richard Creatura, Benjamin Settle, and Vancouver native David Christel address the bar



Lunch on the river

Judge Settle then spoke regarding his experiences in that political realm of Article III appointment, and joked that he still does not know how he got there. Prior to his appointment to the Bench, Judge Settle was a small town lawyer with a general practice from Shelton, Washington. The appointment opportunity was advertised, and when several people suggested to Settle he would be a great judge, he began giving it serious consideration and applied. When he found he was not one of the last three candidate names to be sent to Washington DC for interviews, he and his law partner celebrated over Happy Hour and forgot all about it. Several months later, for whatever reason, he was called to the "show", and while the appointment process took over six months, he sailed through the procedure, even passing the FBI investigation, he jokes. Judge Settle said that the convoy of black Crown Victorias converging on Shelton, Washington when the six FBI agents showed up was nothing the little town had ever seen.



Sherry Parker gives the clerk's report

Family Law Section



ELIZABETH CHRISTY

Family Law Section President

The CCBA FLS had its May meeting at the Family Law Annex. All of the family law Judges and Commissioners attended to lead the meeting. They answered anonymous questions submitted in advance and on the spot questions. They also gave us some subtle practice tips.

Kathy McCann, a member of the Family Law Executive Committee of the Washington State Bar Association, was proud to announce that Judge Rulli has been given the prestigious award of Washington State Bar Family Law Section Judicial Officer of the Year! Over 40 local family law attorneys signed a letter in support of Judge Rulli!

Our section's Treasurer, Kristen Parcher, gave a treasurer's report. The section voted to sponsor the CCBA annual barbeque this year! Next month the section will be voting on how to use the remainder of the funds. Options include various donations, con-

tributions to the CCBA for their help with the FLS, and speakers to educate or train the group on specialties of the law.

The next FLS meeting will be June 10. The presentation topic is "Sex Addiction: A Way Around the "No Fault" Barrier?" The speaker and location is TBD. Scott Horenstein will give a case law update and we will be electing our new officers for the next year. If you are interested in being an officer, please let me know. Otherwise, beware you may be nominated at the meeting!

The Family Law Section Midyear Meeting and Seminar is June 18-20 and is being held at the Hilton in Vancouver, WA again. Let me know if you would like more information about the meeting. Remember to keep checking the blog! Please email me if you would like something posted or feel free to post yourself.

<http://ccbafamilylawsection.blogspot.com/>

Inns of Court - April Meeting

KRISTEN PARCHER

Inns of Court Chapter Secretary

Thank you to everyone for all the hard work and participation this year!

To wrap up Inns of Court this season we will be holding a year-end party:

June 16, 2010 @ 5:00 p.m.
Green & Ritchie - 1601 Lincoln Avenue

Please come by and bring a friend interested in Inns of Court. Food and beverages provided!

If you know of anyone interested in becoming a member, please bring them along or contact Kristen Parcher at kristen@greenandritchie.com or Scott Horenstein at scott@horensteinlaw.com.

What CCBA Members Are Doing About Town

RAISA JUDICATA

Guest Gossip Columnist



Jane Clark adds class to the boys at Baumgartner, Nelson & Price, PLLC, and has the best (only?) British accent in town, but who knew she also had a part-time acting career? Jane was one of the actors appearing in the production of *Early Days*, by David Storey held by Readers Theatre Repertory at the Blackfish Gallery in Portland on May 14 and 15. The Repertory is a small production company performing “small stories with big ideas at heart”.



Jane Clark out of costume

Performances are held in an art gallery and limited to 35 audience members.

Ready for a good story? Just sit right back and you’ll hear a tale, a tale of a fateful trip, a journey to the land of Ice, aboard a transatlantic ship. The leader was a very cool chick, an adventurer who traveled light. Three friends set about to plan and go for an eight hour flight, an eight hour flight....

The volcano started acting up, the trip could be at risk. If not for the courage of the three great friends, the vacation would be missed, the vacation would be missed... ..

Then just before the ship did leave, the ash it blocked their way. But these three girls found a different place and traveled South that day.

So join us here in the next edition, you’re sure to get a smile, from three best friends and their shenanigans, down on Cancun Isle



event on the mean streets of Vancouver when a mother duckling dragged her babies across our busy streets. Fortunately,

This is the time of year for Spring renewal. When little creatures are born, if mother nature isn’t paying attention, accidents can occur. April Brinkman witnessed just such an

passersby ensured the little family went on their way unharmed. Don’t forget to take in the sights of Spring and do something a little extra for people you may see along the way.

Many of us either work closely with those in law enforcement or have friends or family in service. On Thursday, May 13, 2010 the Clark County Law Enforcement Memorial was held at the Public Service Plaza after a parade around the Courthouse and down Franklin Street. The Memorial honors local officers killed in the line of duty. Our community’s last officer killed was Sergeant Brad Crawford in 2004. Since 1922 Clark County has lost eight officers in all branches of service. Last year, however, was one of the most devastating years in the State of Washington for deaths in the line-of-duty, as it included the shooting deaths of four Lakewood police officers, with seven total deaths statewide. Whether we practice criminal law, family law, or other civil law, our paths cross with law enforcement in many ways, and we are thankful for their service.



Law Enforcement Memorial Parade

Your esteemed colleague Raisa Judicata can’t be everywhere. If you have a tidbit of news you would like the world to know, send a note to CCBA at diane-ccba@qwestoffice.net. Raisa usually checks in the first Monday of every month. Remember, it is your ethical duty to support your member organization with juicy gossip and goings on.

NUTS & BOLTS: WHAT EVERY PRACTITIONER NEEDS TO KNOW



SHARNEL MESIROW
Hearsay Special Correspondent

The Clark County Bar Association is delighted to announce that it will host a CLE series geared to the new members of the legal community titled **Nuts & Bolts: What Every Practitioner Needs to Know**. The series, which is currently scheduled to begin in September 2010, will vary from one to three hours every third Wednesday of the month. Each session will feature knowledgeable attorneys in a particular area of practice, and focus on the basic issues and procedures confronting an area of law. The current list of dates and topics are as follows:

September 15, 2010 – Landlord/Tenant Basics
October 27, 2010 – Employment Law Tips and Traps
November 17, 2010 – Attorney Liens
December 15, 2010 – Civil Litigation Basics

The Nuts & Bolts series will continue in 2011. Sponsorship opportunities for firms and practitioners for each CLE of the series are available. Please contact Diane Wheeler for further information.

CCBA Monthly Board of Directors' Meeting



ANDREW WHEELER
CCBA Secretary

The May 5th Clark County Bar Association Board Meeting again focused on the declining attendance at CCBA sponsored CLE's. The Board discussed whether the revenue gathered by the Family Law and Young Lawyer's Section CLE's should be diverted in some part to the greater CCBA due to CLE processing fees being gathered and submitted by CCBA employees to the WSBA. It was important for the Board to meet with Section representatives to determine whether the funds in independent Section accounts were earmarked for particular projects or events before making any decisions regarding funds.

The Board agreed that in the short-term the Family Law Section non-member CLE processing fees would be transmitted to the

greater CCBA. This was the decision of a previous Board, however the account transfer had yet to be undertaken.

Alternative revenue streams were additionally discussed. The Board debated whether a portion of the Barrister Ball proceeds should go to the CCBA while a charity is highlighted and contributed to from money raised in the Silent Auction.

The next Board of Director's meeting is scheduled for Wednesday, June 2nd, 2010, at the CCBA offices, and is open to all members.

SUPERIOR COURT BENCH/BAR COMMITTEE MEETING MINUTES

MAY 11, 2010

The meeting began shortly after noon. Persons present were Judge John Nichols, Judge Robert Lewis, Kurt Rylander, Ann Christian, Clark Fridley, Jolene Sell, Suzan Clark, Karen Dinan, Bill Reed, Clay Spencer, Heather Beasley and John Fairgrieve.

OLD BUSINESS:

1. Prosecuting Attorneys' obligation to provide evidence of the prior convictions of its witnesses to the defendant under CrR 4.7(a)(1)(vi): John Fairgrieve told the committee that the Prosecuting Attorney's Office had been working on a draft policy that was in the final stages of development and that he hoped it would be presented next meeting.

2. Proposed Local Superior Court Rule Concerning Review of Bail: Judge Nichols stated that the Superior Court judges had reviewed the issue and have adopted the following policy: After bail is initially set at first appearance it can be reviewed at arraignment without notice to the opposing party. After that point bail will only be reviewed after the filing of a motion in accordance with court rules giving proper notice to the opposing party. This rule applies to both the defense and the prosecution.

3. Housing Justice Project. Judge Nichols stated that the program is in operation and is serving its intended purpose. The current focus is on procedural improvements to make the program more effective.

4. Delay in the Scanning of Documents by the Clerk's Office. Judge Nichols indicated that the problem still exists, although it is improving. He stated that the delay in scanning has dropped from a week a month ago to three to four days presently.

5. The recent court decision of *Koenig v. Thurston County* (No. 37446-3, April 6, 2010) was discussed by the committee last month. Clay Spencer asked whether the holding in *Koenig* would apply to material submitted to the court for an in camera review concerning disclosure to opposing counsel or admissibility. Judge Lewis stated that the prudent approach would be to assume that the public will have access to everything in a court file pursuant to a Public Records Act request (following redaction of any identifying information regarding the victim and certain other third parties and any other exceptions that might apply). It was noted that this is opposite to the historical assumption that everything in a court file that a party requested be sealed would be confidential. Judge Nichols further noted that in the future very few items in a court file would be sealed. As an example he stated that he believed that jury questionnaires would probably be disclosed under *Koenig*.

NEW BUSINESS:

1. It was announced that starting June 10 social workers and Guardians ad Litem in dependency cases must inform juveniles over the age of 12 of their right to an attorney. The requirement is based on a recent statutory change.

2. Bench copies of briefs and exhibits: The questions was asked of the judges whether there was any policy about providing bench copies of briefs and exhibits that are printed on both sides. Judge Nichols replied that he was not aware of any clear policy on the issue. However, he stated so long as the copies were legible he believed that they would probably be acceptable.

3. Next Bench Bar committee meeting: The committee will meet next on Tuesday, June 8, 2010 at noon in Judge Nichols' jury room.


Respectfully submitted,
Scott Jackson

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CLARK COUNTY DISTRICT COURT BENCH/BAR MEETING MINUTES

MAY 12, 2010

Persons present: Judge Zimmerman, Judge Swanger, Judge Eiesland, Judge Osler, Commissioner Langsdorf, Megan Peyton, Mark Muenster, Mark Beam, Dave Pruett, Bernita Brumbaugh, April Brinkman, Nicole Dalton, Tim Talkington, Sandy Slyter, Andrew Wheeler, and Christie Emrich.

NEW BUSINESS:


1) Ilse Schuurmans from District Court Corrections presented information on the **DUI Detention Center**.

- a. The DUI Detention Center is located at the main jail due to budget cuts and will likely remain there in the near future.
- b. Ms. Schuurmans conducts the Detention center class.
- c. The cost for the class is \$150.
- d. Class Agenda:
 - i. 8am: Check in
 - ii. 8:30-10am: Introduction, Review of bench probation responsibilities, Overview of jail procedures, Participants share their DUI experiences
 - iii. 10-11am: Trauma Nurse and slide show
 - iv. 11-12pm – Alcoholics Anonymous presentation
 - v. 12 - 1pm: Lunch break
 - vi. 1-2pm: Department of Licensing discussion, including: reading the DOL abstract, Ignition Interlock, and getting reinstated
 - vii. 2-3pm: Deputy Harada (certified DRE) presentation on DUI crashes and participants conduct FSTs wearing fatal vision goggles
 - viii. 3-4pm: Group discussion, participants have a chance to call home, jail medical screening, booking into custody
- e. Interpreters are provided for the class if needed
- f. Participants will not receive medications during their 1-2 days at the jail
- g. On average participants in the DUI Detention Center finish their bench probation requirements in 3 months compared to 7 months for people who do not attend the class.
- h. A copy of the DUI Detention Center schedule was distributed

2) Mary O’Harra, Don Chapman and Tracey Murphy from District Court Corrections presented information on Electronic Home Confinement.

- a. The program began in 1987 as an alternative form of incarceration.

- b. Participants are allowed to attend: treatment, court appearances, attorney meetings, and one church service a week.
- c. Participants can work: no more than 12 hours a day, may be self-employed, or work “under the table”
- d. No outside shopping or trips (however, special consideration may be given to single parents etc)
- e. Participants can not have WiFi, DSL, or cordless phones in their home because it interferes with the EHC equipment
- f. Participants must have a landline
- g. Costs: \$40 hook-up fee, \$15/day – first week must be prepaid
- h. Out of county individuals are accepted at a cost of \$30/day
- i. Participants must attend an orientation and pass a home inspection before beginning their sentence
- j. Interpreters are provided at the Orientation if needed
- k. A demonstration of the alcohol monitoring component was given
- l. No “good time” is earned
- m. Participants cannot do work crew and EHC at the same time unless court ordered
- n. A copy of the EHC Handbook was distributed



**Washington Women Lawyers,
St. Helens Chapter
Invites You to a HAPPY HOUR!**

Date: Thursday, June 24, 2010
Time: 4:00pm - 6:00pm
Location: Top Shelf, downtown Vancouver, WA

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YOUNG LAWYERS SECTION

“Dealing with Judges and Other Necessary Evils: Part II”

Guest Speaker

Judge Roger Bennett

Where: Who Song and Larry's
Date: Wednesday, June 16, 2010
Time: 5:00 –6:30 p.m. Presentation
Cost: \$15 per person (CCBA members)
\$20 per person (non-members)
CLE: 15 credits

Judge Bennett's first CLE was so popular that he has been asked to speak again. Please join the Young Lawyers for “Dealing with Judges and Other Necessary Evils: Part II” in which Judge Bennett will continue to discuss the ins and outs of the courtroom and provide useful trial tips.

Please RSVP to: ccbayounglawyers@yahoo.com



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Statistics for April include 53 clients seen in advice clinics, 22 in Family Law, 16 in Family Law paperwork review clinic, 10 in the DV clinic, and 10 in General Law. We placed 1 case with an attorney for direct representation. There were 128 hours of volunteer attorney time donated

The Housing Justice Project, a pilot program this year, is up and running. The program is specifically for low income tenants who are being evicted. We are offering legal advice and mediation. The mediation is through a partnership with Community Mediation Services. There is an advice clinic on Thursday morning and we have staff and volunteer attorneys in the courthouse on Friday morning for the unlawful detainer docket.

We are still experiencing some growing pains, but for the most part we are seeing successes. We try to give the tenant legal advice so they can adequately represent themselves in court. In some cases, the volunteer attorney will put in a limited appearance. If we can, we offer mediation to help the landlord and tenant to come to a mutually satisfactory solution. We are trying to save the court the time of dealing with uninformed tenants, give the tenants equal access to justice and help prevent the tenants from becoming homeless by working with the landlord and offering referrals to agencies that help find affordable housing.

The court and the landlord attorneys have been very supportive so far and have helped us with our growing pains. We appreciate their understanding. We need volunteer attorneys for Thursday and Friday mornings. We have experienced attorneys to train you. If you are interested, please call Susan DePasquale at 823-0423.

Thanks, Susan

**MANY THANKS TO ALL THE ATTORNEYS AND
 PARALEGALS WHO STAFFED THE ADVICE CLINICS,
 HOMELESS CLINICS, PROVIDED REPRESENTATION,
 AND VOLUNTEERED IN THE HOMELESS COURT IN
 THE MONTH OF APRIL**

*David Feeney, Peter Fels, Martha Finn, Phil Foster, Dee Grubbs,
 John Holtman, Dru Horenstein, Evan Hull, Lincoln Harvey,
 Jeff Lindberg, Laura Mancuso, Scott Matthews, Amy McCullough,
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LAW LIBRARY NEWS



MARIA SOSNOWSKI
Law Librarian

Did you know that the State has a variety of legal commissions? Check out their main page at http://www.courts.wa.gov/programs_orgs/index.cfm

This web page lists a variety of commissions, boards, and committees that you may be interested in learning more about. You can click on any link for more information, and many of them have a list or newsletter that you can sign up for.

FOR SALE Through JUNE 2010

The law library is taking blind bids on the following item:

Defending Drinking Drivers, 2 volume looseleaf with CD Rom.

Give your bid to the law librarian through the end of JUNE. Bids must indicate your name, phone number, amount, and item(s) on which you are bidding. Winners will be notified in early July. We reserve the right to withdraw an item from bidding.

Thanks! Maria

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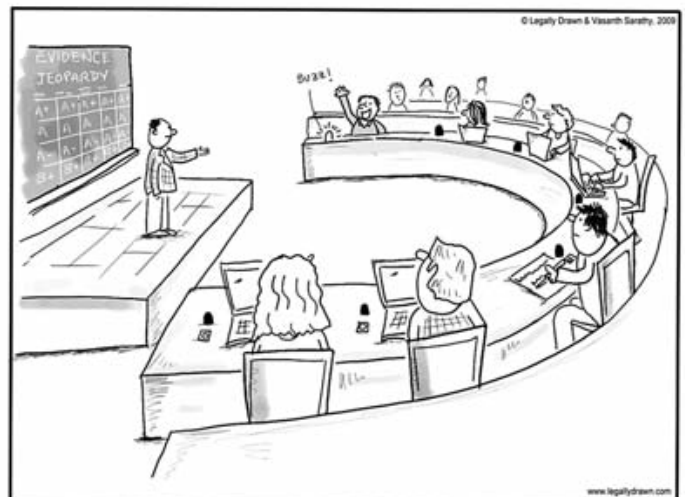
For law firms, the Washington State Department of Revenue B&O (Business & Occupation) tax will temporarily increase .3% bringing the rate to 1.8%. The rate increase is effective from May 1, 2010, through July 1, 2013.

Effective June 1, 2010, sales of bottled water, candy and gum will be subject to sales tax. (Note: Sales of bottled water for medical reasons or where consumers lack a potable source are exempt from sales and use tax.)

For more information, go to www.dor.wa.gov

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"...what is rule 612. I'll take 'Obscure Rules that No Longer Apply' for an A+, please."

UPCOMING EVENTS

MEETING

June 2, 2010

CCBA Hearsay meeting; CCBA office, 500 West 8th Street, Suite 65 at 11:30 am

MEETING

June 8, 2010

Superior Court Bench/Bar meeting; Judge Nichols Jury Deliberation Room – noon

MEETING

June 9, 2010

CCBA Board meeting; CCBA office, 500 West 8th Street, Suite 65 at 12:00 pm.

MEETING

June 10, 2010

Family Law Section meeting; Tommy O's, 11:30 am to 1:00 pm – Guest Speaker Dr. Kirk Johnson.

MEETING

June 15, 2010

CLE committee meeting Clark County Bar Association 500 West 8th St., Ste 65. Meeting will begin at 12:15

SOCIAL

June 16, 2010

Inns of Court meeting; End of the year party at Green & Ritchie, 1601 Lincoln Avenue. The BBQ is open to anyone interested in Inns of Court. Please contact Kristen Parcher if you have any questions.

CLE

June 16, 2010

Young Lawyer Section: “Dealing with Judges and Other Necessary Evils: Part II” Who Song and Larry’s. 5:00 – 6:30

MEETING

June 17, 2010

CCBA Web Site committee meeting; Nel-lor|Retsinas|Crawford at 1201 Main Street at noon

SOCIAL

August 13, 2010

CCBA Annual BBQ – Public Service Center Courtyard – Special guest chef - Judge Richard Melnick

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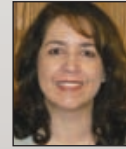
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