

American Board of Trial Advocates™



Washington Chapter Newsletter June 2022

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PRESIDENT'S MESSAGE



I would like to take a moment to pay respects to and remember those injured and killed over the last few weeks in Buffalo, Uvalde, Philadelphia, and the many other cities that have experienced violence. When faced with so much tragedy and grief, it can be hard to see how we can make a difference. But each of us can make a

difference when we lead with civility. We can be involved in our community and schools, write our local and national elected officials, vote, join a community group, and talk with our friends and neighbors.

As local civility champion Paula Lustbader from the Seattle University School of Law writes, "Civility calls upon us to advocate effectively without losing our humanity and to challenge ourselves to make a contribution to our world."

I am honored and thankful to serve with all of you in this organization and to continue our goals of civility in both our personal and professional endeavors.

Sincerely,
Ketia

FREE CLE

The ABOTA Foundation is holding a free virtual CLE on June 15th, 2022 from 12:00 P.M. - 1:00 P.M. Central

Jury Size: Does it Make a Difference?

Jury size varies amongst the states and depending on whether a case is criminal, civil and in a court of limited or general jurisdiction. Many states have a long history of less than 12 jurors and several others have experimented with smaller jury panels. This webinar will discuss civil jury size from a practical, experienced perspective on the impact of jury size on the cost of impaneling a jury, access to justice and improving juror experience. It will also discuss results of studies on how jury size may affect the quality and dynamics of deliberations, demographic and attitudinal diversity and how verdict decision rules may impact any disadvantages of smaller juries.

Presenters:

Paula Hannaford-Agor, National Center for State Courts
Michael P. Maguire, Orange County Chapter

Eric Traut, Orange County Chapter

This CLE is free to everyone, including non-ABOTA members, so feel free to invite those from your firm who may benefit. CLE Credit will be applied for in Washington.

Register

at: https://us06web.zoom.us/webinar/register/WN_GOLqwmIHQmmYLWUM4Aenn9

CIVIL TRIAL TIP OF THE MONTH



With the prevalence of virtual trials around our state, we are partnering with King County Superior Court to provide a “Civil Trial Tip of the Month” by a designated superior court judge. This will help us improve our practices and also get to know the judges a little better.

This month’s tip is from King County Superior Court **Judge Brian McDonald**.

Judge Brian McDonald was appointed to the King County Superior Court by Governor Jay Inslee in August of 2019. Judge McDonald recently served two

years as a civil judge in Seattle and presided over numerous virtual jury trials over Zoom.

Prior to his appointment, Judge McDonald worked for more than 25 years in the King County Prosecuting Attorney's Office, where he served as a senior deputy prosecuting attorney on both criminal trials and appellate matters. Judge McDonald frequently appeared before the Washington Court of Appeals and the Washington Supreme Court. From 2008 to 2009, he served as a Commissioner for the Court of Appeals, Division One. During his last seven years in the prosecutor's office, he was the Chair of the Homicide and Violent Crime Unit and supervised 15 experienced trial attorneys.

Early in his legal career, Judge McDonald was a civil litigator with Cairncross and Hempelmann in Seattle and Thelen, Marrin, Johnson and Bridges in San Francisco.

Judge McDonald attended Stanford University and the University of Michigan Law School.

TIP: When moving to shorten time, clearly articulate the good cause justifying the motion and follow the procedural requirements of the local rule.

Motions to shorten time can be disruptive to the court, the parties and other pending cases. These motions require the court to interrupt its regularly scheduled work in order to consider the motion to shorten time, and, if that motion is granted, the substantive motion at issue.

Nonetheless, there are times when a motion to shorten time is warranted. Any such motion should be very clear about the "good cause" justifying the need to speed up the court's consideration of a motion. You should explain how your client will be prejudiced if the substantive motion is not heard under the ordinary schedule. In addition, unless it is obvious, you should address why the motion was not filed earlier; the judge will likely consider whether the need to shorten time is due to a delay on your part.

Lawyers sometimes overlook King County Local Civil Rule 7(b)(10), which governs motions to shorten time. That rule includes several requirements concerned with procedural fairness, such as:

- As soon as you are aware that you plan to file a motion, you must give notice to the other party “in the form most likely to result in actual notice.” The declaration filed in support of the motion to shorten time must describe the efforts made to notify the other side.
- The motion to shorten time should be noted two judicial days after it is served and filed on the opposing party. If exigent circumstances make this timeline impossible, the moving party must contact the bailiff so that a conference call on the motion can be arranged.

If the opposing party indicates that they do not oppose the motion to shorten time, you should inform the court and propose a briefing schedule and hearing date. You should still identify the good cause for the motion because, even when the parties agree, the court has discretion to deny the motion. Among other reasons, the court’s schedule may not allow it to review the substantive motion on your preferred date.

If you are on the opposite end of a motion to shorten time and intend to oppose the motion, your time is limited because the court will likely rule on the motion on the second judicial day after the motion is filed. Given this timing, when you file and serve your opposition, it may be prudent to send by email a courtesy copy to the court and the opposing party.

UPCOMING EVENTS

June 30th

Join us for a FREE 1 hour lunch Ethics CLE focusing on ethical issues related to representation of multiple parties, mediation conduct, and protecting client interests and safeguarding client documents presented by attorneys Melissa Carter (Managing Partner at Adler Giersch) and Rebecca Ringer (Retired – Floyd Pflueger & Ringer).

Location: Virtual

Time: 12:15PM-1:15PM Pacific

Cost: Free, open to members and non-members

Presenters: Melissa Carter & Rebecca Ringer

CLE: 1.0 CLE credit will be applied for

Register: https://us06web.zoom.us/webinar/register/WN_zD40BmJPQ4aISTWmqi4TVA

November 10th - MIT

Washington Athletic Club

More details to follow

November 10th - Annual Meeting Dinner and Awards

Washington Athletic Club

More details to follow

SPRING MEMBER EVENT

Thank you to those who could join us for the reception on May 19th at the Rainier Club. We had a great time getting to know the judges that attended, as well as catching up with colleagues. Mediator Keith Kubic and Judge Melissa Hemstreet gave some practice tips





WELCOME NEW MEMBERS

We are pleased to welcome Miranda Aye and David Wieck as the two newest members of ABOTA! They were approved at the National Board Meeting in Chicago in May.



If you would like to nominate a colleague for membership, please fill out the [Nomination Form](#) and send it to Nicole Battles at abotawashington@gmail.com.

