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Snohomish County Bar Association

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News

**Snohomish County Bar Association and
Northwest Justice Project**

Present

**“Professional Responsibility and
Practice in the Time of COVID-19”**

December 16, 2020

12:00 p.m. to 1:00 p.m.

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INSIDE THIS ISSUE

- ★ **From the Desk of the President (cover)**
- ★ **Calendar of Events**
- ★ **Lawyers Road Review - Downtown Dystopia**
- ★ **The Face of a Legal Technician -Economic benefits of closing the justice gap**
- ★ **Announcements**
- ★ **Advertisements**

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SCBA CALENDAR OF EVENTS

December 2020

3rd Young Lawyers Section Meeting
4th **Guardianship CLE**
15th Deadline SCBA Newsletter
16th **Responsibility during Covid CLE**
17th SCBA Board of Trustees Meeting
21st Family Law Section Meeting
25th **Courthouse Closed**

March 2021

4th Young Lawyers Section Meeting
15th Deadline SCBA Newsletter
15th Family Law Section Meeting
18th SCBA Board of Trustees Meeting

January 2021

1st **Courthouse Closed**
7th Young Lawyers Section Meeting
15th Deadline SCBA Newsletter
18th **Courthouse Closed**
21st SCBA Board of Trustees Meeting
25th Family Law Section Meeting

April 2021

1st Young Lawyers Section Meeting
15th Deadline SCBA Newsletter
15th Family Law Section Meeting
19th SCBA Board of Trustees Meeting

February 2021

4th Young Lawyers Section Meeting
15th Deadline SCBA Newsletter
15th **Courthouse Closed**
18th SCBA Board of Trustees Meeting
22nd Family Law Section Meeting

May 2021

6th Young Lawyers Section Meeting
15th Deadline SCBA Newsletter
20th SCBA Board of Trustees Meeting
24th Family Law Section Meeting
31st **Courthouse Closed**

SUPERIOR COURT ASSIGNMENTS

See Superior Court Website for Calendar

<https://snohomishcountywa.gov/1338/Calendars-and-Schedules>



THE LAWYER'S
ROAD REVIEW
BY PETE PATTERSON

Downtown Dystopia

Civilized. Adj. *civ-i-lized*. Characteristic of a state of civilization, esp. characterized by refinement, taste, or restraint.

When Brooks Brothers went bankrupt, I asked my wife to review the website for any sales the Debtor in Possession might offer to keep the lights on during Chapter 11. Scoring a success twice, we set our sights on Nordstrom's downtown store for alterations.

A trip to downtown Seattle is rather like a trip inside a nightmare, a *Blade Runner* world where only the vestiges of civilization appear to remain. All in all it has the feel of a city which has been sacked.

Gone are the busy shoppers of a Sunday afternoon, gone too are the shops by and large. Storefronts stand bordered up. Some, like Nordstrom do remain open, but the display windows are all shuttered in plywood, now tagged by gangs.

No contemporary visit to the downtown core would be complete without the appearance of Seattle's Finest, members of a shrinking force which has lost 10% of its size due to attrition since June; retirements and resignations and a hiring freeze have left their mark. Policy makers, Seattle's own Politburo, more commonly referred to as the City Council, wanted this reduction in force by choking off funding, and yet coming to terms with what it meant in terms of hard numbers has proved elusive; The hiring freeze alone appears to be doing the job for them as members of the force opt out of further service in an increasingly hostile environment; hostile on the streets, and hostile in the Council Chambers.

And so, three urban tactical assault vehicles emblazoned with the emblem of the Seattle Police raced past us on 5th Ave. to some atrocity south of where we were to turn at Pike, then on 6th. We parked at the newly remodeled Park Place downtown mall. Few cars in the lot, fewer shops in the mall, most tastefully boarded over with arrows pointing to Nordstrom's. We took the skybridge to gain access to our appointment at the sparsely populated department store, rather than risk a street entrance, despite noticing another of Seattle's Finest standing guard at the door.

It is impossible to tell how much of the depopulation of downtown Seattle is a result of the virus, how much of it is due to rioting, or how much

of it is due to how the City handled either crisis. Clearly a virus does not necessarily lead to boarded up buildings. Clearly the nightly riots have subsided for now to something merely periodic. Neither engenders a vibrant city. The latest graph I saw shows violent crime on the rise and number of police declining.

Somehow a bit of my sense of humor remained such that on the return trip to recover the tailored suits in the week that followed I could not help but cuing up the ironic title "*Downtown*" by Petula Clark on our hopelessly bourgeois Buick Park Avenue's car stereo as we roared down 5th Avenue past the boarded up stores:

When you're alone and life is making you lonely

You can always go - downtown.

*When you've got worries all the noise and the hurry
Seems to help I know- downtown.*

Just listen to the music of the traffic in the city

*Linger on the sidewalk where the neon signs are pretty
How can you lose?*

Right. How can you lose? Forget all your troubles because the city has it much worse. The 1964 hit song played as a perfect foil as we toured past the devastation in the downtown core.

The lights are much brighter there

*You can forget all your troubles, forget all your cares
So go downtown!*

Things will be great when you're -downtown!

No finer place for sure -downtown!

Everything's waiting for you.

Everything is waiting for you. I wonder what that means now?

Rents have declined 14% this year in the Seattle area, according to the *Post Intelligencer*. The virus is blamed. Yet downtown does not look like the kind of place I would want to live.

Between being sized for the suits and picking them up I read another local news story of a member of the city council floating an amendment to the municipal criminal code whereby misdemeanors other than DUI and domestic violence would be provided a legal defense should the accused be able to show one of the following:

- Symptoms of addiction without needing to have a medical diagnosis; or
- Symptoms of a mental disorder; or
- Poverty if the crime was committed to meet a basic need.

Imagine for a moment this teen / parent conversation should this measure pass:

"Mom I need a pair of Nike Air Jordan's as they are a basic need".

“Sorry son, we cannot afford those shoes for you.”

“Fine, I will head down to the Nike store on 6th and Pike to liberate a pair for myself and will call you as a witness to our poverty when I am charged with shoplifting for basic needs.”

*Don't hang around and let your problems surround you
There are movie shows- downtown.*

*Maybe you know some little places to go to
Where they never close - downtown.*

Maybe they never close. Maybe. I know I read elsewhere the tale of shoplifters showing up at closing time and those keeping the store really have no remedy as the crime is committed far more quickly than the police can respond.

Still others committing this crime are quoted by media as referencing somehow feeling harmed by corporations and this is their remedy. I thought our system of laws tended to punish self-help. Or is that to be amended as well?

Perhaps downtown Seattle looks today like Rome did shortly after it fell to the Barbarians. The incongruity of being outfitted in a pair of Brooks Brother's suits in this place did come to mind. But, I thought to myself, I will do what I can to not allow civilization to slip away and go quietly into the night.

*Just listen to the rhythm of a gentle bossa nova
You'll be dancing with 'em too before the night is over
Happy again...*

Downtown, Downtown, Downtown. . . ☺

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In the month of November we put out the call to the general membership to serve the SCBA as a Trustee on the Board of Directors. We have four positions up for election. If you are interested please contact Joyce Wood at the SCBA office (425) 388-3056 or joycew@snoabar.org by December 15, 2020. I know that there are some of you that see things you would like to have changed or improved and now is your chance! We will need a photo and a 300 word biography, both of which will be placed in the SCBA News with the ballot.



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THE FACE OF A LEGAL
TECHNICIAN
BY MARYA NOYES

Economic benefits of closing the justice gap.

There is a cost to lack of access to justice. This cost is not just borne by the unfortunate litigant who finds themselves without access to legal aid, but to society in general. In economics this cost is referred to as *Deadweight Loss* or the cost to society created by market inefficiency. (You may nor may not remember; I wrote about this subject back in March.) In that article, I also stated that inefficient markets result in costs to buyers, sellers, and the whole of society. Consequently, it would therefore follow that buyers, sellers and all of society would benefit from correcting the market inefficiency. I then proposed that a more efficient legal marketplace would benefit buyers, sellers, and society in general.

When I first wrote the article on *Deadweight loss* my reasoning was just a theory based on years of training in economics. It just so turns out that my theory appears to be correct. Studies have shown that increasing legal aid can lead to significant government savings, greater efficiency in the justice system and increased economic productivity. In fact, according to a report published jointly by the World Bank and International Bar Association (IBA) in September of 2019, improving legal aid services is as important for **economic growth** as providing functioning hospitals, schools, and roads.¹ In other words, resolving the justice gap or reducing market inefficiency leads to an overall societal benefit.

If you are out of Melatonin and looking for ways to get to sleep, I highly suggest you read the World Bank's report. I have included the link to the report below for your reference. It analyzes over 50 cost benefit studies of legal aid and related services in a range of countries and jurisdictions across the world. Just in case you thought the justice gap was an issue specific to Washington State, the report estimates that approximately 5.1 billion (with a B) people in the world lack meaningful access to justice. This number equates to over two thirds of the world's population.

Given the fact that Washington State is ranked 9th among the states in per capital personal income, one might assume that the citizens of Washington

State have greater access to justice than those of Bangladesh or Liberia. However, before you start congratulating yourself on the terrific job Washington State has done in this area, you might take a minute and remind yourself of the update to the civil needs study conducted by the Supreme Court of Washington in 2015. This study found that more than three quarters (76%) of those who have a legal problem in Washington State do not get the help they need.²

Washington's high rate of lack of access to justice and simultaneous high level of per capita income is more than likely explained by the fact that Washingtonians also have the highest income disparity in the nation. Although a small percentage of our population make a remarkably high level of income (1%), the average income for most of our citizens (99%) is under \$57,100 per year.³ Further, the legal field in our country has a bad case of Baumol's Cost Disease, wherein costs for legal services have increased without a corresponding increase in productivity. This increase in cost has consequently pushed access to legal services out of reach for the majority of our state's citizenry.

Now despite appearances, I assure you that I did not write this article to lay another bleak picture of desperation of legal need before you. I wrote this article to share the fact that providing access to justice is not just morally right, it is also a very worthwhile economic investment.

If you have read any of the other articles I have written on the subject, by this point you have probably picked up a theme. If you have not read any of the other articles, I will suggest that you go back and read them. Not because I am so enamored by my own writing. (For the record, I am not.) I make this suggestion because throughout the last year, I have patiently and methodically shown that providing access to justice makes business sense for the legal establishment.

I have said it before and I will say it again, if legal services behaved like any other industry, services providers would have long ago engaged in pricing discrimination to capture the tremendous amount of unmet consumer demand. Creating a flexible pricing structure for legal services provides additional income for legal firms that is not currently being captured under the existing business model. At present over 76% (76%!!!) of people with a legal need in

continued on page 9

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continued from page 7

Washington are not getting the help they need. This high number of unserved potential clientele provides a tremendous opportunity for legal service providers to expand their client base and increase their bottom line.

It turns out that not only is providing access to justice profitable for the existing legal establishment, but it is also a profitable investment for society as a whole. The previously aforementioned World Bank report found that without legal aid, costs are borne by other aspects of the public sector less equipped to resolve the cause of the problem. For example, a study in Wisconsin found that each prevented incident of domestic violence saved \$3,201 per year in avoided medical care, mental healthcare, lost productivity, and property damage.² Another study from Kentucky found that every \$1 spent on obtaining a protective order saved \$32 in avoided costs for society.²

Obviously, government investment is substantially different than the economic model of allowing a free market to reach equilibrium. However, it appears that even the less efficient model of providing government subsidies to legal aid is sufficient to reduce a portion

of the deadweight loss created by the current model of monopolistic protectionism in the legal marketplace. The downside of government intervention in marketplace is the potential of raised taxes, inefficient allocation of resources and political interference. Therefore, most economists will usually prefer a “laissez faire” (leave alone) approach to capitalism.

When monopolies establish a stranglehold on an industry, more often than not they create a corresponding overall loss to society. As previously stated, there are only rare instances when monopolies provide the optimal outcome for the marketplace and society as a whole. These only occur when adding an additional supplier becomes cost prohibitive or inefficient, such as with providers of water or sewer services.

The reason why our society has laws against monopoly creation is that they typically result in a decreased competitive landscape, higher pricing, and lower supply than what would be achieved in a perfectly competitive marketplace. In these cases, government investment or intervention appears to be the only option to level the playing field and reduce the overall cost to buyers, sellers, and society as a whole. ↪

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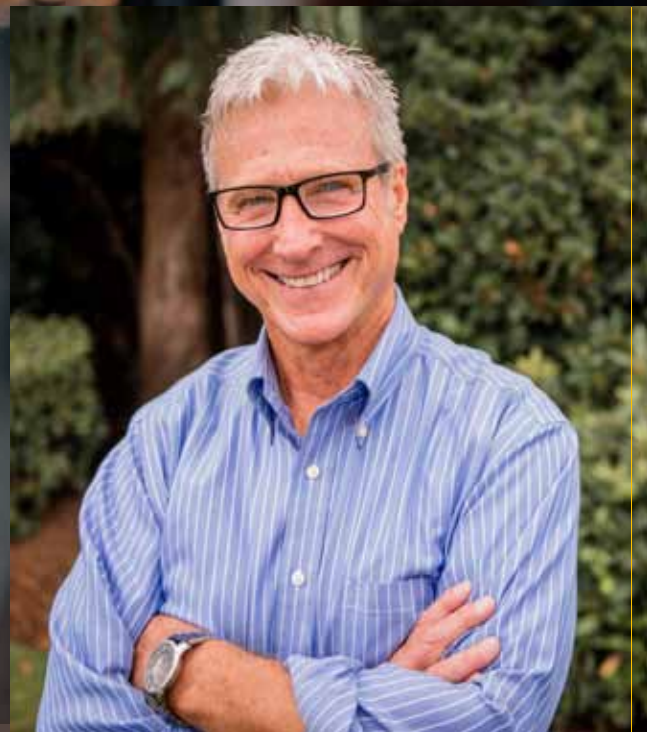
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For an example of Ron's work, see *City of Sunnyside v. Gonzalez*, 188 Wn.2d 600 (2017). TVW

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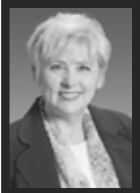
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**Snohomish County Bar Association and
Northwest Justice Project**

Presents

**Changes To Guardianship Practice
In 2020 New Statutes and New
Procedures**

December 4, 2020
9:00 a.m. to 4:30 p.m.

**Commissioner Tracy G. Waggoner, Snohomish County
Superior Court**

Sage Graves, Hickman & Menasche

M. Geoffrey G. Jones, Newton Kight, L.L.P.

David Lord, Disability Rights of Washington

Shannon Marsh, Tuohy Minor Kruse PLLC

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Arbitrations and Mediations

Snohomish County Superior Court Local Rule 94.04(c)(3) requires for family law cases filed after September 1, 2018, in which a Compliance Schedule is set, the parties must file proof of compliance with the ADR requirement by **filing a Notice of ADR Compliance no later than 8 months from filing the case or prior to confirming the trial, whichever comes first.**

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Commissioner Calendar

	Department A Jacalyn Brudvik	Department B Susan Harness	Department C Tracy Waggoner	Department D Patricia Nelson
Monday	9:00-10:30am Ex Parte	9:00am Domestic Motions	9:00am Domestic Motions	9:00am State Paternity
	10:30am Weapons Surrender 11:00 AM Special Set			10:30am State Paternity
	1:00-2:30pm Ex Parte	1:00pm Dom. Viol./AH	1:00 PM Special Sets	1:00pm Guardianship
Tuesday	9:00-10:30am Ex Parte	9:00am Domestic Motions	9:00am Domestic Motions	9:00am Interpreter
	10:30am Civil Motions	1:00pm Dom. Viol./AH	1:00 PM Special Sets	Moriarty
	1:00-2:30 pm Ex Parte	Domestic Motions	Domestic Motions	1:00pm Guardianship
Wednesday	9:00-10:30am Ex Parte	9:00am Domestic Motions	9:00am Domestic Motions	9:00am State Paternity*
	10:30am Civil Motions			10:00 AM Special Set
				11:00am GAL Comp.
Thursday	1:00-2:30pm Ex Parte	1:00pm Dom. Viol./AH	1:00pm <i>Pro Se Dissolutions</i>	1:00/2:15 State Paternity
	9:00-10:30am Ex Parte	Domestic Motions	9:00am Domestic Motions	
	10:30am Civil Motions	Domestic Motions	Domestic Motions	
	1:00pm Ex Parte	Special Sets	Dom. Viol./AH	
	1:00pm <i>Att. Agreed Dissos</i>			
Friday	9:00-10:30am Ex Parte	Domestic Motions	9:00am Domestic Motions	9:00am Guardianship
	10:30am Civil Motions	Special Sets	Dom. Viol./AH	1:00pm Interpreter
	1:00-2:30pm Ex Parte			

Family Law Domestic Motions Dept B/C: LIMIT 16 - Confirmation required. All matters will be heard without oral argument unless noted by the Commissioner to be heard telephonically.

Domestic Violence: Telephonic appearance encouraged, however in person appearance is allowed. Petitioners unable to attend should contact the Facilitators office to request a continuance.

Interpreter Calendars: LIMIT 4- Confirmations required. Emergent contempt and custody matters only, telephonic appearance for these hearings.

Attorney Agreed Dissolutions: Confirmations required. Attorney involved default, agreed dissolutions, legal separations and invalidity actions. Written declarations should be submitted in lieu of testimony. Agreed orders must be received one business day prior.

Guardianship and Probate: LIMIT 14 Matters will be heard without oral argument except petitions for new guardianships or hearings noted by the Commissioner to be heard telephonically. New guardianship hearings will be telephonic and the parties should register with CourtCall.

Ex Parte: is open for emergency orders (see <https://snohomishcountywa.gov/5661/Ex-Parte> for more information). All non emergent orders should be delivered to the basket in C-123.

Civil Motions: All matters will be heard without oral argument unless noted by the Commissioner to be heard telephonically. Other restrictions apply to unlawful detainer motions and restoration of firearms. Confirmation still required.

State Paternity: Set only by the prosecutor. Will be heard telephonically. *Only heard the 2nd and 4th Wednesday of the month

Special Sets: Set by Commissioner only

For more information about hearings, appearances, confirmations, please visit:
<https://www.snohomishcountywa.gov/5657/Commissioner-Hearings>



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in the Holiday Season
and New Year.

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