

American Board of Trial Advocates™



Washington Chapter Newsletter March 2024

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PRESIDENT'S MESSAGE



Dear Members,

This last month, the WA Chapter of ABOTA conducted our inaugural Voir Dire competition at the University of Washington School of Law. It was a great success thanks to the hard work of Past President, Ketia Wick, and our Executive Director, Nicole Battles. We are also thankful for Judges Timothy Ashcraft, Coreen Wilson, Rhonda Laumann and retired Judge Roger Rogoff for volunteering their time in judging the competition and providing valuable feedback to the aspiring trial attorneys after the close of the competition. Gonzaga Law School is excited to host this competition next year. Of course, we are also thankful for the generous donations from various law firms and vendors for their financial assistance. Without your donations, we could not put on these worthwhile events.

At the outset of the competition, I was excited to spend some time with the law students describing our organization and what ABOTA is all about. In doing so, it reminded me of the values we hold dear in this organization and to challenge myself to be a reflection of those values in my every-day interactions as an attorney. As a member of ABOTA, we are called to elevate the standards of integrity, honor, ethics, civility, and courtesy in the legal profession. I know I fail in elevating these standards from time to time, and I have to give myself grace knowing that I am not perfect, but the key is to recognizing this failure and to improve myself next time. That is called growth. I encourage you all to ponder on these values and periodically check in with yourself to see if you are upholding them. If we all do our part in exhibiting these values, we will reflect this as an organization, and people from the outside will recognize that there is something different and inspiring about those folks in ABOTA. In this way, we can make a positive impact in the legal community and beyond.

The Board continues to make plans for the coming year and we will be rolling out some exciting programs in the coming months. Stay tuned!

-Eron Cannon

VOIR DIRE COMPETITION

The first annual "Best in Washington" Voir Dire Competition was a success! **Past President Ketia Wick** did an amazing job of organizing this inaugural event.

Each of the three Washington Law Schools sent two teams and competed in three rounds of jury selection with real jurors. The teams had to submit a strategy memo ahead of the event and received juror background information in advance.

They then has to use their skills and react in real time to the answers the jurors gave during questioning.

It was an exciting day and every team did a fantastic job!

2024 Best In Washington Team Champions -

Elizabeth Rothrock, Anna Pearson, and Tara Renick - Gonzaga University School of Law



2024 Best In Washington 2nd Place Team -

Jailine Vasquez-Leon and Cambria Judd Babbitt - Seattle University School of Law



2024 Best In Washington Civility and Professionalism Awards

Anna Pearson - Gonzaga University School of Law

Alisa Das - University of Washington School of La





Thank you to Judges Timothy Ashcraft, Coreen Wilson, Rhonda Laumann and retired Judge Roger Rogoff for volunteering to judge the competition.



This event would not have been possible without our sponsors. A sincere thank you to all who stepped in to help fund this program. It would not have been possible without your generosity.

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**Additional thanks to Steve Pruzan, University
of Washington, and First Court.**

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 **Judge Shelly K. Speir-Moss** of the Pierce County Superior Court.

Judge Moss has served on the Pierce County Superior Court Bench since 2017. She is currently the Chair of Pierce County's Civil Case Management Committee and SCJA's Civil Law & Rules Committee. In the time she has served as a judge she has presided over more than 700 trials and is one of the few Pierce County judges who conducted jury trials prior to Covid. Before her election to the bench she was a civil trial lawyer for 19 years.

Make the Most of Your Voir Dire

Many years ago as an attorney, I was called for jury duty and had the privilege of sitting in our jury services room with the other 200+ potential jurors who had been summoned in that day. As I sat and listened to the conversations around me, I heard the jurors describe their attitudes toward our justice system, attorneys, judges, and a host of other issues.

After several hours my group was called up to participate in jury selection in a criminal case. I was lucky enough to participate in most of the selection process before I was excluded based on my employment. As I listened to the lawyers' questions and the juror responses, I learned a few important lessons.

First, I learned that jurors' responses were not always truthful—the jurors in my group gave responses that were more about what they thought the lawyers or judge wanted to hear, and less about the actual attitudes and beliefs that they had shared down in the jury services room. To my surprise, the question that was most indicative of jurors' actual attitudes and beliefs was, "What magazines do you read?" (Query what this implies about the kind of questions that attorneys should be asking.)

Second, I learned that even the most experienced attorneys had trouble communicating with jurors during voir dire. The attorneys gave "lectures" on topics such as burden of proof or presumption of innocence, never actually asking a question or prompting responses from jurors. The attorneys also asked "loaded" questions, where the jurors could easily determine what the preferred answer should be and would simply say that, again not talking about their actual attitudes or beliefs. The attorneys asked confusing hypotheticals

or questions that contained legal jargon, causing jurors who responded to be embarrassed or discouraged from responding further.

Finally, I learned that attorneys rarely do anything to promote the other, less obvious but equally important purpose of voir dire—to encourage bonding and good communication between the jurors themselves. I didn't see either attorney try to get jurors talking to each other or responding to prior juror's comments.

I have never forgotten the lessons I learned that day, and my later experiences on the bench have further convinced me that most attorneys need to change their approach to voir dire to avoid wasting a golden opportunity to learn from jurors. In the spirit of friendly education and obtaining better information at trial, here is my list of top ten tips to help make voir dire more effective.

1. Don't try to make jokes or ingratiate yourself with the jurors—they still won't trust you (many jurors really believe that you are trying to trick them). Just act like the professional that you are, focus on creating an atmosphere where jurors feel safe enough to speak out loud, and get to the point.
2. Try not to cover too many topics during voir dire. Pick your top two to four concepts and allow enough time for a full discussion on each one. And by "full discussion" I mean by jurors, not by you.
3. Don't lecture jurors. They don't want to hear you talk, and you really need to hear them talk.
4. When a juror speaks, really listen to the juror. Too often, attorneys don't fully process what a juror has just said because they are worried about what the next question will be, are concerned about time, etc. While those things are important, the juror is more important.
5. When a juror responds to your question, be careful how you react. No matter what they've said, you need to respect and accept it as their opinion. Try not to convey either through words or body language that you don't like what they have just said. If they get the impression that you think they are wrong or that they said something foolish, they will not speak again.
6. Unless you are wanting a survey-like response from a group of jurors, ask open-ended questions and listen carefully to the responses. You

will learn a lot more from jurors this way than from asking “yes or no” questions.

7. Be careful of asking questions that start with, “does anyone think that...” or “who thinks that...” Jurors interpret these as having a “right” answer and will end up telling you what they think you want to hear, rather than what they really think. Open ended questions that start with “tell me about...” or “what are your thoughts on...” are better for eliciting honest responses.
8. Try to avoid using legal jargon. Most jurors haven’t been to law school and don’t have a good understanding of what legal terms mean. If a question containing legal terms is posed, many jurors will avoid responding because they know they don’t have the right answer and they fear that they will be embarrassed in front of the group.
9. If you’re going to pose a hypothetical, keep it simple. Where possible, try to use examples from daily life that jurors can easily relate to, even if they have never been on a jury before. While well-crafted hypotheticals can be great for sparking conversation between jurors, poorly crafted hypotheticals can shut conversation down.
10. As much as possible, try to get jurors to respond to comments made by other jurors and to talk directly to each other. Where appropriate, try to get groups of jurors to show that they agree with each other so they can practice building consensus amongst themselves.

When you get right down to it, a trial is not about your client or you, but about the jurors. Remembering this will help you streamline and focus your voir dire on the people who matter the most in the courtroom.

MEMBER NEWS

Michael T. Pfau and Steven T. Reich represented a client who was sexually abused in the 1970s by two counselors at a summer camp, which was owned and operated by the Young Men’s Christian Association of Pierce and Kitsap Counties. The Defendant YMCA admitted liability, but contested the nature and scope of the abuse and the client’s damages. After a two-week trial, the jury returned a verdict of \$7,500,000 for the Plaintiff.

Jake Winfrey of FAVROS | LAW obtained a defense verdict following a month-long medical malpractice trial in which the plaintiff claimed cranial nerve injury causing swallowing and voice problems following surgery by an ENT physician.

UPCOMING EVENTS

Judicial Appreciation CLE and Reception - April 4th

On Thursday, April 4, the Washington Chapter of ABOTA and the FBA-WDWA will be hosting a Senior Judge Appreciation CLE and reception at the Columbia Tower Club. The CLE will be from 4-5:30. The reception will be from 5:30-7pm. **RSVP to nicole@wa-abota.org by March 22nd.** Space is limited.

Civility Matters at Seattle University - April 23/24/25

We are hosting a Civility Matters CLE at Seattle University on one of the above dates. We are looking for a plaintiff attorney and a defense attorney help present this one-hour program. All materials will be provided. If you are interested, please contact Tom Fain at tom@favros.com.

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

ABOTA - CIVIC LEARNING COUNCIL

Recent Grants:

\$1,000 to McDonald International School to help with travel expenses for approximately 170 students. They will travel to Olympia to interact with the legislature.

\$1,000 to Liberty High School to help with travel expenses for a field trip to Washington D.C.

\$1,000 to Ridgeline High School to help with travel to the Junior State of America Conference in Seattle.

\$1,500 to Morton High School to assist with travel expenses to Mock Trial competitions.