

# American Board of Trial Advocates™



## Washington Chapter Newsletter October 2022

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### PRESIDENT'S MESSAGE



As we are nearing the end of the year, we have several exciting announcements to make.

First, join me in congratulating J.D. Smith on being appointed to serve on the 2023 National ABOTA Executive Committee. J.D. is an experienced leader and will be an asset to the Committee.

Second, our chapter has launched a website where you can easily register for events, view past newsletters, find helpful forms, and more. You will find instructions on how to log on and register for events below.

Finally, please register for our upcoming MIT and Annual Meeting on November 10th at the Washington Athletic Club. I look forward to celebrating with all of you as we look toward 2023.

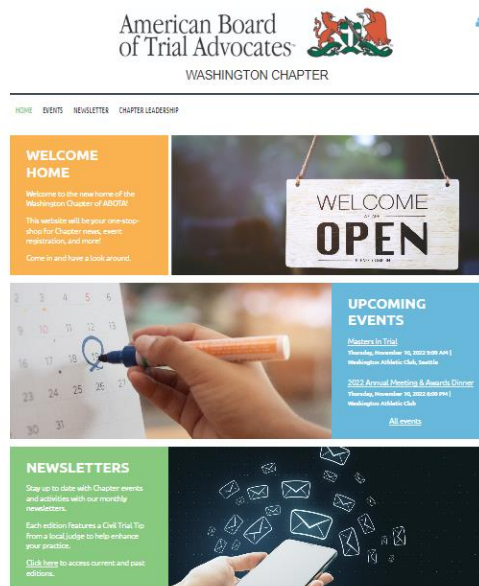
Sincerely,  
Ketia

## The New Online Home of the Washington Chapter

We are pleased to unveil our new chapter website. On this site you can register for events, access forms, and keep up to date on chapter news.

Because ABOTA membership is handled at the National level, we have assigned all current members an account on our chapter website using this email we have on file for you. When you register for an event, you will have the option of setting up a password for your account, or registering without activating your account.

Visit us online at [WA-ABOTA.org](http://WA-ABOTA.org)



## FREE CLE

The ABOTA Foundation is holding a free virtual CLE on October 19th, 2022 from 1:00 P.M. - 2:00 P.M. Central

### **Digital Technology in the Courtroom**

Learn how to use technology to keep up with ever-shortening attention spans and maintain jurors' interest throughout a trial. This webinar will incorporate both the plaintiff and defense perspectives with the use of digital technology in the courtroom. There will be Q&A at the end of the webinar.

#### **Presenters:**

James S. Casey, Ohio Chapter of ABOTA

Register at

[https://us06web.zoom.us/webinar/register/WN\\_0sBdqJvZS82IFUC5hiLGOA](https://us06web.zoom.us/webinar/register/WN_0sBdqJvZS82IFUC5hiLGOA)

## CIVIL TRIAL TIP OF THE MONTH



ABOTA Washington is 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 Kristin Richardson.**

Judge Richardson was elected to an open seat on the King County Superior Court bench in 2016. She earned her bachelor's degree in Journalism from Washington State University and worked as a newspaper reporter before attending Willamette University College of Law, where she was Executive Editor of the Willamette Law Review. Before taking the bench, Judge Richardson spent 27 years at the King County Prosecuting Attorney's Office, where she tried more than 100 jury trials, including 25 murder trials, and headed the office's Cold Case Homicide Unit. She has been an adjunct professor, teaching Trial Advocacy, at Seattle University School of Law. She received the Legacy Award from Washington Women Lawyers (WWL) in 2019. Judge Richardson served 15 years on the board of the WWL Foundation, including two terms as president, and 13 years on the Judicial Evaluation Committee. She also spent several years on the board of Victim Support Services, which provides advocacy and runs the state crisis line. Judge Richardson is co-chair of the Washington Pattern Instruction (WPIC) Committee.

### **WHAT IS "COMPLETENESS"?**

Say Party A brings into evidence one paragraph in a multi-page statement. Say the remainder of the statement is pretty damaging to that party's case, or makes the statement-maker look bad, or makes clear that Party A is purposely withholding part of the story. Party B wants jurors to hear the whole statement, not just the section that Party A wants them to hear. Party B wants jurors to know that when heard in full, the statement actually damages Party A's case, or that the statement-maker may be a liar, or that the jury wasn't being told the full story. It's only fair, right? The remainder of the statement should be admitted?

Not *quite* so fast. ER 106 is known as the "rule of completeness." That description suggests that admission of only part of a statement (Statement 1) means the rest of it (Statement 2) should come into evidence, too.

The rule is designed to avoid misleading statements taken out of context. But there are limits, and to cloud the issue, non-codified common law allows for broader admission of Statement 2, the one that's being offered to complete the original. Some aspects of the evidence rule and the common law appear completely at odds.

However, both ER 106 and common law require one thing that seems to be often overlooked by proponents of Statement 2: it must **explain, rebut, or modify** Statement 1. Thus, simply waving the full statement and crying out "Rule of completeness, your honor!" won't get Statement 2 admitted.

Once the trial judge has determined that Statement 2, which may include additional parts of Statement 1 or some other writing, is relevant, it must be found to explain Statement 1, place Statement 1 in context, avoid misleading the trier of fact, and ensure fair and impartial understanding of the evidence.

Because Statement 2 must explain, modify, or rebut Statement 1, it may be that only a small portion is admissible. The entirety of Statement 2 may not be necessary to accomplish the goal of clarifying Statement 1 and ensuring that it is not misleading. The trial judge need only admit the remaining portions of a statement that are needed to clarify or explain the portion already received.

Other considerations:

- ER 106 does not apply to unrecorded oral statements. At common law, according to Teglund, it can apply to oral statements, in cross-examination or presentation of your own case. However, most case law cleaves to ER 106 on this point, i.e., that written statements are the mainstay of the rule of completeness.
- ER 106 requires use of Statement 2 “at that time of” and “contemporaneously” with Statement 1. No holding back until your own case for tactical reasons. At common law, the party proffering Statement 2 can do so during cross-examination or in their own case.
- The evidence set forth in Statement 2 may be otherwise inadmissible, within limits. It trumps the hearsay rule, for example, but not material that is irrelevant.

## UPCOMING EVENTS

### **Masters In Trial**

**November 10th | 8:30AM-3:30PM**

Washington Athletic Club

[Register for In-Person Attendance](#)

[Register for Remote Attendance](#)

### **Annual Meeting Dinner and Awards**

**November 10th**

**5:30PM Reception | 7:00PM Dinner**

Washington Athletic Club

[Register](#)

## **J.D. Smith Appointed to National Executive Committee**



Join us in congratulating J.D. Smith on his appointment to the ABOTA National Executive Committee. J.D. currently serves as the President-Elect of the Washington Chapter.

## **ABOTA - CIVIC LEARNING COUNCIL**

### **CLC-ABOTA Civic Education Grants**

As reported previously, ABOTA has funded an education grant program through the Washington Civic Learning Council (CLC). The CLC is a 501(c)(3) organization whose mission is to address gaps in, and provide resources and support for, K-12 schools and youth development programs involved in civic development and education. In addition to the three grants awarded at the time of my last report, CLC has awarded two more grants, one involving the acquisition of technology/videographic equipment for use by the Washington Youth Legislature as part of the YMCA Youth and Government program. The other is a grant to help defray travel expenses for an advanced placement government class to travel to the state capitol in January to participate in the We the People competition. In the three school-year months the program has been operational, the program has funded six programs furthering educational opportunities for students and educators, and providing resources to underserved school districts. We are making a difference. Thank you for your support.

### **Recent Grants:**

\$660.00 was awarded to the Washington YMCA Youth and Government program for the purchase of technology and videographic equipment.

\$550.00 was awarded to the Mount Vernon School District for training sessions with the Governor's Office of Indian Affairs.