BALINT'S BULLETIN
CLIENT LAW UPDATE

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Jury Duty

Without a functioning jury system, justice in this country will suffer. In criminal cases the right to a jury is one of the fundamentals of the U.S. Constitution. The right is enshrined in the Washington Constitution for civil cases as well. What happens, however, if people pass on responding to jury summons? There is no way around the fact that to serve on a jury is a tremendous sacrifice for most people. If you work for a big company such as Boeing, they pay your salary while you are on jury duty but this is not true of most companies. It is certainly not true of people who run their own business. It was disturbing to read in the June 2011 Vanity Fair magazine the poll results when people were asked to describe the mail they dreaded most receiving. Jury duty was at the top of the list, even over receiving mortgage or rent bills or credit card statements. What was most disturbing, however, was that people who could most afford to go to jury duty were those who dreaded it the most. Jury duty is the one place left where government is really by the people and for the people. Please do your best to affirmatively respond if you get a jury summons.

Our Worrisome Climate

NASA and the National Oceanic and Atmospheric Administration (NOAA) have reported global climate measurements from the entire globe for 2010. 2010 tied the all time record set in 2005 for the highest global surface temperature ever recorded since measurements began in 1880. 2010 was also the wettest year – around the world – in the last 130 years. 2010 also was notable not only for records but also for frequency of extreme weather events. All you have to do to satisfy yourself about this is read the newspaper. The government figures show that 9 out of the 10 warmest years on record have happened since 2001.

It is the overwhelming scientific consensus (there are a few dissenters) that the main reason is the huge amount of carbon dioxide (CO2) which has been dumped into the atmosphere since the start of the Industrial Revolution because of the burning for energy purposes of fossil fuels, mostly coal and oil. As the world becomes wealthier including places like China, India and Brazil, people are becoming more "Americanized" and consuming ever larger amounts of energy. In other words, the pumping of heat trapping gases into the atmosphere is accelerating. Americans use twice as much energy per capita as the world average but other nations are rapidly catching up to us. The world is literally burning while we fiddle.

Costs of Death Penalty

The public is probably unaware that in cases where the prosecutor intends to ask for the death penalty, we the taxpayers almost always fund both sides of the cases. Usually, private attorneys are hired and bill the government at their usual rates. We taxpayers also, of course, pay for the prosecutors and we pay for both ends of the entire discovery process including experts, etc. There has been one person actually sent to the gallows from King County since 1981. There have literally been tens of millions of dollars spent, however, on capital cases since that time with an average cost of $467,000. In the meantime the Prosecutor's office in King County had to eliminate 36 lawyers from its staff for budgetary reasons, which means that many criminal cases are not receiving the treatment that they should, or are not being filed in the first place because of the huge shortfall of manpower. The cost to our citizens is not only the direct cost of these cases but also the costs of having other types of crimes not properly prosecuted.

Human Effects on Vertebrate Life

Human beings began cultivating crops and domesticating animals only about 10,000 years ago. These two changes in our history resulted in a massive changes to our planet. 10,000 years ago, human beings and domesticated animals comprised, it is estimated, less than 1% of the creatures on dry land possessing backbones. This means that most of the vertebrates living on dry land were wild

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domesticated animals (both those kept as petanimals. Today, human beings and our s and those used for food) comprise about 98% of the vertebrate population on the planet. In fact, the human population has expanded from an estimated 80 million (10,000 years ago) by a factor of more than 5,000 to become today's population of about 6,855,000,000.

In regard to how our numbers are changing things, my friend, Peter Rettman, called to my attention one of the most interesting websites I've ever seen. It is a world clock which tracks by the second things such as world population, death rates, illness rates, various environmental measurements (including production of fossil fuels and the amount of carbon dioxide being expelled into the air), prison populations, the amount of food production in various subcategories, crime rates, and much more. The website is: http://www.poodwaddle.com/worldclock.swf.

Kitchen Fires, Read This to Save Your Life

Thanks to my friend and client, Jim Lucero, for forwarding the following important information to me. What happens if you have a kitchen fire caused by oil, like in a frying pan? If you throw water or flour on it, it will sink to the bottom, become superheated and explode. A simple but easy way to put out this type of fire is by following these easy steps:

1. Turn off the stove.
2. Take a towel and run it under the tap water.
3. RING IT OUT THOROUGHLY.
4. Drape it over the pan on fire.

I recommend everyone watch this technique demonstrated on a video and force your children to watch as well. The video can be found at www.youtube.com by typing AKitchenOilFire.wmv into the search field. (And, by the way, above the stove is the worst place to store cooking oil.)

Tax Reform and the Justice System

The Washington State Bar Association, acting through its Board of Governors, announced in early April an initiative to support and encourage corporate tax reform in the U.S., in part to prevent the collapse of the civil justice system. This initiative comes on the heels of the political firestorm earlier this year, when General Electric announced that it will pay NO federal corporate income taxes for the year 2010 – even though it reported $14.2 billion in profits and another $3 billion in tax credits for the year. A spokesperson for the WSBA said "The civil justice system is teetering on collapse in many states. Here in Washington, the courts are so under-funded that we have to regularly furlough court staff and it is nearly impossible for ordinary folks to get a trial date for a civil trial. Things weren't this bad even during the Depression. Business lawsuits of all kinds outnumber all other civil lawsuits and we feel its time that corporations paid their fair share to support the justice system they regularly utilize to assert and protect their own interests. GE, for example, files thousands of lawsuits every year in courts all around the country (mostly in the names of various surrogates and agents to keep their profile down). U.S. taxpayers are subsidizing these corporations that pay NO taxes. In 1945, corporate taxes generated 51% of the total taxes collected by the Treasury Department and individual taxes represented only 49%. Today, individual taxpayers account for 99% of U.S. tax revenues while corporations contribute less than 1%. This has to change." The WSBA represents all lawyers, not any subgroup.

Crime Pays – But Who's Doing the Paying?

There was a fascinating story of a man in North Carolina who walked into a bank and gave the teller a note. The note said that he was committing a robbery, that he demand one dollar, and that he was *not* armed. It also advised the teller to call the police. The man then sat on a couch in the lobby and later was arrested for bank theft. His thinking? He had health and housing problems. He was 62 years old, 3 years short of Medicare eligibility. He figured he would go to jail for 3 years, during which time the taxpayers would house him, feed him, and provide all the medical care necessary to get him back into some semblance of good health. Each time a person goes to jail or prison it is us, the taxpayers, who foot the full bill. This has included expensive operations, cancer treatments, and so on. This is on top of the fact that we often imprison people for relatively minor offenses or for things that are not even crimes in some states and/or countries (such as for using marijuana). The U.S. has the highest incarceration rate in the developed world. In 1972, our incarceration rate of 93 prisoners per 100,000 population was already near the highest. By 2009 it was 502 prisoners per 100,000, a drop of 4 from the 506 prisoner ratio of 2007. The U.S. accounts for 25% of the world's prisoners but only 5% of the world's population. Perhaps we should rethink major components of this system of incarcerating people for minor crimes or for keeping people in prison who have served most of their time and present no significant threats to society upon release (such as a person on dialysis). If someone wants to scramble their brains with longtime drug use, I for one resent the fact that

taxpayers end up providing for all of their needs. Anyone want to shrink government? We spend $50 billion on the prisons system of the states, double the amount (in present dollars) expended in 1987. We've been tough on crime but even tougher on state budgets. What is the largest public housing program in America? It's prison system. While we're at it, what does it say about the richest county in the history of the world that someone reached a point where he felt he had to rob a bank in order to get medical treatment?

Effect of Insurance Fair Conduct Act

The effects of the Insurance Fair Conduct Act (IFCA), which was enacted by voter referendum in 2007, is now becoming clear. Voters enacted the law due to widespread abuse by insurance companies *of their own insureds.* A lot of this was in the area of homeowners insurance (fire and theft) but it was also a problem in the area of automobile insurance coverage for underinsured motorist coverage and/or for medical payments (personal injury protection – PIP). IFCA allows us to now penalize insurance companies who wrongfully deny or delay paying for coverage for which their insureds have paid premiums. The extent of the insurance industry abuse in Washington State is breathtaking as demonstrated by how much more benefits insurance companies have provided (since the law became effective) when their customers suffer losses. Insurance companies paid $190 million in Washington homeowner's claims they would not have otherwise paid. They unwillingly paid another $17.5 million in auto insurance claims they should have paid under our citizen's underinsured motorist policy coverages. The insurance industry is outraged because they can't as easily cheat their customers anymore. They now actually have to give their insureds more of what they paid for. On a personal note, I can tell you that IFCA has certainly helped my ability to improve the lives of my clients by reaching fair settlements faster and with less stress.

Run Scared on Halloween

My daughter, Ilana, started a company, Runforgood. She promotes races that benefit charities. She also manages races for charitable organizations. For the third year in a row, an event called "Run Scared" will take place on Sunday, October 30, 2011, at 9 a.m., at Seward Park. It is a 5K run or 5K walk benefiting the Leukemia and Lymphoma Society. Last year I was in a full suit running as a lawyer. That should scare anyone. (Photo above). There is a free kids' race, catered food, t-shirts, trick -or-treat bags filled with goodies, costume contests for people and for dogs, and numerous prizes. It's not too early to reserve a place or donate a sponsorship. Go to www.runscared5k.com. See you there!

Saving a Life

A client and friend exchanged the following information with me. Although relatively young, her husband's kidneys failed. Because of a rare blood type he was put on the donor registry but was told it would be at least 6 years before he was likely to get a kidney. He would have to be on dialysis until a kidney was made available. Thankfully, the University of Washington has a "living donor exchange program." The way it works is that a person can donate their kidney if there is a recipient anywhere in the country who matches that kidney. The program insures that kidneys can be simultaneously exchanged all over the country to match various donors. The surgeries are then done all at once. After four months of testing, my client was approved to donate one of her kidneys in February 2011. She entered the hospital and had her kidney removed. It turned out that on that day alone, there were 9 lives saved by the chain of donors in this program. Her husband received a kidney from a stranger in California. Her kidney went to a stranger in Florida. The surgery was a success. 14 hours after her surgery, she was informed that the kidney she donated was fully functioning in the recipient in Florida. Nine lives in all were saved through this carefully choreographed exchange. Everyone should know that we are born with two kidneys and that, normally, a donor can expect to live with one without any major health concerns. Donating a kidney is not particularly dangerous and it could save lives.

A Country of Have and Have-Nots

How have the economic recession and the nonexistent recovery in the employment market affected people in our country? In summary, the rich have gotten much richer and the middle class and poor have been the main payers of the price of the problems in Washington, D.C. A reputable national study, performed periodically, found that there were huge income and asset disparities among different demographic groups even in 2005. By 2005 the United States had one of the greatest disparities between the rich and the poor of anywhere in the western world. It has gotten much worse. Here are a few of the statistics. The median wealth of the Hispanic community fell by 66% between 2005 and the end of 2009. African American median wealth dropped 53% and Asian households declined by 54% in the same period. The result is that we now have the largest wealth disparities since these kinds of records were kept in any detail. Median wealth of "white" households may have fallen, but not as much

as everyone else's. 'White' households as a group have twenty times the income/assets of African American families. The income/asset disparity is now double the disparity that had existed before the recent recession. One-third of Hispanic households and 35% of African American households had either zero or negative net worth by the end of 2009. Stated another way, about one-fourth of all these households owned nothing but a car in 2009. The interesting fact about America as it now exists is that the recession and the recovery have benefited the very wealthy by means of tax cuts and subsidies as well as their ability to manipulate the IRS code. The cost of the recession has fallen on those least able to afford it. Unfortunately, those least able to afford it are also those who tend not to be voters and are not organized and therefore have no clout in Washington, D.C. We are becoming a government of the powerful vs. the powerless, not a true democracy where we all care about each other. One other fact about the relationship between corporate profits and employment: In the fourth quarter of 2010, corporate profits rose 42% realizing record profits of $1.7 **trillion**. How did they use all that cash? Did they hire more workers? No. Unemployment rates hover around 10%. They are generally sitting on it – hording it and not paying taxes. (And using fewer workers for more production.) So much for trickle-down economics!

The Medicaid Crisis

The population of the United States is aging. Because of this changing demographic, the future viability of various benefit programs such as Social Security and Medicare are in danger of collapse. Our national government is so busy trying to maneuver for elections and so ideologically rigid that nothing serious is being done. The Medicaid program provides health benefits for people who are unable to pay for their own medical care. This program is also in danger because moneys paid into the program have dropped drastically, while the needs and costs of medical care associated with those needs have skyrocketed. We need to begin a more serious national dialogue about providing healthcare in this, the richest nation in the history of the world. One proposal that should be explored is actually being tested in Arizona. The question can be asked, can we hold people accountable at least for part of the costs of diseases that are preventable and self induced? The idea is to charge more to individuals who smoke and who are morbidly obese. Smokers cost the healthcare system billions of extra dollars annually. It is more than ironic that Congress can't eliminate subsidies for tobacco growers, i.e., for the producers of this poison. This shows you how paralyzed Congress is. Of course, such a policy of increased fees would have to except people whose obesity is a result of medical conditions, or disabled persons but, nevertheless, why should the general population have to pay so much more and suffer the consequences for people's own misbehavior?

Thought for the Month

"The opposite of love is not hate, it is indifference"
-Elie Weisel

Saying of the Month

Fear of failure causes us to fail. It is the willingness to fail that allows us to succeed. --Unknown

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