



MAY/JUNE 2021

COMING EVENTS

- June—Annual Meeting (virtual) and Elections

PRESIDENT'S MESSAGE



Another year has come and gone and, following in the footsteps of so many WCBA Presidents before me, it is now my turn to welcome Tyler Beach as the new WCBA President.

Approximately two years ago, I was nominated and elected to the WCBA President position. In the years that followed, I watched another member of the board get appointed to a judicial position, welcomed five new members to the board, learned how to work from home, avoided a single in-person meeting during my presidency, and worked with a very talented, industrious, and committed group of board members. Not a bad two years. However, it is my time to step down as President. Likewise, due to a very exciting addition to my personal family in the coming months, I recently made the decision to step down from the board as a whole.

I am not sure if I am a glass half-empty or half-full kind of person. Regardless, I do know we have learned many things about ourselves and how to serve our members during the last year. I also know that WCBA members will be in very good hands with the current board and Tyler as President. Thank you all that stayed with us through the changes the last year brought and for the privilege of being the WCBA President.

Ralph E. Gzik

WCBA President

WCBA CONTACTS

- President:** Ralph Gzik
President-elect: Tyler Beach
Secretary: Mindy Stannard
Treasurer: Ben Evans
Directors: Gabe Biello
 Laura Burgee
 Kate Glasson
 Rachael Gray
 James Jensen
 Bryce Kaufman
 Matthew McKean
 Miranda Summer
 Adam Thayne
- Website:** www.wcbabar.org
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newsletter@wcbabar.org



WHEN GUARDIANSHIP CANNOT WAIT

Sara Kearsley



Guardianships are, in most cases, time-sensitive cases that require timely action by all involved. There are usually pressing decisions that need to be made for a minor child or an incapacitated adult—in many

cases, family members have postponed decisions or pieced together strategies to make things work until it just no longer works. In many cases, decisions cannot be delayed allowing for the standard 15-day objection period. And occasionally emergency circumstances require an immediate appointment of a guardian. In these pressing or emergency cases, a guardian may be appointed on a temporary basis within a very short timeframe.

When a potential client reaches out to an attorney regarding an emergency guardianship, the attorney must quickly and accurately gather information. The attorney should learn as much as possible about the respondent's circumstances from the client; often if the respondent is hospitalized, it is also helpful to speak to the hospital social worker to get more specific information about the respondent's incapacity and the emergency circumstances. For a temporary guardian to be appointed, the court must find by clear and convincing evidence that: (1) "the respondent is incapacitated or a minor," (2) "there is an immediate and serious danger to the life or health of the respondent," and (3) "the welfare of the respondent requires immediate action." ORS 125.600(1).

In any guardianship, notice must be given to the respondent and other interested parties. In a temporary guardianship proceeding, the notice period is two days. However, the court may waive the two-day notice period if the court finds "immediate and serious danger requires an immediate appointment." ORS 125.600(1).

The following are the steps to obtaining emergency appointment of a temporary guardian in Washington County:

1. File the petition (which includes all the required information for a standard guardianship petition, plus (a) factual allegations regarding the immediate and serious danger and (b) in a separate paragraph about the waiver of notice, the need for immediate appointment). The petition should be filed along with a letter requesting expedited review and the proposed judgment for appointment of a temporary guardian and waiver of the 2-day notice period. The attorney may also call the probate clerks or email the probate commissioner, Parmie VanDyke, to let them know that the petition has been filed.

2. Pay filing fee and court visitor fees. Visitor fees in Washington County are \$650 for temporary and indefinite guardianship and cannot be paid through File & Serve. Once there is a case number, contact the court accounting department to pay the visitor fee.
3. The Court appoints the visitor, who meets with the parties and prepares a report within 3 days.
4. If the allegations meet the standards, the judge signs the judgment and temporary Letters are issued.
5. Notice must be provided within 2 days of the appointment (personally served on respondent or minor respondent's parents, mailed to others).
6. A hearing must be held within 2 days of any objections.

Note, the temporary guardian may only be appointed for 30 days (it can be extended another 30 days if there is good cause). In most cases, the petition for temporary guardianship and waiver of the notice period will be combined with a petition for an indefinite guardianship. Although the two processes can be started with one petition, the remaining steps are separate with different timelines and judgments.

Quick action in gathering complete information and drafting a concise petition will allow you to assist your client in being appointed guardian for their loved one. These situations are challenging and often very emotional for the clients and it is rewarding to help them get to the point that they can more effectively help their family or friend.



GETTING TO KNOW THE BAR – JAMES JENSEN, ATTORNEY AT LAW

Mindy Stannard



James Jensen, Attorney at Law, formed his solo practice of that name in 2014 with an office on Main Street in Hillsboro, Oregon, less than a block from the Washington County Courthouse. The primary emphasis of Mr. Jensen's practice is assisting individuals in matters involving criminal defense. With a background as a felony-level prosecutor, and with over fifteen years of experience handling legal matters in criminal courts, James helps individuals navigate the complexity of the criminal justice system.

In his time working as a criminal defense attorney, Mr. Jensen has handled a wide variety of criminal matters for his clients, from low level misdemeanors to major felonies. James takes the same diligent approach with each case he handles, with an emphasis on maintaining a client-centered focus through all stages of each individual case.

Mr. Jensen shares office space with his father and sister, attorneys Kit Jensen and Kit Jensen's associate attorney Stephanie Jensen. Kit and Stephanie practice in the areas of Probate, Business Law, Estate Planning, Wills, Trusts, and Real Estate. Kit has been a part of the Hillsboro legal community for over 30 years, and Stephanie joined the firm as an attorney in 2012. The office also has a full-time legal assistant who provides excellent client contact. Kit, James, and Stephanie frequently work together to provide comprehensive advice to clients in a small firm setting.

SAVE THE DATES: SCHOOL SUPPLY DRIVE



The Washington County Bar Association school supply drive in 2019 was such a success, we have decided to do it again! The Hillsboro School District was extremely grateful for the many boxes of school supplies we

provided. This year, we selected the Forest Grove School District as the recipient. As we all know, families and children are more in need than ever. We will be conducting the school supply drive from August 16, 2021 to September 3, 2021. Supplies can be dropped off at the office of McKean and Knaupp Attorneys, LLC, which is located at 101 SW Washington St., Hillsboro, OR 97123, right by the Washington County Courthouse. We will send out further reminders the closer we get to the event. Although all school supplies are needed, the following list was provided specifically by the Forest Grove School District:

- Spiral notebooks (college ruled is the most needed)
- 24 count crayons
- markers
- Pencils
- colored pencils
- Glue sticks
- Mead composition books
- Scissors (5 in)
- Expo markers
- Pencil boxes
- Pens
- Crayola markers
- Earbuds (Gummy brand or similar)



CLASSIFIEDS

Office Space

Beaverton attorney office building for over 40 years on S.W. 2nd and Tucker has a 2nd floor office with adjacent cubical work station available. Shared reception area, library, conference room and parking. \$450 for office monthly or longer lease an option. Eight sole practitioners in building with some overflow referral. Call Sheila at (503) 641-7888 or email sheilawagnon@lawyer.com.

YOUR JOB HERE

The WCBA offers basic job listings at no charge! Please send your plain text job information to newsletter@wcbabar.org. Free postings must be 50 words or less and may be edited for length.

Classified Advertising Rates

50 or fewer words	\$20	51-100 words	\$40
101-150 words	\$60	151-200 words	\$80
Over 200 words, a quote will be provided upon request.			
<i>Classified ads must be prepaid.</i>			

Display Advertising Rates

Business card size (3.5"w x 2"h)	\$30
1/4 page (3.6"w x 4.75"h)	\$60
1/2 page (7.5"w x 4.75"h)	\$90

Purchaser is responsible for providing a properly sized image at the desired resolution.

Please submit your classified text or display ad in JPEG format to: newsletter@wcbabar.org.

Pay for your ad at: mkt.com/wcba

BRIDGING THE DISABILITY GAP – CLE WRITE UP

Ralph Gzik



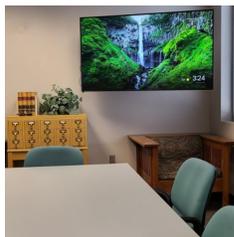
On May 12, 2021, Jared Hager, an attorney with the U.S. Attorney's Office, Emily Cooper, an attorney with Disability Rights Oregon, and the Honorable Miranda Summer with the Beaverton Municipal Court, presented a very thought-provoking and informative CLE on bridging the disability gap when it comes to being an attorney with a disability or representing a party with a disability. Throughout the discussion, Emily and Jared offered their personal stories and experiences and guided attendees through exercises focused on helping understand implicit biases along with strategies to overcome them.

One of the most thought-provoking statements from the CLE was: "you might not currently have a disability, but you could someday." Not all disabilities are apparent and while we might currently not have one, life changes quickly and we have no knowledge of what the future may hold. Understanding how we view disabilities and those with one will help us increase access to justice while representing clients.

The Washington County Law Library is curating the Washington County Bar Association video recorded CLE's. If you would like to view the Bridging the Disability Gap, please reach out to the Washington County Law Library.

LAW LIBRARY COMPLETES TECH UPGRADE FOR MEETINGS

Washington County Law Library



The Washington County Law Library finished upgrading its conference room to accommodate virtual meetings. A new TV and video/soundbar allows patrons to engage in a virtual meeting or hearing using their own computer or the Law Library's device. Reservations should be made

in advance, and must be during the Law Library's normal open hours.

This upgrade was made possible by the Library Foundation of Washington County, Oregon.

Safely Visit the Law Library

As of May 21, the Washington County Law Library is operating under "Lower Risk" service levels. This means drop-in visits are available [during specific times](#), for up to four patrons at a time. We recommend calling to confirm hours and availability before stopping by. [Remote assistance](#) and contactless checkout are still offered.

The Law Library is also working on resuming after-hours access for members of the Oregon State Bar. This access is offered in partnership with the Washington County Circuit Court.

As of publication Washington County is requiring masks for all visitors, which applies to Law Library patrons.

Support the Law Library

The Law Library is looking for volunteers for either the WCBA's Law Library Committee, which advises the Law Librarian on library operations and policy, or the Library Foundation of Washington County, Oregon, a non-profit that supports the Law Library and Washington County Cooperative Library Services (WCCLS). Email or call the Law Library for details.

The [Washington County Law Library](#) is a free legal research resource for all. Contact: (503) 846-8880, or lawlibrary@co.washington.or.us.



LOCAL BAR UPDATES

We want to know what you are up to! Send announcements and changes, professional or personal, to newsletter@wcbabar.org.

Mediation & Arbitration Services

John S. Knowles



503.640.0610

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Successful Trial Attorney
34 Years

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Defendants

Pro Tem Circuit Court Judge,
State of Oregon

Civil Case Settlement Judge,
Washington County

Arbitration Panel, Washington &
Multnomah Counties

2017 Professionalism Award,
Washington County Bar
Association

20 Years AV Preeminent Peer
Review Rating

Reasonable Rates

FAMILY LAW CLE NOTES

Rachael Gray

The April 14, 2021 CLE panel consisted of Judge Pagán, Judge Guptill, Judge Lemarr, Judge Fun, and Judge Proctor.

News

Judge Pagán has been chief family law judge for 2.5 years and is leaving the family team. Judge Lemarr took over Judge Pagán's cases on April 27, and Judge Proctor is now the Chief Family Law Judge.

Do and Don'ts for remote hearings

- The court has challenges with sound sometimes .
- People appear in cars, living rooms, etc. and sometimes forget that this is court. We have seen interesting apparel, hats, and gum chewing. It's important to remind clients that this is court and they have to pay attention to things like appropriate clothing and no smoking - UTCR manner of addressing court 3.010.
- When people sit next to each other using the same microphone, it can be hard to hear.
- Sometimes an attorney will correct a client who misstates something while testifying; you can't help your client answer questions.
- Unmute yourself before you start talking.
- Invest in equipment that makes it easier to hear you.
 - Repeating questions or dealing with feedback can be time consuming.
- Reduce noise level and feedback where you can—it is appreciated
- Check spam filters to make sure you get Webex invitation; the invitations will go to the attorney not your staff.
- Don't bombard staff with emails. This will only cause delays in them being able to reply.
- Practice using the Webex technology with clients – logging in and making sure audio and video works; it will really help.
- What about going back to in-person?
 - Washington County does not have an estimate for returning to in-person hearings.
 - Judge Guptill – Plan for remote hearings to be an ongoing thing for now; remote appearances may be utilized long term. It may be worth upgrading technology to invest in the future.
- There is a preference for video appearance over telephone appearances. We need to be able to make credibility determinations and we can't do that

if we can't see them.

- Email address for remote hearing is in materials.
- E-file exhibits as soon as you can. Exhibits e-filed one-day before may not show up. COVID and our protocols require more preparation. Audio and video exhibits need to be delivered to court 24 hours before hearing/trial.
- Make sure exhibits are exchanged ahead of time and in the correct format. Exhibit lists should be the first page of the document.
- Exhibits should be linked to Exhibit list.
- Stipulate to exhibits if you agree; Example - USD likely to come in.

FAPA Ex Parte

During COVID-19 we had family 1 and family 2 dockets. We are phasing that out. Judge Lemarr will be taking over the VRO docket.

Initial FAPAs were on Family 1 rotation and they still are on that rotation, but, starting in July, will be going back to rotating monthly. Judge Proctor will handle them in July.

FAPAs With DR Case

If there is an assigned judge with DR case then contested FAPA will go to judge who has the DR case. If there is no accompanying DR case, then it could go to Judge Proctor. If no room on her docket, then look at family law 1 docket.

Show Cause Orders and place holder orders when support at issue

Judge Guptill

- Show cause place holder – court dates are being set. The orders still need to be served going forward prior to show cause hearing.
- If you had a show cause that had not been set, the request was to not check with the court. Now please check with the court - Double check if a hearing has not been scheduled. Politely send an email to see if it got lost.

For show causes, make sure certificate of service has been filed with the court.

- We won't automatically default someone if there is no reply– we will have hearings.
- Counterclaims for show causes are not allowed - you have to file your own show cause and pay a filing fee
- The reason for this is so a person can withdraw their claim. This can't happen if there is an accompanying counter claim. The counter claim needs to be separate. Use your own show cause order for counterclaim and pay filing fee.

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Initial Filings

We are generally caught up with status hearing and trial date for initial filings.

If your case settles notify the court immediately. Don't wait for the trial date if you can do it before then.

Form of service

- Reminder about looking at rules and statute to determine how something needs to be served. Some things can be done by personal service, others by mail, but pay attention to the rules.
- Example: Pre judgment protection orders of restraint ORCP 7.

USD

- USD sometimes is not filed at all or is not done with the appropriate attachments. There are a lot of rules when filing USD and it could impact how far back the court has ability to order support.
- UTCR 8.010 re: initial petition states that unless SLR provides contrary docs that have to be filed must be filed not less than 14 days before trial. When applicable must be 30 days for child/spousal support.
- **Other party may ask us to decide when support should be ordered if not timely filed.**

Prejudgment forms

- Prejudgment and response packet available online. We are looking at revising some of those. Must use WashCo forms; easier for judges if you use our forms. Judges will talk to staff about making the forms fillable.

Contempt Forms

- New contempt forms are available.
- UTCR 19.020 explains contempt process.
- Contempt cases have own case number and plaintiff and defendant. Contempt forms are on Washington County Circuit Court website. They might be under miscellaneous
- If underlying case, then contempt must be initiated in underlying case and plaintiff and Defendant and will have a CN number. People forget to submit GJ for contempt cases and the contempt case needs to be concluded with GJ. If all the rulings are made in the underlying case make sure you send GJ of dismissal with contempt case along with supplemental judgment in underlying case.
- Can always use own contempt form.

How Judges receive documents for signature

- With e-file documents, the judge does not automatically have the form. It can take a few days to

get in front of the judge. If it needs to be expedited, request that when you file.

- Staff has to find you a time slot. The bottleneck is when requests come in clusters then staff gets a cluster of show cause orders they have to find dates for and then forward orders to the judge.
- Requests for show cause hearings can take a few days to get to the queue. However, if something is not signed for 1-2 weeks and the judge is not on vacation, follow up with staff.
- Chris Steifer is in charge of all family law team staff. If it has been a month since an SC order has been signed you can check with her or the judge's staff.

Settlements on the record

Parties can still do a settlement on the record. Contact the judge's staff. We can get those in at 8:30 am on certain days if we need to.

Attorney Fee Petitions

Attorney fee petitions, see recent case: Callen - 307 Or App 714 (2020).

- **ORS 20.075**– ORS **purposeful conduct**

Settlement conferences

We recommend them; contact the judge's staff to schedule one.

Final checklist for family law cases

Proof of service filed?

USD filed?

Statement of assets and liabilities exchanged?

When child support at issue, CSW should be attached to statement of assets and liabilities and most people do not do that.

Make sure clients do mediation and do it timely.

Parent education – Kids Turn is happening remotely.

Certificate of readiness - If you have objections, make sure that you file objections.

