

# HEARSAY



ccbawashington.org  
OCTOBER 2014

OFFICIAL NEWSLETTER OF THE CLARK COUNTY BAR ASSOCIATION

CCBA'S 1st ANNUAL

## Bowling with the Judges

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**JEFF GOUGH, Creative Director • 360-818-4GCG • director@goughcreative.com**

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## Appreciating the CCBA Board



**ARIN DUNN**

*CCBA President*

The management of the CCBA depends on a group of high motivated attorneys and staff committed to delivering value to its members and serving the community. These people often donate hundreds or even a thousand hours of their time. They meet monthly during their lunch hour, often skipping their lunch, and correspond frequently to plan events, address emergency issues as needed. Given the tremendous commitment these attorneys make, I would like to again thank the outgoing Board members: JD Nellor for his many years of service from 2010 to 2014, Jill Sasser for her service from 2011 to 2014, and John Fairgrieve who donated his time from 2008 to 2014. All of these attorneys worked throughout their entire terms as Officers and Board members and will be sorely missed.

Please welcome your newest Board members: LeAnn Larson, Chad Sleight, Mark Sampath and VLP Liaison Philip Wuest. We are looking forward to a great year full of excellent activities that further develops our legal community. To introduce you to the list of current Officers, Board, staff, and volunteers participating at the CCBA office on an active basis, please see the list below organized in that order respectively.



**Arin Dunn - President**

Arin Dunn has served as a CCBA Trustee, Secretary, Vice-President, and now it's President. Arin's mediation and law practice emphasizes business, employment and IP matters. Arin is outside general counsel and provides support to general counsel for local companies in software, manufacturing, technical service, professional, medical, and

construction industries. He also assists individuals in employment, shareholder/member, and intellectual property matters. He grew up in the mountains of Southern Oregon where he developed a passion for outdoor activities such as mountain biking, kayaking, skiing, and broadened his horizons through travel and work abroad. Arin has lived in Vancouver since 1999. His daughter Kaya, age 12, is a student at VSAA and plays cello and piano. His son, Zack, is 10 years old, a 4th grade Challenge Program student at Eisenhower Elementary.



**Rick McLeod – Vice President**

Rick McLeod joined the Board in 2012, having haunted the CLE and mock trial committees for a few years. Rick has spent an enormous amount of money acquiring two engineering degrees and two law degrees. After clerking for the federal courts in Texas, he fled to the west coast (yet again) to escape the intolerable heat, where a specialty practice in intellectually property law keeps his cats knee-deep in catnip. Rick circumnavigated the globe several times before the TSA was created to thwart his plan for world domination. In his mountain retreat, he plans for the future. "Law may be the ultimate measure of civilization, and the practice of law gives rise to the obligation to improve that measure, so that civilization may improve for the benefit of its citizens."

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**Mark Sampath - Treasurer**

Mark Sampath is admitted to both the Washington and Oregon State Bars, focusing on corporate business law, concentrating on small businesses around Clark County, Washington, and Multnomah County, Oregon. Mark has also handled cases both in U.S. Federal Court for the Western District of Washington and on a Pro Hac Vice basis

in Oregon. Mark has negotiated, mediated, arbitrated, and litigated legal matters on behalf of his clients and acts as outside in-house counsel for a number of small to medium-size business clients in a variety of industries.



**Le Ann Larson – Secretary**

Le Ann Larson has worked as a Deputy Prosecuting Attorney for 18 years. She has worked in the child support division for over a decade and her practice is devoted to securing financial support for children. She volunteers her time to serve on boards and committees that advocate for the rights of those living with developmental disabilities.

Autism awareness is a passion for her. She also serves on special education parent committees and helps the Volunteer Lawyers

Program. Le Ann is the former VLP President and Liaison to the CCBA. She graduated from Washington State University (Go Cougs!) and Willamette University College of Law. Le Ann and her husband, Rob, have two sons, ages fourteen and ten.



**Laura Mancuso - Trustee**

Laura Mancuso has been on the Board for two years serving as a Trustee. She also serves on the Veterans Court Advisory Board and frequently helps with the Volunteer Lawyers Program. Ms. Mancuso's legal practice includes family law, criminal defense, traffic offenses, probate, and estate planning. She practices in both Washington and Oregon.

She graduated from Gonzaga University School of Law in 1997 and from the University of Oregon in 1990 with a double major in Psychology and Political Science. Ms. Mancuso retired from the Air Force Reserve three years ago. Besides keeping up with her two young children who are actively involved in sports year-round, she enjoys hiking, gardening and trips to the beach.



**Gideon Caron - Trustee**

Gideon has practiced in Vancouver since 1989. He practices in all areas of civil litigation, with an emphasis in plaintiff personal injury work. In his early days, he was active in the Young Lawyers Section and was president. He is quite active on Washington State Bar Committees and currently serves on the Client Protection Fund Committee. He is

married to Julie Caron, who he met in law school and they have three daughters, ages 14, 17 and 20. He has worked with partners Ben Shafton, Bill Robison and Bruce Colven for over twenty years, previously with Morse and Bratt and now at their present firm Caron, Colven, Robison and Shafton. The most interesting case he has handled so far is *Seizer v. Sessions* where he represented a Texas woman abandoned by her husband who subsequently won the Arizona lottery, dying shortly thereafter in Washington. "I am proud of the professionalism within the Clark County Bar and would like to do my part to strengthen this important group."



**Chad Sleight - Trustee**

Chad grew up in Camas, and is a life-long resident of Clark County. He graduated from Western Washington University in 2000 with a degree in Political Science, and received his J.D. in 2003 from Willamette University. He is a founding partner at Wheeler, Montgomery, Sleight & Boyd, and has focused his practice on criminal law since the establishment of the firm in 2005. Chad represents clients on all types of misdemeanor and felony cases. Since 2009, he has also served the municipalities of Battle Ground, Ridgefield, and La Center as their City Prosecutor. Currently, he also serves as a pro tem judge for District Court. Chad is a board member for the Inns of Court, and has been active with the Young Lawyers as the captain of their softball team.



**Jane Clark - Immediate Past President**

Jane Clark has served on the Board since 2009, initially as a Trustee, Vice president, President and now Immediate Past President. She has also served on the CLE and Social Committees. Jane's practice focuses primarily on Medical Malpractice and Wrongful death cases. She has been an attorney for 25 years having trained as a solicitor in England and

working there for 9 years before relocating to the USA in 1999. She currently enjoys the challenge of practicing in both Washington and Oregon. She has had her own practice since 2011 - Jane Clark Legal PC and prior to that worked with Bill Nelson at Baumgartner Nelson and Price. On the personal front, Jane is married to Art Kohn and has 2 children - Noah age 12 and Madeleine age 2. In the little spare time she has, Jane enjoys travel, yoga, zumba, reading, camping, and playing with her dog.



**Lisa Darco - CCBA Manager**

Lisa Darco has been the CCBA Office Manager since August of 2011. She is an active part of the CLE Committee, the Social Committee and the Hearsay Editorial Board. Prior to joining the CCBA, Lisa spent nearly 20 years as a Nanny. Her experiences in that industry gave her the skills to remain organized, flexible and to be an excellent

multitasker, all of which have been exceedingly useful at the CCBA. Lisa lives in Vancouver with her husband Terry and daughter Jennie, who is currently attending Clark College. Lisa's son, Brandon, is in the US Navy and recently returned from his first deployment in Afghanistan. In her free time, Lisa enjoys scrapbooking, baking and dominating her fantasy football league with her extremely intimidating team, "The Buttercups".



**Paula DeLano - CCBA Member Services Coordinator**

Paula joined the CCBA May of this year. She comes to us with a myriad of office skills and customer service experience. She is originally a Southern California girl, but has made Vancouver her home since 1990. When Paula is not at work you will find her spending time with any of her six children and/or

doing something creative. Be on the lookout as you may see her at many of our events with her beloved Nikon in her hand documenting the great social gatherings that the CCBA hosts.




**Philip Wuest - VLP Liaison**

Phil is an attorney with Duggan Schlotfeldt & Welch PLLC. He holds a J.D. from Lewis & Clark Northwestern School of Law, a Master of Urban Studies from Portland State University, and a BA in Latin American Studies from Penn State. Phil represents individuals, contractors, builders, developers, homeowner associations, and other

clients in his land use, development and construction law prac-

tice. He is also active in other practice areas such as local government law, environmental law, business formation and governance and non-profit law. Phil is a member of the American Planning Association, American Institute of Certified Planners (AICP), and the Washington and Oregon State Bar Associations. Phil also serves on the Boards for the Building

Industry Association of Clark County, Columbia Nonprofit Housing, the Humane Society for Southwest Washington, and the Clark County Volunteer Lawyers Program. Prior to practicing law, Phil was a public-sector transportation and land use planner/policy analyst for 15 years, most recently with the City of Vancouver as Transportation Program Manager.




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# First Annual Bowling with the Judges



**JEAN MCCOY**

*Hearsay Special Correspondent*

If you were a Barrister in funny shoes, Big Al's was the place to be on September 18, 2014 for the first annual Bowling with the Judges event. Clark County Superior and District Court Judges captained five (5) bowling teams. The teams were populated further by some mysterious process with the other Barristers who signed up for the event. Refreshments in the form of Big Al's pizza, soda and cookies helped keep the hoard happy during the intense competition.

Style points (and high score) went to Jason Bailes, who had all the gear and shiny shoes, and bowled a 212 to bring the Judge Kelli Osler team to victory with an average score over two games

of 116.9. Judge Osler's winning team consisted of Commissioner Kristen Parcher, Erich Orth, Jason Bailes, Scott Weber and Tanya Green. Each member now owns a 1/6 interest in a bowling pin trophy. Judge Lewis has offered to informally mediate any dispute over residence of said trophy.

The Blue Team, captained by Judge Dan Stahnke, came in second with an average score of 102.5. Third place went to the Red Team, captained by Judge James Rulli, with Judge Bernard Veljacic as the first officer. The Yellow Team and Green Team, captained by Judges Robert Lewis and David Gregerson, respectively, rounded out the squads.



Who knew Judges Dan Stahnke and Kelli Osler were bowlers? Judge Stahnke's high score was 190 (second to Jason Bailes) and Judge Osler's was 147 (third best score of the night). Kurt Rylander's score may have been higher, but for the strange apparatus that was brought to his team's table, to dispense frothy beverages through a spout. Considering Kurt was on Judge Stahnke's second place, team, however, perhaps the beverages purchase for his team helped considerably.

This was a very fun event we would love to see you attend next year. Either bring your own ringer, or hope to be on Jason's team next year!



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The Clark County Bar Association is pleased to announce its  
**Forty-Third** Nuts and Bolts Lecture:  
**Construction Law: Washington Lien and Bond Claims**

*Presented by Paige Spratt*  
**Wednesday, November 12, 2014, 3:00 PM – 5:00 PM**  
**Vancouver Hilton**

The cost is \$50 for CCBA members, \$70 for non-member attorneys, and \$25 for non-attorneys. This will get you 2 CLE credits and the speaker's prepared materials to download. There is an extra fee if you want to pick up the materials at the door.

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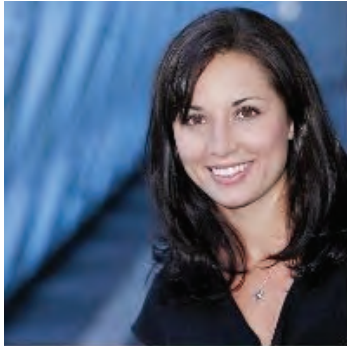
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~ Payment can be mailed to 500 W. 8<sup>th</sup> Street, Ste 65, Vancouver, WA 98660 or via credit card over the phone ~



**Paige Spratt:** Before attending law school, Paige worked for The Boeing Company as a Construction Manager. After law school, Paige went to work for a construction law firm in Seattle, Washington, focusing on construction disputes and claims. Currently, at Immix Law Group, Paige works both as a transactional attorney and litigator. She finds that her courtroom experience is valuable when advising clients on deals and contract terms. Paige has experience in a variety of cases, including construction contract disputes, lien foreclosures, tort claims, fraud, consumer protection, public contracting, Uniform Commercial Code issues, employment disputes, and corporate dissolutions to name a few. She has participated in complex disputes for large and small business owners and helped finalize multi-million dollar transactions. For a complete bio on Paige, please visit: <http://immixlaw.com/paige-spratt/>

**Additional information appears on the next page.**



## Construction Law: Washington Lien and Bond Claims

Paige Spratt

### Private Project - Lien

1. Background
  - a. Definition
  - b. Purpose/Policy
2. Creating a Construction Lien
  - a. Who is entitled to a claim of lien?
    - i. Laborers
    - ii. Materialmen
    - iii. Service Providers
  - b. What actions entitle a claimant to a lien?
    - i. Professional services performed, materials supplied or equipment furnished must constructively add or become a part of the property.
  - c. How is a lien created?
    - i. "Perfecting" a lien
  - d. Lien Bond
    - i. Bonding around the lien
  - e. Priority
    - i. Notice to Real Property Lender
3. Property Owner's Claims against Lien Claimant
  - a. Frivolous Claim of Lien
  - b. Claim Against Contractor Registration Bond
    - i. Registration Bonds
    - ii. SOL
  - c. Recovery Limitations
    - i. Residential Homeowners – all
    - ii. Other Claimants – ½ or \$4,000
    - iii. Attorneys' fees
4. Lien Examples and Practical Advice
5. Comparing Oregon's Lien Statute

### Public Projects – Bond and Retainage Claims

1. Federally Funded or State Projects
  - a. Key Definitions
2. Retainage Claims
  - a. Who is entitled to a retainage claim?
    - i. All except, suppliers who supply materials to other material suppliers
  - b. How is a retainage claim created?
    - i. Preclaim notice
    - ii. Notice of Claim
    - iii. Foreclosure – 4 months
  - c. Beware: Prompt Pay Act
3. Bond Claims
  - a. Who is entitled to a bond claim?
  - b. How is a bond claim created?
    - i. Preclaim notice
    - ii. Notice of Claim
    - iii. Foreclosure – six years
4. Bond/Retainage Examples and Practical Advice

Case law updates regarding liens and bonds

# SUPERIOR COURT BENCH/BAR COMMITTEE MEETING MINUTES

SEPTEMBER 9, 2014



**JOHN FAIRGRIEVE**  
*Hearsay Special Correspondent*

The meeting began shortly after noon. Persons present were Judge John Nichols, Curtis Welch, Jolene Sell, Ann Christian, Karen Campbell, and John Fairgrieve.

## OLD BUSINESS:

**1. Competency Evaluations (WSH):** Ann Christian and John Fairgrieve told the committee that the Prosecuting Attorney's Office and representatives of the criminal defense bar need to meet to determine if a panel of local professionals to conduct competency evaluations could be agreed upon. Additionally, Ann mentioned that Jeff Amram, the Superior Court Administrator, and Ric Bishop, the CCSO Corrections Chief, needed to finish work on the administrative process needed to support conducting competency evaluations using a panel of local professionals.

**2. Publishing Jury Selection Procedures:** Curtis Welch told the committee that the students conducting the survey should finish with Judge Gonzales shortly and that each judge's jury selection procedures will be posted on the internet.

**3. Legal Financial Obligations:** Judge Nichols reported that a recent Washington Supreme Court case (State v. Peter Barton, 89390-0) held that "cash only" bench warrants are unlawful. As a result, the superior court will no longer be issuing "cash only" bench warrants. Additionally, "cash only" bench warrants are being quashed and re-issued where appropriate.

**4. Readiness Hearings:** Judge Lewis sent out an e-mail yesterday that informed the prosecutor's office and the defense bar that a number of readiness dockets in October are particularly large. The docket dates and the number of matters on the dockets are:

Oct. 2 -	123	Oct. 23 -	87
Oct. 9 -	67	Oct. 30 -	54
Oct. 16 -	79		

Judge Nichols observed that there are still a large number of continuances occurring on the readiness docket. Ann Christian

also told the committee that there are a high number of guilty pleas on the readiness docket and that some of factors involved are the timeliness of pre-trial offers, discovery and interviews. Judge Lewis noted that it was better to handle changes of plea prior to the readiness docket but if that is not possible then it is better to do them on the readiness docket than at some later point. Ann Christian also told the committee that homicide cases were already being set for trial in 2015. Finally, Judge Lewis mentioned that Monday afternoon change of plea dockets underutilized, with only six slots being used on a recent docket.

**5. Controlled substance residue cases:** In a continuing discussion of this issue, Ann Christian told the committee that sometimes a police report does not accurately reflect the actual amount of the controlled substance that is present. Ann also mentioned that some defense attorneys complained to her that the prosecuting attorney's office is not reducing some residue cases.

**6. Special Sex Offender Sentencing Alternative (SSOSA) review hearings:** Ann Christian told the committee that she had recently received a call from an attorney on the indigent defense contract who told her that he had received a call from one of the judges' offices telling him that he had missed a hearing for an annual SSOSA review. Ann asked that unless the state files a motion to revoke a defendant's SSOSA sentence that defense counsel not be required to appear at these hearings. Judge Nichols seemed to agree with Ann's request.

**7. Pro Se Litigants in Family Law Cases:** Karen Campbell told the committee that she had been doing some research on the issue. She said that the Law Help website ([www.washington-lawhelp.org](http://www.washington-lawhelp.org)) is somewhat better than its counterpart in Oregon and is a bit more accessible. Karen also mentioned that she called courts in Oregon in Clackamas, Washington and Multnomah counties to find out what information they provided to pro-se litigants. What she found is that they do not provide very much information; some place notices on the courtroom walls about clothing and behavior. Karen also found out that kiosks are being used in Thurston and King Counties and that the

administrative Office of the Courts is looking at using more capable kiosks in the future. County clerk Scott Weber is also looking into using kiosks in our county. Currently the main point of access for pro se litigants in our county is through the county law library.

**NEW BUSINESS**

**1. Surge in felony filings:** John Fairgrieve told the committee that the Prosecuting Attorney’s Office has filed about 150 more cases this year than it filed at the same date last year. Ann Christian also told the committee that the county jail is currently near maximum capacity.

**2. No taking signed orders out of the courtroom:** Judge Nichols told the committee that the clerk has adopted a new policy that forbids anyone from taking signed orders from the courtroom. Judges can grant exceptions to this general rule.

**3. Indigent defense contracts:** Judge Lewis told the committee that the contractors needed to be placed in groups of 4-5 so that contractors are available at any time to accept cases as opposed to 2-3 contractor groups that can get overloaded.

**4. Residential DOSA orders:** Judge Lewis mentioned that chemical dependency evaluations should be done in all cases but that risk assessments are not routine and should only be done in prison-based DOSA cases.

**5. The committee’s next meeting will be held on October 14, 2014 at 12:00 p.m.**

Respectfully submitted,  
John Fairgrieve

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# Candidate Forum and Bar Poll Results

A Candidate's Forum sponsored by the Clark County Bar Association was held in the Clark County Commissioner's Hearing Room on September 26, 2014 over the noon hour. Bar Members, judicial officers and members of the public and press were present to hear the words of sitting Judge Bernard Veljacic and his opponent in the November election, local attorney Robert Vukanovich, as well as the candidates for County Prosecuting Attorney, namely the incumbent, Tony Golik, and his challenger, Josephine Townsend.

Current CCBA Members received the opportunity to fill out a Preference Poll, rating the candidates in the areas of Legal Ability, Temperament, Integrity and Relevant Legal Experience. Members were also asked to make their choice as if the November vote were taken now. Approximately 41% of the CCBA Members, or 188, responded to the Preference Poll, and the results are printed below for your review.

## Superior Court & Prosecutor Poll October 2014

1. Legal Ability:						
Answer Options	Exceptionally well qualified	Well qualified	Qualified	Not qualified	Insufficient information	Response Count
Bernard Veljacic	59	68	35	6	20	188
Robert Vukanovich	41	72	42	8	25	188
Tony Golik	84	59	23	7	15	188
Josephine Townsend	11	11	34	113	19	188
<i>answered question</i>						188
<i>skipped question</i>						0

2. Temperament						
Answer Options	Exceptionally well qualified	Well qualified	Qualified	Not qualified	Insufficient Information	Response Count
Bernard Veljacic	95	54	21	1	17	188
Robert Vukanovich	52	70	35	6	25	188
Tony Golik	80	47	33	13	15	188
Josephine Townsend	10	11	25	129	13	188
<i>answered question</i>						188
<i>skipped question</i>						0

3. Integrity						
Answer Options	Exceptionally well qualified	Well qualified	Qualified	Not qualified	Insufficient information	Response Count
Bernard Veljacic	84	61	19	1	23	188
Robert Vukanovich	67	60	25	7	29	188
Tony Golik	67	52	29	25	15	188
Josephine Townsend	10	11	14	138	15	188
<i>answered question</i>						188
<i>skipped question</i>						0

4. Relevant Legal Experience						
Answer Options	Exceptionally Well Qualified	Well Qualified	Qualified	Not Qualified	Insufficient Information	Response Count
Bernard Veljacic	51	70	42	7	18	188
Robert Vukanovich	52	77	30	8	21	188
Tony Golik	97	41	28	5	17	188
Josephine Townsend	9	18	43	101	17	188
<i>answered question</i>						188
<i>skipped question</i>						0

5. Choice		
Answer Options	Response Percent	Response Count
Bernard Veljacic	62.77%	118
Robert Vukanovich	30.85%	58
NONE	6.38%	12
Tony Golik	80.32%	151
Josephine Townsend	14.36%	27
NONE	5.32%	10
<i>answered question</i>		188
<i>skipped question</i>		0



SAVE THE DATE



CLARK COUNTY BAR ASSOCIATION'S

BARRISTER'S BALL



FEBRUARY 28, 2015

ROYAL OAKS COUNTRY CLUB

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# Win the Cups

**LE ANN LARSON  
KRISTEN PARCHER  
and SUSAN ARNEY**

*Hearsay Special Correspondents*

Do you know what the Rainier Cup is? Who wins the Baker Cup? We asked local attorneys and judges for their answers. Posed with the challenge of describing these illustrious awards (and encouraging creative responses when in doubt) we received some interesting (and incorrect) answers.

For you attorneys who gave answers as to “What is the Rainier Cup?” we can assure you the Rainier Cup is not a sporting event and it has nothing to do with Mt. Rainier. It was not used for drinking Rainier Beer.

The Baker Cup is not akin to Cupcake Wars on the Food Network channel. It is entirely unrelated to Initiative 502. And we would be remiss if we didn’t share some of the more creative responses from our judges who answered. Here are our top 3:

1. It is what a baker wears at the annual Bakers' Softball game.
2. The Baker Cup was awarded to an attorney many years ago in recognition of his amazing dexterity at bar functions. He would take his cup and fill it full of baked goods from the buffet and would be seen stuffing them in his coat pockets with both hands as he disappeared out the door. Rumor has it that this prestigious cup was last seen in one of the pawn shops on lower Main Street.
3. Amongst a group of law school students in the mid 80s, the Baker Cup was originally awarded on an annual basis to the member reporting the worst blind date of the year. The frequency of the award escalated in the 1990's and by 1996 the Cup changed hands twice a month on average, leading to the group's motto "What could be worse than last Saturday night?" The Cup found a permanent home with a member after the group determined no one could top her blind date disaster. On the blind date she found she and her date shared a love of (spendy) wine and charitable good works and had traveled the same places. After appetizers and making plans to go sailing the following weekend, her date stepped out the rear door of the restaurant with the stated intention of taking a call on his cell phone. When he failed to return 45 minutes later, she overcame her embarrassment and paid the bill. As she left with the boxed up entrees she failed to notice the numerous police cars and television news vans outside the restaurant. While dining on her expensive leftovers in front of the late

local news, she recognized her date's mug shot on the screen as the news reporter gave details of his arrest in the alley behind the restaurant while in the middle of a sexual act with a transgender prostitute. His arrest was apparently part of an ongoing sting. When he left a message on voicemail asking her to post bail, she elected not to respond. On that night, the Baker Cup retired to a permanent home on her shelf....

We loved the responses! And to be fair to the bench, this is only the second year the Baker Cup has been awarded. Now we're hoping it has gained some notoriety.

So, what are the actual Baker and Rainier Cups? Or at least the ones we want to win for Clark County? The Baker Cup is awarded to the county that has the highest percentage of



judiciary participation in the Campaign for Equal Justice. Started in 2013, last year's winners all had 100% participation. Chelan Douglas Judges, Cowlitz-Wahkiahkum Judges, Skagit Judges, Snohomish Judges, Thurston Judges, and Whatcom Judges all received the Baker Cup.

The Campaign for Equal Justice awards the Rainier Cup to the Volunteer Lawyers Program that has the highest percentage of bar association members participate by donating to the Campaign for Equal Justice. In 2013, Clark County had 23% participation. Chelan Douglas Counties, the Rainier Cup winners, had 62% participation. We can certainly up our game here! Whatever amount you are able to contribute, just do it. Together, we can make a difference. Historically, for every \$1.00 our bar donates, \$1.50 to \$2.00 has come back to the CCVLP through Legal Foundation grants.

The Campaign for Equal Justice is Washington's annual fund drive to secure operating support for over 20 civil legal aid and volunteer lawyer programs across the state, including our own Clark County Volunteer Lawyers Program. The Clark County Volunteer Lawyers Program has been a part of our legal community since the early 1970s. The program provides legal services in civil matters to low income persons with cases in Clark County courts. 645 people were served in 2013 and the numbers keep growing.

Our CCVLP could not operate without the dedicated volunteer lawyers who generously give their time. Also vital is the funding to pay staff, rent, phones and other overhead costs. These dollars make the difference in keeping services at the current levels. Your gift could keep a family safe from domestic violence, assist tenants being evicted, or help someone go through bankruptcy and restore his/her income. Consider what a donation of one billable hour can do in our community.

So, when the Campaign for Equal Justice contacts you, consider the prestigious Baker Cup and Rainier Cup that could be ours!

***Here are the following ways to donate:***

1. You can contribute an amount with your Washington State Bar Association Dues, as you may have noticed on the renewal statement.
2. You can contribute directly to the Campaign for Equal Justice by giving online at [www.c4ej.org](http://www.c4ej.org) or mailing your

contribution to the Campaign for Equal Justice, 1325 Fourth Avenue, Seattle, WA 98101.

3. The Clark County Volunteer Lawyers Program will also have a phone-a-thon on November 7, 2014 between 1:00 p.m. and 4:00 p.m. Please do not screen our call! To avoid a call, just make a donation prior to that date!

Thank you to everyone who has already made a gift this year. Let's bring the Rainier Cup to our CCVLP and win the Baker Cup for Clark County. We've got the highest percentage of generous attorneys and judges in Washington State, right?



**Advertise in next month's HEARSAY**  
**Call Lisa Darco at 360.695.5975 for rates and availability.**

**The Clark County Bar Association Presents a CLE on November 18, 2014**

**Assisting Mentally Incompetent Adults and their Families:  
Guardians ad Litem, Mental Health Resources, Medicaid**

**Presented by:**

**Attorney Victoria Kesala, Perry EauClaire, MS, CPG & Sela Barker, MSW, LCSW**

**November 18, 2014 – 1:00pm to 4:30pm at the Red Lion at the Quay**

3.5 General CLE Credits Pending

CCBA members: \$122.50      Non-members: \$157.50      Non-attorneys: \$61.50

⇒ Snacks Provided ⇐

**To register: call the CCBA, (360) 695-5975, OR email: [CLE@ccbawashington.org](mailto:CLE@ccbawashington.org), OR**

**FAX this flyer to (360) 737-6891 with your BAR NUMBER \_\_\_\_\_,**

**NAME \_\_\_\_\_ PHONE # \_\_\_\_\_,**

**and EMAIL \_\_\_\_\_.**

Payment can be mailed to 500 W. 8<sup>th</sup> Street, Ste 65, Vancouver, WA 98660 or via credit card over the phone

***Powers and Limitations of Title 11 Guardians ad Litem***



**Victoria Kesala** is currently in private solo practice in Vancouver, Washington. Her practice is focused on guardianship law. She enjoys working with families to find solutions to protect vulnerable adults. She values the contributions of Certified Professional Guardians to our community and assists them with their work.

Victoria attended law school at the University of Minnesota Law School. Her past work experiences include: Guardianship Monitoring Program Coordinator for the Clark County Clerk's Office in Vancouver, Washington during its pilot program phase in 2001 – 2002; Law Clerk for the Presiding Judge of Family Court in Minneapolis, Minnesota; and Case Manager in the Palmerston North Court in New Zealand. She also worked as a Policy Advisor for the Ministry of Justice in Wellington, New Zealand and a Policy Analyst for the City of Palmerston North, New Zealand.

***Medicaid – basic points to know and  
being strategic when applying for benefits***



**Perry EauClaire** MS, CPG, is a Guardian for a number of clients in the Clark County area.

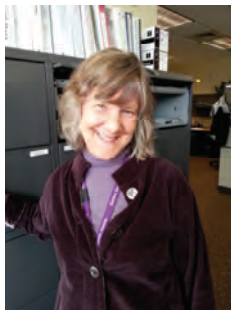
He graduated in 1990 from Seattle Pacific University with a Masters in Science for Counseling, and a specialty in Geriatric Mental Health. Shortly after graduation he started the Older Adult Program at a Mental Health Agency in south King County.

He then transitioned to become a Social Service Director in a local Nursing Home. In twenty years he has assisted hundreds of families with the process of applying for Medicaid as well as other community resources. In 2011 Perry completed the training to become a Certified Professional Guardian.

**Additional information appears on the next page.**



## ***Public Mental Health Resources in SW Washington***



**Sela Barker**, MSW, LCSW, is a Manager for SW Washington Behavioral Health Regional Support Network (RSN), a multi-county managed care entity responsible for managing state and federally-funded mental health services in Clark, Cowlitz, and Skamania counties, WA. She is responsible for managing the care management and utilization management functions at the RSN.

She is responsible for developing programmatic policies and procedures and provides oversight to a team of nine mental health clinicians who authorize inpatient, residential, and outpatient mental health services, analyze service utilization, and handle grievances and appeals.

Before her employment with the SWBH RSN in 2012, Sela was the Quality Manager at Clark County RSN for ten years; prior to that she worked in Portland, Oregon, at what is now Cascadia Behavioral Health Care, a large multi-county behavioral health agency. During her tenure there, Sela developed and managed a number of programs: case management, psychiatric rehabilitation, staff training and student internship, and quality assurance and improvement.

Sela is also a co-developer of the Multnomah Community Ability Scale (MCAS), a functional assessment scale used with adults in community mental health settings, and managing partner of Network Ventures LLC, which distributes the tool and related training materials. She and her co-developers have authored four articles in peer-reviewed journals on the development and uses of the MCAS.

She has been a presenter at local and national conferences on mental health, a guest lecturer at local universities, and conference organizer on topics of psychiatric rehabilitation and managed care.

Sela has a Bachelor's Degree in Psychology from Beloit College and a Master's degree in Social Work from Portland State University, where she was a recipient of a National Institute of Mental Health training stipend for community social work with individuals with severe and persistent mental illness.

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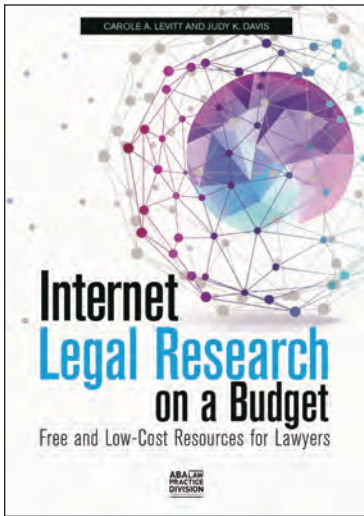


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# Internet Legal Research on a Budget: Free and Low-Cost Resources for Lawyers

by Carole A. Levitt and Judy K Davis

American Bar Association, 2014

Softcover, 321 pages, \$89.95

ISBN: 978-1-62722-616-5



**MARIA SOSNOWSKI**

*Law Librarian*

The authors of this book are well-known in law librarian circles – both spend much of their time writing, speaking, and teaching about legal research and sources. Ms. Levitt runs the website Internet for Lawyers at [www.netforlawyers.com](http://www.netforlawyers.com) which sports a list of other books she has authored, a blog, and CLEs. Both practiced law before turning to librarianship.

The book is divided into sections based on type of research, for example, general research, blogs, legislation, case law, etc. Within each general topic they cover a number of websites and apps. The reader is bound to stumble upon a number of sources previously unknown to them if they look through this book. It is designed for browsing, with a lot of headers and bullets that make it easier to scan for topics.

The bulk of the book consists of a description of various resources with screen shots and instructions about how to use them, and tips to use them more effectively. Commands and buttons are in bold in the text, which promotes scanning.

The audience for the book is attorneys from any practice area. Most of the resources described are useful to anyone, and there is also a section of the book providing resources specifically by practice area. Some of the specialty websites will only be of interest to a small segment of attorneys (for example, international law or tribal law) but the vast majority of the book is of general interest regardless of practice area. Casemaker and Fastcase are each given their own chapter.

It's a how-to book, with the many screen shots and instructions on use of the websites. This is the type of thing that you can put alongside your computer and work through the pages online.

The strengths of the book are the illustrations of the screen shots, the instructions on how to use each resource, and the organization. The downsides are that the font makes it hard to read this book – spacing is uniform throughout which makes it harder to see where paragraphs stop and start, and makes it harder to visually orient to the material. The index suffers from some technical issues as well as from the same visual issues, as it is also double spaced and hard to scan.

The book could be greatly improved simply with a better presentation. Charts that list the content of each site would be nice, so that a reader can compare the various sites easily to see what might be helpful in a particular instance. The Table of Contents is very detailed and useful to orient the reader, but that concept could have been developed further with charts.

Ms. Levitt has two other books titled Find Info Like a Pro which are visually much easier to use.

Overall this is a good book for an introduction to various websites, but it could easily be improved with better font and spacing, and charts comparing the various resources.

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Each month the **LAWYER REFERRAL SERVICE** refers hundreds of potential clients to our attorneys. But in some of our referral areas, our attorneys are ...well ...sparse. This is a great opportunity for YOU! If you practice in any of these areas, consider joining the LRS today!

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*"The lawyer referral service is a great resource for the public and a great source of work for local attorneys. Not every case is a good case but that is the same no matter where the referral comes from. The fee for joining is reasonable and the way I look at it if you get one good case from the service it will probably more than pay your fee for the next 5 years. I have had several good cases from the services during the 6 years I have been a member."*

~Jane Clark

*"The LRS has helped me grow my family law practice, and has increased the number of family law consultations I do. It is a nice way to attract potential new clients."*

~Elizabeth Arwood

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# ANNUAL MEETING AND CLE: A View From The Bench (Judges Nichols and Osler)



**JEAN McCOY**

*Hearsay Special Correspondent*

The Hilton Hotel was the venue for the Clark County Bar Association (CCBA) 2014 Annual Meeting and CLE, held on September 15, 2014. CCBA has not held its Annual Meeting at the Hilton for many years; we are creatures of habit, so a few folks drove to the Quay only to be rerouted. Fortunately traffic was light and they didn't miss a thing. Our leaders are working deals with the Hilton to provide cost breaks if the organization's future events are held with the Hilton, so watch your flyers for event locations.

To start off the meeting, Judge Rulli was commissioned to give the State of the Superior Court report this year. As many who are new to our community have noted, the last several years have seen big changes in our judicial departments. Over the last three (3) years the Court has seen five (5) new judges sworn in. With Judge Nichols' retirement in January, we will see yet another newcomer to the bench in 2015. There has been an increase in the criminal filings in Superior Court, as well as an increase in litigants representing themselves. Probably the biggest challenge for the Court staff, as well as attorneys, is dealing with those who are self-represented and determining how best to navigate those waters.

Our Clark County Clerk, Scott Weber, then discussed e-filing and case management. The Washington counties are collaborating on review of an integrated case filing system, but that project is several years away, if available. Our own County e-filing system has generated 5,000 documents already, and Scott's office is available for one-on-one training of the e-filing system. Contact the Clerk's office for training scheduling. There are four (4) computers now in the Clerk's Office that are linked to Liberty so attorneys and those self-represented can view Court Files. As of September 5, 2014, attorneys will no longer be able to walk signed Orders down to the Clerk's Office after signing at Ex Parte, however, under certain circumstances counsel can request special dispensation to handle signed orders. The Clerk's office has been very helpful in walking Orders down, or calling for pick-up so the wait time to obtain the executed Order has so far been minimal.

Judge Kelli Osler gave the report for District Court, which was also heavily focused on e-systems and paperless order entry.



District Court has been working on fine-tuning the systems and your questions and input are very helpful in getting the systems in the best form.

The next official report was the Treasurer's Report, given by Jane Clark in lieu of J.D. Nellor. While CCBA has some surplus funds in the Bank, the Board recalls darker times several years ago where there was little to no buffer in the Bank. While the Budget shows expenses exceeding income, there is a \$62,000 reserve that the Board will be judicious in utilizing in future. This fiscal year brought many extraordinary or new expenses, such as the cost of the new website, new software, an audit of the financial records, and addition of a bookkeeper to assist in oversight and details of the financial health of the Association. The Association is healthy and well managed to date!

Rob Milesnick and Josh Pops gave information regarding the Family Law Section. The Family Law Section's reserves within

the CCBA umbrella were solidified this year as the internal financial audit of the books provided a clear picture of the funds the Family Law Section has collected and retained. The Hilton is currently the venue for Family Law CLEs and attendance has been good, notwithstanding increased ticket prices. The Family Law Section will continue its outreach and quality CLEs and hopes to even further increase the interest in the Section.

Young Lawyers Section is also seeing revitalization with Matt Blum at the helm. Regardless of the loss to the Senior Lawyers in softball, the injuries were minimal, and the Juniors will be back again next year to continue the challenge. Young Lawyers have been hosting successful CLEs and Happy Hours, and you don't need to be Young to attend, although young ones get a discounted rate. The Happy Hours have been on the last Thursday of the Month so you can plan ahead and get these recurring meetings on your calendar. Bring a friend and meet someone new!

Finally, Jane Clark reported on the CLE Committee (which has survived and prospered under her guidance) – and those of you waiting until the last minute will be happy to know a December Ethics CLE is in the works for those end-of-year credits. The Nuts and Bolts monthly CLEs have been well attended and give locals a way to get a series of inexpensive credits that are easier on the schedule than a couple of big out of town events. Thanks to Jane Clark for her guidance in all aspects of the Bar Association.

Thanks also to J.D. Nellor and Jill Sasser for their service to the Bar as they leave the Board, as well as John Fairgrieve, who was immediate past president for as long as we can remember due to Suzan Clark's ascension to the Bench before her term had expired. Welcome to new Secretary Le Ann Larson, Treasurer Mark Sampath, and Trustee Chad Sleight. Those continuing to serve on the Board are Arin Dunn as the new President, Rick McLeod as Vice President, Jane Clark as Immediate Past President, and Trustees Laura Mancuso and Gideon Caron.

For those that stuck around for the CLE portion of the Annual Meeting, they were treated to Judge Nichols in rare form with Judge Kelli Osler providing the foil to his witticisms. The CLE was titled "A View from the Bench", or "How to Avoid the Grumpy Judge Syndrome". As we all know, with Judge Nichols retiring, he is feeling more free than normal to give his "views". Watch out that you are not on the other side of his scalpel and grenade analysis when conducting a trial in his courtroom. Here are some pet peeves you likely know about, but you will hear it even louder as the year wears on:

- Don't keep stating "For the Record" – everything is on the "Record"
- Don't disagree with the Judge agreeing with you – listen before you argue



- Don't use your right to appeal as a "threat" – a short-timer especially doesn't care
- Don't take twice as long to try your case as the case warrants – use the scalpel to plan the presentation of your evidence and take your testimony – get in and get out
- If you obtain a ruling on your Motions in Limine, prepare the Order; no one will agree if you wait until during the trial to determine what the ruling was
- Get courtesy copies to the Judge early and every time; don't expect the Judge will have reviewed them if you deliver them the night before
- Jurors like the technology – if your case warrants it, use it, but make sure you know how to use it and conduct practice runs
- In voir dire just seek out the bias – don't use it as an opportunity to argue your case
- Be on time – especially in District Court, it is beginning at 8:30, be there and be prepared

Thank you to Judges Nichols and Osler for a very entertaining session.

# RETIREMENT

## Tales from the Dark Side



**DON JACOBS**

*Hearsay Special Correspondent*

Well, it isn't exactly the dark side. But it is over yonder for most everyone reading this. Retirement. That mythical place where we all go eventually. Well not all of us. Some of us love this job so much we will choose to expire at our desks. I found myself sharing dinner recently with a senior attorney in town who does primarily business work. He and his lovely spouse and law partner made the mistake of sitting down next to me at the bar in Roots out in Camas. Yes, I said senior attorney. Hate to break the news to a lot of you, but you automatically become eligible to reside in one of those senior living communities at 55. And AARP starts sending you membership applications even earlier. True, you may not be Gray Panthers material, but ask any millennial, GenXer or Generation Y type about the Boomer generation. They'll tell you all should be put squarely in the senior citizen category. So I asked my friend and senior attorney when he planned to hang it up. He took a long sip on his cocktail, looked me in the eye and said, "When I stop breathing". But that mythical place called retirement is, in varying degrees, just over the horizon for many of the rest of us. So have you ever wondered what it's like? Do you automatically fade away and have no relevance? Do people come up to you at parties and say "Hey, weren't you somebody once?". This article is designed to get us in contact with people who are on the other side. Kind of like a séance. You know, one of those deals where you hire a medium to communicate with spirits. They conduct a session where you and your family all sit in the dark at a round table, hold hands and try to communicate with your dead Uncle Charlie. Then your Uncle knocks twice to indicate it was you he wanted to inherit the gold coins. Except the knocking sounds just like the medium kicking the table leg.

So what is it like? Do you really get senior discounts on everything? Do you sleep in everyday? Become a day drinker? Are there any common myths? What do you mean Medicare doesn't cover everything? Wait, you mean I have to wait till age 66 for full social security? Can I get an advance?

The first interviewee to answer our questions about the other side is Curt Wyrick. Curt grew up in eastern Oregon and was a Pendleton High School grad. He even worked on a cattle ranch in John Day before entering law school. Curt graduated from

Gonzaga in 1977 and his first trip to Clark County was a job interview. It was a joint interview with well-known local senior attorney Ernie Nicholson. They both met with county DA Jim Carty out at his home at the time because the county was on strike. Jim told them both he was a good judge of character and to go down to the courthouse and tell them you're hired. Curt spent his entire career with the prosecutor's office. He put in 34 years of public service working civil and criminal cases. He retired in 2010 at the advanced age of 62. And although he's done some liquor control board hearings since, he's essentially hung up his bar license. I asked Curt what he likes best about his new life. He says having no deadlines or pressures to get things done is nice. Now if he has 3 to 4 tasks he has to accomplish, he may only knock off one or two. Then there is always tomorrow. Curt says the days fill up with things pretty easily. Keeping track of his kids, travel and the condo in Hawaii are some of the bright spots. I asked what he misses if anything. Curt says probably the people. He misses the camaraderie and interaction with other attorneys in the prosecutor's office. But it sounds like he's enjoying retirement. He works out regularly at Lakeshore Athletic club. But you won't see him in there with the exercise before work crowd. Curt is entitled to sleep in these days

Our next séance contact is senior attorney Steve Tubbs. Steve was sworn in back in 1975. Back then Clark County had three Superior court judges. Ed Reed, Bob McMullen and Guthrie Langsdorf. Judge Langsdorf swore Steve in alongside Battleground senior attorney Earl Jackson. Steve started out working for the firm of Scarf & Germanson in Beaverton. He then made the move to Clark County in 1976 and took a job with the Prosecutor's office. Like Curt Wyrick two years later, Steve was also hired by Jim Carty. In 1979 Steve was offered a job with the civil firm of Gallup Duggan & Frewing, which eventually became Gallup Duggan Tubbs & Heurlin. The firm eventually merged with the Schwabe Williamson firm from Portland. Steve put in 12 years doing civil litigation with Schwabe before deciding to go out on his own. The next twelve years found Steve working from home continuing to do civil litigation for many of the same clients he worked for at Schwabe. In January of this year Steve resigned from the bar and officially retired. Although a young looking 68, he says he wanted to do

other things. Steve says in practice your time is dictated by your client's needs, opposing counsel, the rules and judicial deadlines. Now the only one controlling his time is Steve. It doesn't sound like he's gone inactive though. He's now president of his bridge club and a master gardener. He's even a docent at the Japanese Gardens in Portland. He also took up pickle ball. Steve says that without work on your schedule, there's no more excuses for not taking care of yourself. I asked if he had more free time on his hands. He tells me there actually seems to be less time. He says he finds himself wondering where he is going to find the time to do all the things he wants to do. Steve says the best thing about retirement is freedom. And no more CLE's!

Our final contact with the other side is a bit of an outlier. Clark County's recently retired Jessica Dimitrov. I say recently because there's probably still cake left in the refrigerator from the retirement party. I say outlier because, unlike most attorneys, Jessica didn't wait for senior citizen status to retire. You see, Jessica retired at the grand old age of 48. Yes, you read that right, 48. But, you ask, how is that possible? Or even legal? Well, first off, Jessica is no dummy. Besides being a smart lawyer

she's known for keeping her overhead low. She's also invested in this community for years and has enjoyed the growth. And, her frugality is legendary. Plus there's the deal about not having kids. Well anyway, she is now definitely retired. Before she retired Jessica was the senior (that sounds funny for a young person of 48) attorney at Dimitrov Senescu & Babich. She developed a niche over the years doing elder abuse cases. She became kind of the guru in this area. Recently married, she even talked her spouse, who toiled away at Precision CastParts for 25 plus years as an engineer, into retiring with her. I asked them both over lunch what they liked best so far. Jessica gave me her top three. Not having to deal with the conflict inherent in our adversarial system. The time to do things you've put on hold. And finally, plans for relentless traveling. So being recently retired, you'd think the lack of experience would keep Jessica from offering sage advice to people contemplating the plunge. But if you thought that, you've obviously never met Jessica. She is full of advice for those considering the leap. Plan now she says. Set a date. And finally, have someone to share it with. Probably her best advice of all.

## CCBA CLE Calendar

*Register now for any of our upcoming CLEs.*

### **N&B – Construction Law: Liens and Bond Claims**

Paige Spratt  
November 12, 2014  
3:00pm – 5:00pm  
**Vancouver Hilton**

### **CLE - Assisting Mentally Incompetent Adults and their Families: Guardians ad Litem, Mental Health Resources, Medicaid**

Victoria Kesala, Perry EauClaire & Sela Barker  
November 18, 2014  
1:00pm – 4:30pm  
**Red Lion at the Quay**

### **N&B – TBD**

December 10, 2014  
3:00pm – 5:00pm  
**Vancouver Hilton**

### **CLE – Ethics**

Nancy Retsinas & Judge Bernard Veljacic  
December 18, 2014  
8:30am – Noon  
**Red Lion at the Quay**

### **N&B – Collaborative Law**

Nancy Retsinas  
March 10, 2015  
3:00pm – 5:00pm

### **GAL Title 11 Certification**

April 1, 2 & 3, 2015  
**Red Lion at the Quay**

### **N&B – Mediation in Family Law**

Meredith McKell Graff  
June 10, 2015  
**3:00pm – 5:00pm**

**N&B CLEs:     \$50 for Members**  
**\$70 for Non – Members**

**General CLEs: \$35/Hour for Members**  
**\$45/Hour for Non-Members**

# CLE RECAP: Mental Health Response in Clark County

## HEARSAY STAFF

***How much do you know about mental illness and law enforcement in Clark County? Take this quiz to find out.***

- 1) Recent studies suggest that at least \_\_\_\_\_ percent of inmates in jails and prisons have a serious mental illness.
- 2) In 1983 a similar study reported that the percentage was \_\_\_\_\_ percent.
- 3) A 2004-2005 study revealed that jails and prisons housed \_\_\_\_\_ times more mentally ill persons than did hospitals.
- 4) \_\_\_\_\_ percent of individuals with serious mental illnesses have been in jail or prison at some time.
- 5) In 1955 there was one psychiatric bed for every 300 Americans. In 2005 there was one psychiatric bed for every \_\_\_\_\_ Americans.
- 6) In 1983 The Clark County jail was built to house \_\_\_\_\_ inmates.
- 7) Today the Clark County jail houses \_\_\_\_\_ inmates.

*Answers: 1) 16%, 2) 6.4%, 3) 3 times, 4) 40%, 5) 3,000, 6) 300, 7) 569*

Surprised by any of those? We were surprised (and enlightened) by that and more, at a recent CCBA CLE entitled “Mental Health Response in Clark County: Law Enforcement and Involuntary Detention and Commitment.” The information was part instructional on procedure for lawyers, part disconcerting for us as community members, and part hopeful for us as legal activists.

Attorney Don Grant educated attendees on the Involuntary Treatment Act (see RCW 71.05) and walked us step-by-step through the involuntary commitment proceeding process. From the initial petition and detention, to 14, 90 and 180 day hearings, Don enlightened us on the nuts and bolts of the process, including the scope of the proceedings, evaluation criteria, and difficult scenarios attorneys might encounter.

Lieutenant Kathy McNicholas and Sergeant Ken Clark spoke about CIT--Crisis Intervention Training--the new best practice in law enforcement. Clark County has adopted this 40 hour

certification model and it is making a big difference in the way law enforcement responds to and handles crisis situations.

Commander Walter “Rusty” Warren spoke about Clark County Regional Law Enforcement’s Protocol for Suicidal Calls. In 2012 Clark County developed and implemented a new response protocol for suicidal callers. Warren walked attendees step-by-step through the intake and facilitation process, from the time the call comes in to time handlers leave the caller. The data is still not in, and Mr. Warren acknowledges that the process isn’t perfect. But it is showing promise.

Despite the disheartening mental health crisis our county currently faces, Commander Mike Anderson of the Clark County Sheriff’s Office, Jail Support Services, gave a presentation that offered some hope. Anderson oversees the county’s new 8-month-old “Reentry program,” which provides treatment and education to inmates while in jail, and helps get them connected with resources in the community after they are released. “The first 72 hours after inmates are released is by far the most critical,” he says. “This program helps inmates develop a plan for that critical reentry period so they will leave the jail with a game plan and the support they need, like housing, employment and financial resources. Instead of saying to people ‘See ya when you come back,’” Anderson says, “we are now saying ‘How can we help you so you don’t come back?’” So far, the Reentry program is showing promise. Participants are giving feedback with comments like, “You saved my life,” and “This is the first time I’ve gotten out of jail when I felt like I have a chance.”

If you wish you had attended this CLE, it’s not too late to get the materials. Simply contact Lisa at the CCBA office for more information. Additionally, given the success of this CLE, the CCBA has scheduled a follow-up CLE entitled “Assisting Mentally Incompetent Adults and their Families: Guardians ad Litem, Mental Health Resources, Medicaid” on November 18, 2014. Call now to register!

**Visit us online at: [ccbawashington.org](http://ccbawashington.org)**



## What CCBA Members Are Doing About Town



### RAISA JUDICATA

Guest Gossip Columnist



Hey, Jill – we'll leave the light on!

As some of you may know by now, Jill Sasser with Landerholm will be taking a year of family leave in 2015. Her husband, Alex, has worked remotely for his family business in Idaho for several years, but needs to be on-site next year, so the family is moving to Idaho. Jill is looking forward to this new adventure and planning to return to Clark County and to her practice in 2016. Laura Nelson has joined Landerholm as a new attorney in the area of Estate Planning. We'll hold down the fort while she is gone!

The list of candidates for appointment by the Governor to Judge Nichols' position in Department 3 is smaller than we are used to (don't we sound jaded?) John Fairgrieve, Derek Vanderwood and Chris Ramsay are the candidates who made the September 19 deadline to apply. The St. Helen's Chapter of the Washington Women Lawyers is currently conducting its candidate review for submission of its confidential findings to Governor Inslee. The Governor has some time to decide, but all judicial evaluation ratings are required to go to the Governor by October 31. We have a County Prosecutor, a Civil Attorney, and a Criminal Defense Attorney – all different flavors to choose from. Ah, to be a fly on the wall of the Governor's office!

Would you ever guess retired Judge Robert Harris would take up being a college professor after leaving the bench? Judge Harris is 80 this year and his retirement from the bench in 2009 was the result of judicial rules requiring mandatory retirement at age 75 (or he likely would still be there!) Judge Harris is teaching a class at Clark College called "My Life in the Law". It is a five class session heard once a week for two hours, where he will offer

highlights of his 50 year history dealing with the criminal elements of Clark County. He has heard some famous (or infamous!) cases and he served as a Prosecuting Attorney before the use of Miranda rights. He will talk about the changes in presentation of evidence and use of science to inform the Court relating to DNA and other changes in the use of technology. Unfortunately it is too late to sign up for the class, but we'll see if he offers a repeat performance!



Judge Robert Harris – back in black as a professor



Jane VanDyke running for support

Sunday, October 12, 2014 saw over 1,500 runners took to the streets of Vancouver in support of the Girlfriends Half Marathon. The Marathon event was begun eight (8) years ago by Sherri McMillan of Northwest Personal Training in support of a client who had recently been diagnosed with breast cancer. Sherri hoped to get 100 women together and that first year 400 showed up. That number has now tripled over the years. Many of you were probably there with Jane VanDyke, who is "running" this year for PUD Commissioner, District 3. If you were there, send us a picture!

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 [raisajudicata@gmail.com](mailto:raisajudicata@gmail.com). 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.

# Hearsay Profile

## Sue-Del McCulloch

**Home:** Sue-Del was born and raised in the Willamette Valley and loves the region. She has been in the Portland metro area for approximately the last 20 years. While she loves to travel, she is happy that she gets to come home to the Pacific Northwest.

**Age:** “Really?!?”

**Profession:** Lawyer and Mom, referred to by her three year old as her ‘boring job’ and her ‘best job.’

**Hobby:** Sue-Del was a dragonboater with a women lawyers team for 10+ years and hopes to eventually return to dragonboat racing. She also sings second soprano with the Portland Symphonic Choir, which is performing the Mozart Requiem on November 8th and 9th at St. Mary’s Cathedral in Northwest Portland.

**Last Book Read:** She has been alternating fiction and nonfiction, and is currently reading Nature’s Justice: Writings of William O. Douglas, which combines Justice Douglas’s excellent discussions of the law and the politics of his early years on the Court as an FDR appointee with eloquent descriptions of his memories of life in the Pacific Northwest, particularly hiking and fishing in the Willows. The last novel she read was The Orphan Master’s Son, a compelling but terrifying imagining of life in North Korea.

**Legal Philosophy:** Sue-Del studied international human rights in law school and, in the course of a federal clerkship with the Honorable James Redden, came to view employment cases as domestic human rights issues, driven by the underlying human desires to be judged on one’s merits and fairly compensated. Sue-Del regularly represents employees, as well as advising small employers working to do the right thing. Sue-Del also practices condemnation law, a very different practice, but similarly informed for her by an interest in fairness and finding just compensation. She represents property owners, as well as small public bodies lacking in-house attorneys to handle condemnation matters.

**Latest Accomplishment:** This is easy: see the article on the next page on her win in front of the Washington Supreme Court in *Scrivener v. Clark College*. This victory was particularly exciting for her because it clarifies and corrects the standard for all employment discrimination claims in Washington, and it was her first Supreme Court appeal. Not only did the ruling resolve a split between divisions of the Court of Appeals as to the analysis of summary judgment motions in discrimination cases, it also eliminated the “stray comment” doctrine so that courts must review the relevance of any comment offered as evidence of discrimination. Sue-Del also enjoyed the opportunity to work with the Washington Employment Lawyers Association in its filing of an amicus brief.

**Beverage of Choice:** It depends, but a fresh local cider or a malty microbrew would not be neglected.



# CASE NOTE:

# Scrivener v. Clark College



**SKYLER TANNER**  
*Hearsay Special Correspondent*

On September 18, the Washington Supreme Court unanimously agreed with Petitioner’s counsel Sue-Del McCulloch<sup>[1]</sup> that her client, Kathryn Scrivener, had established a question of fact that age was a substantial factor in the decision to pass on Ms. Scrivener’s application for a tenure-track teaching position in favor of two much younger candidates. In ruling on this issue, the Court reversed the ruling of the Superior Court and the Court of Appeals and “clarif[ied] the standard plaintiffs must meet . . . [to] satisfy the pretext prong of the McDonnell Douglas framework . . . .” Slip Op. at 2.<sup>[2]</sup>

In 2005, Clark College was looking for two tenure-track professors in its English department. See *id.* at 2–3. From a pool of 152 candidates for the positions who met the minimum qualifications including a relevant master’s degree and teaching experience, the screening committee referred Ms. Scrivener and three other candidates to the president and vice president of instruction to make the final hiring decision. *Id.* at 2–3. Part of Ms. Scrivener’s teaching experience included teaching as an adjunct instructor for the College since 1994 and then becoming a full-time, temporary (non-tenure-track) instructor beginning in 1999. *Id.* at 2. After an interview with the university president and the vice president of instruction, the College did not offer Ms. Scrivener either position. *Id.* at 3.

Both sides presented evidence and argument on the College’s motion for summary judgment. Besides the factual background listed above, Ms. Scrivener provided evidence that the university president had publicly discussed the need for the College to hire younger faculty and that in 2005 and 2006, fifty-six percent of the tenure-track professor hires were younger than age forty. *Id.* Conversely, the College provided evidence that the candidates whom the College ultimately hired were better fits for the College and its English department, and that Ms. Scrivener lost her place at one point during her teaching demonstration. *Id.* at 4.

Turning to the legal framework for making its decision, the Court explained that the Washington Law Against Discrimination prohibits an employer from rejecting a candidate between the

ages of 40 and 70 if the candidate’s age was a “substantial factor” in the employer’s hiring decision. *Id.* at 5. If plaintiffs do not have direct evidence of discrimination, Washington courts use the burden-shifting framework articulated by the U.S. Supreme Court in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). *Id.* at 6. Under the first prong of this framework, plaintiffs may establish a prima facie case, which creates a presumption of discrimination. The defendant must then rebut the presumption by articulating a legitimate, nondiscriminatory reason for the adverse employment decision. *Id.* at 6–7. The burden then shifts again to the plaintiff to show that the nondiscriminatory reason was pretextual. *Id.* at 7.

The question of how an employee may satisfy the pretext prong was the issue that divided the Superior Court and Court of Appeals from the Supreme Court. The Court of Appeals held that Ms. Scrivener had to disprove the College’s stated nondiscriminatory reasons by showing “that the defendant’s articulated reasons (1) had no basis in fact, (2) were not really motivating factors for its decision, (3) were not temporally connected to the adverse employment action, or (4) were not motivating factors in employment decisions for other employees in the same circumstances.” *Id.* at 8 (quoting *Scrivener v. Clark Coll.*, 176 Wn. App. 405, 412 (2013)). The Supreme Court explained, however, that these four options were only examples of how a plaintiff could prove the defendant’s articulated reasons were pretextual and that a plaintiff could also satisfy the pretext prong by presenting sufficient evidence that discrimination was a substantially motivating factor for the adverse employment decision. *Id.* at 8–9. The Court went on to hold that Ms. Scrivener had provided sufficient evidence to create a genuine issue of material fact concerning whether age was a substantially motivating factor in the College’s decision-making process, and that a jury should weigh the evidence. *Id.* at 11–12.

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*This is intended to be a source of general information, not an opinion or legal advice on any specific situation, and does not create an attorney-client relationship with our readers.*

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[1] More background is available on Sue-Del McCulloch in the Hearsay Profile on page 26.

[2] A copy of the opinion can be found at <http://www.courts.wa.gov/opinions/pdf/893772.pdf> or 2014 WL 4648179.

# Clark County VOLUNTEER Lawyers Program

Susan Arney, Executive Director  
Ashley Belisle, Program Coordinator  
Administrative: 360-823-0423  
E-mail: susana@ccvlp.org

I attended the swearing in of new attorneys this month. It is great to see so many new faces. If you are new to Clark County or an old timer and would like to learn a new area of civil law, have I got a deal for you. You can volunteer for the CCVLP and we will train you. We have CLE's, you can sit in on advice clinics, you can shadow attorneys at the Unlawful Detainer docket and our experienced attorneys will mentor you.

If you are interested, please get ahold of me. We are always looking for volunteers and will start assigning advice clinics for 2015 soon.

Thanks for volunteering,  
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 AUGUST**

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**HOUSING JUSTICE PROJECT:**

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**HOME FORECLOSURE PROJECT:**

Carolyn Simms

**Statistics for AUGUST**

Cases Place for Representation	4	Volunteer Attorney Hours	491
Clinic	# of Appts.	Clinic	# of Appts.
Family Law Advice Clinic	9	Family Law Paperwork Clinic	11
Bankruptcy Clinic	2	General Law Clinic	1
Homeless Shelter Clinic	6	Homeless Court Referrals	3
Housing Justice Project Clinic	6	Housing Justice Project Courthouse	12
Home Foreclosure Project	1	Non-Parental Custody Clinic	0
Spanish Family Law Clinic	1	YWCA Domestic Violence Family Law	3

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# LAW LIBRARY NEWS



**MARIA SOSNOWSKI**  
Law Librarian

## FOR SALE - Through Nov. 2014

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

1. Deposing and Examining Doctors looseleaf plus CD Rom
2. Washington Court Rules State
3. Washington Elements of an Action - Wa Pr 29
4. Washington Summary Judgment - Wa Pr 34
5. Electronic Discovery and Records and Information Management Guide: Rules, Checklists, and Forms
6. Civil Rights and Civil Liberties Litigation, §1983
7. Building a Parenting Agreement that Works - NOLO
8. Consultants and Independent Contractor Agreements - NOLO
9. Deposition Handbook - NOLO

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

# NEWS YOU CAN USE



**LISA DARCO**  
CCBA Office Manager

We are in search of a new Golf Committee Chairperson or persons! Please contact the CCBA office if you're interested!!!

FYI: Over the past several months we have published a series of articles entitled, "The Clark County Superior Court Jury Selection Procedures". Those very informative articles have been condensed and placed on our website for your reference. You can find them here: <http://www.ccbawashington.org/member-resources/clark-county-superior-court-jury-selection-procedures>

Update: The phone number listed in the CCBA directory for attorney Ryan Taroski is incorrect. We have tried finding updated contact information without success. Please make a note in your directory not to use the listed number when trying to contact him. Thank you!

## HEARSAY ADVERTISERS WANTED!

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## WANTED!!!

**The Hearsay is in search of new and exciting material and new and exciting contributors!**

**Please join us on the third Wednesday of every month at noon at the CCBA office!**

**If you have a great idea to share please don't hesitate to contact us.**

**Call Lisa in the CCBA  
office at 695-5975**

# UPCOMING EVENTS

MEETING

**October 22, 2014**

Inns of Court  
South Pacific Rum Bar & Grill  
5:00pm - 6:30pm

MEETING

**November 5, 2014**

CCBA Board Meeting  
CCBA Office Noon - 1:00pm

MEETING

**November 7, 2014**

CCBA Candidates Forum  
Public Service Center Noon - 1:00pm

CLE

**November 12, 2014**

Nuts & Bolts CLE: Construction Law:  
Liens and Bond Claims  
Vancouver Hilton 3:00pm - 5:00pm

MEETING CLE

**November 13, 2014**

Family Law Section Lunch & CLE  
Vancouver Hilton 11:30am - 1:00pm

MEETING

**November 18, 2014**

Hearsay Committee Meeting  
CCBA Office Noon - 1:00pm

CLE

**November 18, 2014**

CLE: Assisting Mentally Incompetent  
Adults and their Families  
Red Lion at the Quay 1:00pm - 4:30pm

MEETING

**November 19, 2014**

Inns Of Court  
South Pacific Rum Bar and Grill 5:00pm -  
6:30pm

## SW WASHINGTON LAWYER REFERRAL SERVICE

The CCBA's Lawyer Referral Service is a program designed to help the general public find attorneys appropriate for their needs, while at the same time providing a source of new client business exclusively to our members.

To participate, members pay a small one-time annual fee. (The service is free to the public.) For more information, call the CCBA at 360-695-5975.

### THE SWLRS REFERRED 163 CLIENTS IN THE MONTH OF SEPTEMBER

Administrative Law .....	9
Bankruptcy .....	1
Business & Corp .....	3
Consumer .....	12
Criminal .....	8
Debtor/Creditor .....	6
Family Law .....	40
General Litigation .....	31
Labor & Employment .....	9
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Wills & Trusts .....	13
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Arin Dunn  
(360) 737-6793  
arin@arindunn.com



**IMMEDIATE PAST PRESIDENT**  
Jane Clark  
(360) 859-3823  
jane@janeclarklegal.com



**VLP REPRESENTATIVE**  
Philip Wuest  
(360).699-1201  
pwuest@dsw-law.com



**VICE PRESIDENT**  
Rick McLeod  
503-595-5300  
rick.mcleod@klarquist.com



**TRUSTEE**  
Chad Sleight  
(360) 690-0064  
csleight@vancouverlaw.net



**OFFICE MANAGER**  
Lisa Darco  
(360) 695-5975  
ccbamanager@ccbawashington.org



**SECRETARY**  
Le Ann Larson  
(360) 397-2265  
lelarson@wapa-sep-wa.gov



**TRUSTEE**  
Laura Mancuso  
(360) 695-7909  
Laura\_Mancuso@marsh-higgins.com



**MEMBER SERVICES**  
Paula DeLano  
(360) 695-5975  
ccbaserVICES@ccbawashington.org



**TREASURER**  
Mark Sampath  
(360) 597-3514  
mark@sampath-law.com



**TRUSTEE**  
Gideon Caron  
360-699-3001  
gcaron@ccrslaw.com

## Conference Room available to rent

*The CCBA's office conference room is available for meetings and depositions at reasonable rates.*

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