

American Board of Trial Advocates™



Washington Chapter Newsletter April 2024

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PRESIDENT'S MESSAGE



Dear Members,

In April, we had a full schedule of events! We appreciate all who participated.

We had our first in-person Board meeting, discussing planning for upcoming events and ways our Chapter can make a positive impact in the legal community and beyond.

On April 4, we had the pleasure of listening to a panel of Western District of Washington Senior Judges discuss their rich experiences on the bench and invaluable contributions they have made in our legal community and jurisprudence. This was a joint event put on between the FBA and ABOTA. After the panel discussion, I was honored to give a short speech on the importance of judicial independence, and discussing the White Paper put out by National ABOTA on this topic. It is well worth a read. We then had the privilege of honoring these legal titans with a plaque from the WA ABOTA Chapter and a vibrant reception. Thank you to Nicole Battles and Tom Vertetis in being so instrumental in putting this successful event together!

On April 23, Judge Crawford-Willis, Tom Fain (former WA Chapter ABOTA President and 5 years retired) and I gave a Civility Matters presentation to law students and staff at the Seattle University School of Law. We called it "Lawyers Gone Wild!" It was a two-hour event full of great topics relating to the importance of civility in our profession. We really appreciate Judge Crawford-Willis in giving us some unique insight into the perspective of a judge as it relates the importance of being civil not only as an attorney, but as a judge. I thank Tom Fain in his tireless effort in getting us into the Washington Law Schools to teach this crucial and timely content to our up-and-coming legal professionals. In May, we will be giving another Civility Matters presentation to the law students at University of Washington School of Law. I am proud of our Chapter in reaching out to the younger generation in teaching this salient topic.

-Eron Cannon

SENIOR JUDGE APPRECIATION CLE & RECEPTION

On April 4th, the Washington Chapter of ABOTA and the Federal Bar Association - Western District of Washington co-hosted an event to recognize the Senior Judges of the WDWA.





Welcome to the 2024 Judicial
Appreciation Event co-hosted by



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**LAWYERS GONE WILD –CIVILITY MATTERS PRESENTATION AT
SEATTLE UNIVERSITY SCHOOL OF LAW**

On April 23rd, the Washington Chapter hosted a Civility Matters program at Seattle University School of Law with Judge Anita Crawford-Willis.



FREE CLE

The ABOTA Foundation hosts a free CLE each month. [Click here](#) to see the list of upcoming topics and dates, as well as to access recordings of all past seminars.

If you are interested in receiving CLE credit for viewing the recorded programs, please contact Nicole at nicole@wa-abota.org.

CIVIL TRIAL TIP OF THE MONTH



This month's Trial Tip is from Pierce County Superior Court **Judge Tom Quinlan**.

Judge Thomas Quinlan is currently serving a second felony criminal rotation for the Pierce County Superior Court. He has previously served a civil rotation and is slated to serve as a Family Court Judge later in 2024. Prior to being elected to the bench, Judge Quinlan practiced Civil Law in state and federal courts in

western Washington. His civilian practice was augmented by his career as a US Army Reserve Judge Advocate.

Judge's Judicial Assistants

My most recent civil motion docket was preceded by my very capable staff informing me of a litigant's discourteous and rude behavior to them. This made me wonder: if a bully to the Court staff, how does this person act with the opposing party?

Being courteous and responsive to a Judge's Judicial Assistant (JA) may seem to be common sense, however on rare occasions I have witnessed (and colleagues have shared) instances where common sense was lacking when interacting with the JA. Needless to say, the JA's duties involve a lot. So, why not make a positive impression by not making a JA's involved and difficult job more difficult?

As you may know, JAs work at all levels of federal, state and local courts, and the number, titles and duties of judicial assistants varies by the jurisdiction. Also known as judicial bailiffs or clerks, a trial court's judicial assistant is an integral and critical member of a judge's staff.

A JA keeps things running smoothly for the judge. Judges have duties in their chambers and in the courtroom. In chambers, a JA may be called to serve in a secretarial or an administrative assistant type role. This involves greeting visitors and answering the telephone, managing the judge's schedule, organizing the motion and trial calendar, handling interoffice filing, typing letters, opening mail, distributing mail, and communicating with litigants and lawyers about logistical matters.

In the courtroom, the JA directs members of the public who wander into the courtroom to the appropriate areas and interacts with parties and witnesses who are in the courtroom for scheduled matters. During trials, the JA is responsible for marking and registering trial exhibits. During jury trials, a JA may also have responsibility for the jury. These duties are often quite practical and can include getting jury members in the right seats, checking to make sure all jury members reappear after a break or receiving any jury questions.

Here are my thoughts with some anecdotal real-life examples.

Be honest in all communications. This is my number one piece of advice for all lawyers. You cannot become so involved with your client and your case that

you shade the truth when talking to the court (or your opponent or the jury). You may get away with it a few times, but this will catch up with you.

An egregious example is the lawyer who communicated to a JA on the morning of trial that a continuance was needed as she had tested positive for COVID. It was later disclosed (from a Facebook post) the lawyers' unavailability was from a vacation delay; and, there had been no COVID exposure.

Why put your reputation at risk? Your reputation for being honest will help you for years to 'win' or get the best results for your client. As lawyers, we knew who could not be trusted. They drive up the cost of litigation in dollars and in frustration. Judges also know who they are; and, judges can be hard on them in rulings, whether it's a discovery problem or a trial setting issue.

Adhere to the Court's scheduling orders. If you haven't, then don't communicate excuses or blame others for your lack of preparedness. Be responsible and professional, apologize to the court and proceed as best as you can. If you absolutely need time to prepare a brief or argument, ask for a new setting within a reasonable time. During scheduling communications do not list all of opposing counsel's bad acts as well. While they may be listed in a discovery dispute or to explain the efforts made to avoid having to come to court, they should not be communicated to the JA as a defense for one's own failure to follow the scheduling order, etc.

Pay early attention to exhibits and depositions. Communicate with the JA in advance of your trial to find out preferences for the delivery and handling of exhibits. In a six-week bench trial involving literally hundreds of exhibits and thousands of pages of documents- the cooperation and coordination of the parties' legal teams with the JA made a monumental and daunting task manageable. A pretrial meeting was used to give the court (and JA) notice of the logistics in terms of sheer numbers and volumes of exhibits and video depositions. The result was the majority of the trial day being available to put on testimony.

Ask about pre-marking exhibits. If exhibits are pre-marked by the JA it expedites the whole trial. This also helps you organize your presentation of the case, organize your thoughts, and will show you the important points you must make. Be sure to organize your exhibits for each witness so that you can make your points; and communicate that to the JA. Have depositions marked and tabbed on important testimony that may lead to impeaching the witness.

Have sealed original transcripts with you. Highlight the relevant and important points in your exhibits before trial; and, practice technology before using it in the courtroom. Coordinate with the JA to visit the courtroom before trial so as to acquaint yourself with room and technology logistics. Highlight your relevant parts in illustrative exhibits or deposition testimony for the jury and be ready to project those. Do a preliminary or dry run of use of technology before the trial. If you can't use the technology, it makes you look incompetent. It's not the JA's job to fix technology issues for you.

The JA may help you get to know who you are appearing before. I recall a quote from another unknown source-"we might all dress alike, but we are different." If you haven't had experience with a particular judge, ask your friends for information. Ask the JA for preferences on working copies, courtroom protocols or general expectations. Each judge has different styles and expectations. You want to be well informed, polite and respectful in those interactions.

Be humble and nice to all JAs. They know a lot about procedure for that particular courtroom and they know the judge's preferences on filings, arguments, schedules, and time. They also can make your life difficult if they find you arrogant, condescending or resistant to the Court's protocols. In one memorable instance, a lawyer had the audacity to suggest a 'better way' of handling marking exhibits and creating the clerk's exhibit log, among other things. The tone and tenure were not appreciated by a JA who had served nearly two decades through several criminal and civil trial rotations.

Also, don't make negative comments or facial expressions such as rolling your eyes at a judge's ruling. If not observed or experienced by the Judge, the JA will almost certainly be informing the Judge of those events.

Finally, timely respond to communications from the JA. It is all too much a regular thing that lawyers or their staff do not timely respond to a JA communication (phone call, email). I recommend a same day acknowledgment of receipt of the email or phone call-and if time is needed for substantive response make that known in that initial same day response.

With a timely response, you will not be thought to be ignoring or disregarding the communication.

MEMBER NEWS

Please submit member news to nicole@wa-abota.org for publishing in our next edition.

UPCOMING EVENTS

Civility Matters at UW - May 15th

We are looking for defense counsel to help with this program on May 15th from 10:30am-12:20pm at Gates Hall at the University of Washington. If you are available to help, please contact Nicole at nicole@wa-abota.org.

ABOTA National Meeting in Seattle - June 28-29

The summer ABOTA National Meeting will be in Seattle. We invite all members to join us for the event. More details and registration information is available at https://www.abota.org/Online/Events/Event_Display.aspx?EventKey=24NBM3

Masters In Trial - November 7th at Bell Harbor Event Center

More details are registration information to follow.

Annual Awards Dinner - November 7th at Bell Harbor Event Center

More details and registration information to follow.

ABOTA - CIVIC LEARNING COUNCIL

Recent Grants:

\$2,000 awarded to Lake Stevens High School for a 1-year digital subscription to a reliable local news source for students.