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Electing Superior Court Judges

For the most part our firm does not file our lawsuits in the lower courts but only in the Superior Courts in Washington. Even after 40 years of practice, I did not quite understand how some really bad Superior Court judges continue to stay on the bench. A recent email posted by my friend, David Heller, whose wife is a Superior Court judge, explained at least part of the problem. When I started there were only 29 judges in King County Superior Court. Now there are 53. David says there are 182 Superior Court judges in the 39 counties of our state. The way they are elected is as follows: All of them potentially must stand for election every four years in the same year as a presidential election. Usually if there is a vacancy it is filled by the Governor appointing a person who must then stand for the election in the November immediately following the appointment and again in the following Presidential election year. This is the part that shocks me: I did not know that if no one runs against a judge then that judge's name does not even appear on the ballot. Even in those cases where a position is contested, the person running as the incumbent wins nearly every time. Therefore, no matter how bad a judge is or is rated if he or she is the only candidate, then that judge will just continue indefinitely until he retires. For a time I was on the King County Bar Association Judicial Screening Committee. This committee assisted the Governor in selecting candidates for judicial vacancies. I dropped my membership when I realized how odd the system was because the ratings were sometimes based on irrelevant factors judged by people who never actually appear in court. Hence, we get some really bad judges. I would say that, roughly speaking, one-third of our judges are great but the rest are mediocre or downright awful. The Governor's appointments often seem to be based on political considerations and not on real qualifications to be a Superior Court Judge.

Responsible Recycling

I have some friends who take pride in their decision not to recycle anything, not to conserve electricity and gas, and not to use cloth bags for groceries or shopping. This environmental indifference shocks me because these are people I like. In this behavior they display selfishness and a sense of entitlement which is disturbing. I was reminded of the plastic bag situation when I read the reports of a study from the Journal of Science on the amount of plastic being dumped into the world's oceans. They estimate that ***8 million tons*** of plastic end up in the oceans every year. It could be more. They calculated this amount to be equal to 5 plastic grocery bags filled with plastic for every foot of coastline in the world. There is no practical way to clean up this mountain of waste once it gets in the ocean and begins choking marine life. Much of it settles to the bottom. Plastic does not degrade and can last centuries making the problem cumulative. Each of us has a responsibility to this planet and to the world's environmental health. While it is true that no one of us can put a significant dent in the problems of the pollution of our air, land, and water—cumulatively we can make a big difference. We can especially cultivate an attitude of caring. That plastic bag for groceries ends up somewhere, not degrading for literally centuries. Each of us should do our part.

Death Watch

I have been following with interest the trends in highway deaths vs deaths by gun. Thanks mainly to improved manufacturing and highway engineering safety standards, deaths caused by vehicle crashes are steadily declining. In 2012 there were 33,561 killed on our highways (3.8 million people injured). This is a substantial reduction from the same sort of figures in the 1990s even though the number of miles being driven has risen substantially. The number of people killed by guns in 2000 was 29,000 but has been steadily rising since that time. It is estimated that by the end of 2015 there will be more deaths by gun then by car or truck. This is the only country in the world where this is true. A car or truck can be a deadly weapon. We have all sorts of rules and regulations, licensing requirements, and insurance require-

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This newsletter reports on news and developments in the law. It is offered as a service to our clients and readers and is not a substitute for legal advice.

ments for our cars and trucks. But we have almost no similar standards for our guns. To keep these numbers in perspective, however, there are about 98,000 people killed by negligent medical care each year.

How to Judge Your Auto Insurance Company

I urge anyone who listens to me to change insurance companies if they are insured by Allstate or State Farm. I sometimes get pushback from people who say that their own insurance company, including Allstate or State Farm [the two 'States], is great. When I press a little more I realize they are using the wrong criteria to evaluate their insurance company. Most people have experience with their own insurance company when their car is damaged or when they damage another car. All the insurance companies—and, I repeat ALL—are governed by exacting insurance regulations when it comes to settling property damage claims including total loss claims when a vehicle is destroyed beyond repair. In other words, rating your insurance company by how a claim adjuster handles a property damage claim or a minor injury claim is completely irrelevant! This is nearly always true if the personal injuries involved are relatively minor, say under $5,000. However, the main purpose of having liability insurance is to protect your own assets should you hurt someone seriously. It is here that many of the insurance companies, including the two aforementioned "states," are just plain bullies. If you are a moral person you want your insurance company to do two things in your name. The first is to handle the claim against you with minimal time involvement. If your insurance company plays games with persons you injure, then you will be forced to help in the litigation. You will find yourself talking to the lawyer your company hires to 'represent you.' You will have to answer written questions, appear for depositions, provide documentation, and answer numerous questions. You may have to attend a trial. One reason we buy insurance is to have our insurance companies deal fairly with losses we may cause to others so that our time and emotional involvements are minimized. Although some people may feel differently, a second reason and way to judge your insurance company is whether they are moral in settling and dealing with claims of persons injured by people who buy their insurance. The two "states" and other insurance companies squeeze their profits out of people by having higher premiums and by pushing much of the personal injury work onto their insureds by not settling cases. Lawyers will tell you different things about what insurance companies to go to. I use Safeco (which is now Liberty Mutual) and I am finding that PEMCO and USAA seem to be marginally better than the others. Geico used to be rated highly but they have made several changes lately having the consequence of involving their insureds and needless waste of time.

Obituary—Jack Scholfield

Jack P. Scholfield died on December 11, 2014. Jack was by far the best trial lawyer that I was ever privileged to know. I originally started working for Guttormsen, Scholfield and Stafford while in my first quarter of law school at the University of Washington in 1971. Jack was the managing partner and he was the heart and soul of the firm consisting of 11 lawyers and me. I worked for the firm all 3 years of law school and, almost by default, Jack hired me upon my passing the bar in the fall of 1974. Mostly as the result of Jack's guidance I still believe that the firm as it existed then was the best firm I was aware of. Every member of the firm was an inspiration to me. Jack had a great deal of confidence in me as I had a huge amount of jury trials defending the Seattle Police officers from lawsuits alleging false arrest and use of excessive force. Jack had a sterling reputation and was elected at one point to be the president of the Seattle -King County Bar Association. He was appointed Superior Court Judge and later he became a judge in the Court of Appeals. I will be forever grateful for the opportunities he and the lawyers of that firm gave to me.

America's Disconnect from Reality

A 2012 National Science Foundation survey found that nearly 43% of Americans believed that astrology is either "sort of scientific" or "very scientific." They also found that:

7% believe the moon landings were fake.

46% believe the universe is less than 10,000 years old.

31% believe evolution via natural selection is just an unsupported guess.

37% believe climate change is a hoax designed to destroy private enterprise.

14% believe President Obama is a devoted Moslem born in a foreign country.

51% believe Lee Harvey Oswald acted as part of a wider conspiracy to assassinate JFK.

21% believe our government is covering up proof of aliens on earth.

28% believe there is a conspiracy by a secret organization to rule the world.

Great civilizations of the past collapsed because they could not adapt to modernization or could not protect their environment. They died when they became disconnected from reality. The Egyptian civilization was dominant for 30 centuries, Rome for at least 500 years, and the Persian Empire for 1200 years (including Achaemenid, Parthian, and Sasanian). The Mayan civilization lasted for 2,900 years. Who outside of academia has ever heard of the Hittite domination of the Near East for more than 4 centuries or

the Parthian people who controlled an empire for over 500 years? What about the Assyrians who controlled vast territories for almost 3,200 years? The United States, the greatest nation on earth and in history, has been around for not even two and half centuries. All this greatness can get squandered if we and our leaders continue farther down the path of fantasies and superstitions and conspiracy theories.

Sources of Violence

Wars make the headlines: ISIS, Iraq, Syria, Ukraine, Boko Haram, Chechnya, Somalia, Yemen—the list seems endless. But did you know that personal violence, murder, especially against women is far more prevalent? The UN's World Health Organization (WHO) keeps statistics. For 2012 (the last year for which complete numbers are available) there were approximately 475,000 murders—one on one violence--around the world. The total for the first 12 years of this century is six million! In 2012 there were 12,765 murders in the US (8,555 by guns). Peace on Earth—I don't think so.

Driving Stoned

For many reasons I supported the initiative to decriminalize possession and use of marijuana. There was and is a valid criticism of this legalization process which is that stoned drivers are more likely to cause collisions that are sober drivers. Marijuana impairment depends on several factors, not the least of which is how experienced the driver is at being stoned. There have been several studies with multiple and often contradictory results as to the effect of driving while high. The rule of thumb seems to be at present that a person with THC (the active ingredient in marijuana) in their blood is twice as likely to be involved in a collision than is a person who has not ingested. At present there are no effective tests that police officers can use to prove impaired driving from marijuana. If they suspected an impaired driver they often do what is called a field sobriety test which consists of three physical tests. The officer holds small object and asks you to follow it back and forth with your eyes. The officer then will have you walk nine steps in a straight line heel to toe then turn on one foot and go back the same way. Finally, they will have you balance on one leg for 30 seconds. Some of the studies have shown that this three-part test catches almost 90% of the impaired drivers from alcohol but only 30% of those tested with high levels of THC in their system. [On the balancing test, our ability to do that decreases rapidly with age--the reason that falls increase as people get older.] Several laboratory experiments have verified that being high on marijuana causes different deficits than being drunk. For example, a stoned person has better memory functions than a drunken person. Drivers high on marijuana also tend to drive more conservatively than people driving with high levels of alcohol in their system. What is the current science for protected detecting high levels of THC? Testing of urine and of blood. The problem with the urine test is that it can detect marijuana days after actual use so is not a good indicator of impaired driving. In addition, urine tests are usually done quite a while after arrest. The other is a blood test. The law in Washington is that you are considered impaired if there is 5 ng/mL (5 nanograms per milliliter) of blood which equates to 5 ppb (parts per billion). This level suffers from deficits at both ends. In comparing actual impaired driving with the 5 ng limit in Sweden, almost all of the obviously impaired drivers would have not been considered impaired. On the other hand, consistent users of marijuana have THC stored in their fatty tissue and a 5 ng limit would still be there more than a day after the last ingestion of THC. In other works, there is no firm scientific basis for Washington's blood limit. For all of the problems, it is apparent that we are still better off devoting resources to reducing drunk driving rather than marijuana impaired driving. Finally, most marijuana use is done in the home while alcohol consumption is often done at bars or parties where people try to drive home.

What if?

A few weeks ago 7 people were killed in New York when their SUV became stuck on railroad tracks with a train barreling down on them. None of them escaped and all died. Getting stuck on the tracks with an incoming train is a rare event, popularized by the movies. But what if it happens to you? The experts say get out of your car as fast as you can and run away from the tracks in about a 45 degree angle in the direction from which the train is coming. If you run away from the train the other way you will be hit by debris when the crash happens. Of course, the best way to avoid such a collision is to avoid getting stuck on the tracks in the first place. Trains have a lot of momentum and cannot stop on a dime, leaving the primary burden on

drivers to make sure they have plenty of time and space to get across, regardless of whether the crossings are in the city or out in rural areas. This scenario should be rehearsed by you and your family so that everyone can react properly in the unlikely event it actually happens. About 150 people are killed and another 750 injured each year at train/vehicle crossings. I do not want any of my clients or friends to be a part of that future statistic.

No Pun in Ten Did

--Two antennas met on a roof, fell in love and got married. The ceremony wasn't much but the reception was excellent.

--A jumper cable walks into a bar. The bartender says, "I'll serve you but don't start anything."

--A dyslexic man walked into a bra.

--A man walks into a bar with a slab of asphalt under his arm, and says: "A beer please and one for the road."

-- Two cannibals are eating a clown. One says to the other: "Does this taste funny to you?"

--An invisible man marries an invisible woman. The kids were nothing to look at either.

-- I went to buy some camouflage trousers the other day but I couldn't find any.

--What do you call a fish with no eyes? A fsh.

--Two fish swim into a concrete wall. The one turns to the other and says, "Dam!"

--Two Inuits sitting in a kayak were chilly so they lit a fire in the craft. Not surprisingly it sank, proving once again that you can't have your kayak and heat it, too.

--A group of chess enthusiasts checked into a hotel and were standing in the lobby discussing their recent tournament victories. After about an hour, the manager came out of the office and asked them to disperse.

"But why," they asked, as they moved off.

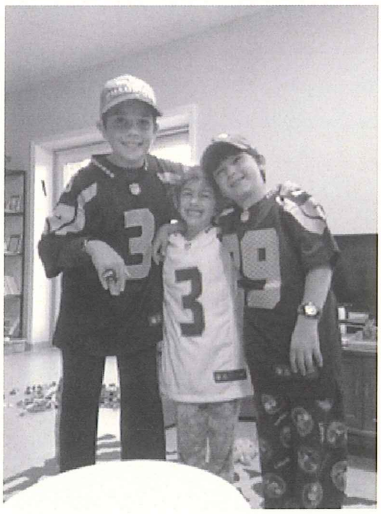
"Because," he said. "I can't stand chess-nuts boasting in an open foyer."

--Mahatma Gandhi, as you know, walked barefoot most of the time which produced an impressive set of calluses on his feet. He also ate very little which made him rather frail and with his odd diet he suffered from bad breath. This made him... a super-calloused fragile mystic hexed by halitosis.

--A dwarf, who was a mystic, escaped from jail. The call went out that there was a small medium at large.

--And finally there was the person who sent ten different puns to his friends with the hope that at least one of the puns would make them laugh. No pun in ten did.

We Still Love You, Seahawks!



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