

December
2008

Volume 36
Number 11

The official publication of the
Snohomish County Bar Association

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NEWS



SCBA NEWS

Published by the
**Snohomish County
Bar Association**
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Everett, WA 98206

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SCBA NEWS is published monthly by the Snohomish County Bar Association, P.O. Box 5429, Everett, WA 98206.

Send changes of address to:
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P.O. Box 5429, Everett, WA 98206

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ADVERTISING AND SUBMISSIONS

Announcements: *SCBA members only. Contact Joyce Wood at (425) 388-3056 or joycew@snoabar.org.*

Classifieds: *Please contact Joyce Wood for rates and submission guidelines at (425) 388-3056 or at joycew@snoabar.org.*

Submissions: *Contact Joyce Wood at (425) 388-3056 or at joycew@snoabar.org.*

Deadline: *Copy must be received (not postmarked) by the 15th of each month for the subsequent issue. No cancellations will be accepted after the deadline. Please submit to the SCBA office at P.O. Box 5429, Everett, WA 98026, Microsoft Word Format (Mac or PC) by e-mail. WordPerfect users, save your files in either MS Word format or Rich Text format (RTF).*

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SCBA CALENDAR OF EVENTS

December 2008

- 1st Donut Monday!!!
- 4th CLE Trial Masters
- 8th Young Lawyers Section Meeting
- 15th Deadline SCBA Newsletter
- 15th Family Law Section Meeting
- 18th CLE Ethics Advice
- 18th SCBA Board of Trustees Meeting
- 18th Guardianship Section Meeting

January 2009

- 5th Donut Monday!!!
- 12th Young Lawyers Section Meeting
- 15th Deadline SCBA Newsletter
- 15th SCBA Board of Trustees Meeting
- 23rd SCBA General Membership Meeting
- 26th Family Law Section Meeting

February 2009

- 2nd Donut Monday!!!
- 9th Young Lawyers Section Meeting
- 15th Deadline SCBA Newsletter
- 19th SCBA Board of Trustees Meeting
- 23rd Family Law Section Meeting

March 2009

- 2nd Donut Monday!!!
- 7th SLCS AUCTION
- 9th Young Lawyers Section Meeting
- 15th Deadline SCBA Newsletter
- 16th Family Law Section Meeting
- 19th SCBA Board of Trustees Meeting

April 2009

- 6th Donut Monday!!!
- 13th Young Lawyers Section Meeting
- 15th Deadline SCBA Newsletter
- 16th SCBA Board of Trustees Meeting
- 20th Family Law Section Meeting

May 2009

- 4th Donut Monday!!!
- 11th Young Lawyers Section Meeting
- 15th Deadline SCBA Newsletter
- 18th Family Law Section Meeting
- 21st SCBA Board of Trustees Meeting

SUPERIOR COURT ASSIGNMENTS

The courthouse will be closed December 25, 2008 and January 1, 2009.

Presiding Judge:	Judge Larry E. McKeeman
Trial Calendar Call and Motions to Continue Trial:	Judge McKeeman, Dept. 2
Juvenile Court:	Judges Wynne and Farris
.....	Commissioner Gaer ¹
Civil Motions:	Judge Lucas: Dec. 1 - Dec. 5
.....	Judge Fair: Dec. 8 - Dec. 19
.....	Judge Thorpe: Dec. 22 - Dec. 26
.....	Judge Weiss: Dec. 29 - Jan. 2
Criminal Hearings:	Judge Knight: Dec. 1 - Dec. 12
.....	Judge Weiss: Dec. 15 - Dec. 26
.....	Judge Cowsert: Dec. 29 - Jan. 2
Criminal Motions:	Judge Castleberry: Dec. 1 - Dec. 5
.....	Judge Downes: Dec. 8 - Dec. 19
.....	Judge Allendoerfer: Dec. 22 - Jan. 2
Criminal Dept. Judges: ²	Judges Knight, Thorpe, Allendoerfer, McKeeman, Castleberry, Krese, Bowden, & Cowsert
Civil Dept. Judges: ²	Judges Fair, Downes, Lucas and Kurtz
Ex Parte/Commissioner Civil Motions: ¹	Commissioner Waggoner
Family Law Calendars: ¹	Commissioners Brudvik, Stewart, and Bedle

Please note: All assignments are subject to change without notice and assignments may not change on the first day of the month.

¹ Court Commissioner assignments are for six months duration and change in early January and July.

² At the discretion of the Presiding Judge, criminal cases may be assigned to Civil Department Judges and civil cases may be assigned to Criminal Department Judges.



FROM THE DESK OF
THE PRESIDENT,
HALLEY "HAL" HUPP

Two Thousand and Eight is coming to an end. As a trustee I have had the pleasure of serving with eleven SCBA Presidents. Even with all that experience, it is something altogether different to actually have the privilege of being the SCBA President. I have learned a tremendous amount this year about our association, our membership, and the unique services we provide. Thank you all for a wonderful year.

I also want to give a HUGE thanks to the woman who actually makes the SCBA work, Joyce Wood. We have given her awards, we have given her praise, but in truth we can never say enough about how much we need her and appreciate her hard work. In many many ways, she is the SCBA.

As the news frequently reminded us, the buzz word this year was "change." When you are working with an association, change is less dramatic than those promised by politicians. Changes come slower and are more in the line of refinements.

Some of those refinements are being made to the bylaws and you will have an opportunity to vote on those during the general meeting in January.

Over the last few years SCLS and SCBA have made changes in how we run the yearly dinner and auction. We believe those changes are now complete and we look forward to a wonderful dinner and auction in 2009.

We have had staff changes, and Joyce went through a rigorous application process to find her wonderful new assistant, Jessica Ralston. Please say hello to Jessica the next time you are in the office.

We also participated in plans for a new Justice Center, a change that is unlikely to happen soon given economic conditions, but definitely a wonderful dream for the future. And a great dream

it is indeed, one worthy of our support in the future.

We have welcomed many new lawyers and judges to our legal community. It was my pleasure recently to participate in the swearing-in of some of those new attorneys. As I listened to the judges and lawyers speak, I was struck again with how lucky we all are to work in Snohomish County.

The end of this year is bringing one sad change for sure: Judge Thorpe is retiring. He is a stellar judge and he will be missed. Thank you, your Honor, for your dedicated and honorable service to Snohomish County and our legal community.

It has been a great pleasure working with this year's board and all the trustees I have had the pleasure of serving with over four terms as an SCBA Trustee (that's twelve years by the way and yes that means I'm not a member of the Young Lawyers anymore). I encourage everyone who is interested in our legal community to apply for a position on the SCBA board at some point. It is a wonderful way to take another look at our community and to be of service to it.

I look forward to seeing you all at the 2009 SCBA/SCLS Dinner and Auction.

Thanks again, Hal. *er*

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Task Force to Review Discipline Procedures (Again)

The Board of Governors of the Washington State Bar Association has appointed a task force to review the Rules for Enforcement of Lawyer Conduct (ELC). This is the next step in a review process that has been going on for two years.

In 2006, a committee of the American Bar Association reviewed Washington's professional discipline system. They issued a report in August that recommended several far-reaching changes. They recommended that the Disciplinary Board and the Office of Disciplinary Counsel be removed from the Bar Association and placed directly under the Supreme Court. They recommended that the Disciplinary Board sit in panels in review cases, rather than acting as a full Board. They also recommended many smaller changes, such as better use of technology and better training for hearing officers.

This report was reviewed by the Discipline Committee of the Board of Governors. That committee issued a report in September, 2008. The report recommended against any major structural change. It did adopt most of the other recommendations of the ABA committee.

The Board of Governors has now appointed a Task Force to review the operation of the discipline system and recommend any necessary changes. The Task Force charter, the two reports, and other documents can be viewed on the WSBA web site at <http://wsba.org/lawyers/groups/elctaskforce.htm>.

Seth Fine, as Vice Chair of the Disciplinary Board, is a member of the Task Force. He is soliciting suggestions for improvements to the attorney discipline system. Any ideas can be sent to him at sfine@snoco.org *et*

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THE LAWYER'S ROAD REVIEW BY PETE PATTERSON

Perspective

This week in my office, I opened the statement from my IRA that was printed on Halloween. May I say I have not had such a fright in the longest time? I considered jumping out of my office window but then realized I am on the first floor. Instead, my eyes rolled skyward and happened to glance at the framed certificate the Supreme Court issued to me granting my license to practice. I noted the license was signed 25 years ago this same week. Another 25 years to go, apparently, given the state of my "pension."

Shouldn't there be a lapel pin or something issued after 25 years of membership in the bar, even though the market has dictated that I am only half way to retirement?

We in private practice are a randy bunch, aren't we? Unable or unwilling to slog through the years of a "job" somewhere forever chained to the ostensible security of a larger company than ourselves, we pretty much are modern day hunter gatherers. Free from the dictates of so called superiors, we eat what we kill, recklessly send our children to a better school than we attended and, with any luck, retire with modest dignity. But the elements of risk are always there.

The subject matter we handle is often difficult. I saw one of my partner Spalter's clients coming in for a consult and could have sworn it was Marge Simpson, finally divorcing that loser Homer. It got me thinking that, like Homer, we handle nuclear waste much of the time. We stress about it and sometimes it spills over into our lives and our practices. Is it any wonder we sometimes get irritated?

Here is my advice after 25 years: Don't do that. This is, in reality, just a job. The clients come to us with problems and the best we can do is provide some kind of remedy that is not

as bad as if the lawyer was not involved at all.

Something else I have learned: Contrary to the belief of the clients, the lawyer doesn't know everything, and cannot control events. The lawyers should understand this as well, and retain that collegiality that renders us a noble profession. What I tell clients is negotiating a bad settlement is generally preferable to trying a good case. Things can go very bad quickly if you forget this rule. Anyone who has practiced any length of time knows this. Perhaps the following story is your best shot at convincing the clients of this truth.

A man named Gavrilo Princip shot Archduke Ferdinand and his wife Sophie on a beautiful June day in Sarajevo in 1914. The Austrians thought they ought to have a hand in investigating the assassination, given it was their leader who died, a modest request to my mind.

The Serbs rejected the request. Austria felt it had to do something under the circumstances, so went to trial, or in other words, declared war. They did not know Russia would be then declaring war against Austria, and a whole list of other countries were compelled by other unknown alliances to join in. In the end, we had World War I. World War I ends in the Treaty of Versailles, setting up World War II, which ends with the world with an atom bomb on its hands and the ultimate price for humanity for World War III.

Somehow I don't think Serbia considered this possibility when rejecting Austria's reasonable request. Sure, the Austro-Hungarian Empire fell, which was the objective of Princip as well as some Serbians, but considering the fact Princip was a terrorist, Serbia would have been better off with a few Austrians on the CSI team rather than be identified with him.

So when advising to your client Serbia, unwilling to bend at all, you can say failure to negotiate may mean you have no Austrians in your country looking under every door mat, but at the end of the trial you also have a lot of dead Serbs. And look at all those fine young men dying in Flanders. Did you think about that Serbia? Not only that, your historical ally Russia became a communist totalitarian state. Go ahead and say you didn't know that would happen, that you had a right to put up road blocks to discovery, or that you have a historical fight with the other party and

continued on next page

his lawyer, but that doesn't change the outcome. So why go down that road? Now we have The Bomb to worry about and with it the End of History. All because of a lack of perspective.

Conflict is a constant in the universe and how we handle this radioactive waste makes all the difference. Be objective and clear. Remain focused on the merits. Do not press the red button. Candidly, I have learned there is truth in being able to look a client in the eye and tell them they will either lose the day, or win the battle but lose the war, and to settle.

Some lawyers, like Gail Nunn, have tried Collaborative Law. This is a positive step. This begins with a promise not to go to war, sort of like what the Japanese put into their constitution after the Bomb was dropped on them.

What I want to leave you with is that where collaborative law won't work, and where you have to go to trial, collegiality is still the watch word. These are not personal issues; we work here. Do not press the red button. We have a long way to go people. Let's be careful out there. Have perspective, and maybe the market will turn around and we can retire earlier than we think today. *et*

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NOTICE

Pursuant to Snohomish County Superior Court Administrative Order 11-08 (adopted November 13, 2008 and effective January 1, 2009) Mental Health Involuntary Commitment Hearings held on Fridays will be heard by the assigned Superior Court Commissioner commencing at 8 a.m. on site at the Snohomish County Evaluation and Treatment Center in Mukilteo, Stevens Hospital in Edmonds, and at Valley General Hospital in Monroe.

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Christopher Knapp of Anderson Hunter law firm, will be providing a 30 minute overview of how to prepare effective closing arguments. Mr. Knapp will share his common-sense tactics for proven results. These techniques are a necessary step for securing the verdict that you want, and more importantly, the verdict your client wants.

Mark Mestel will be offering an hour long presentation on cross examination techniques. Mr. Mestel is widely recognized as a skilled trial lawyer with what some have called a "wicked" cross. Mark will be presenting how-tos on cross examination. Mark's hour long seminar is guaranteed to improve your cross examination skills.

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Ethics Advice for the Busy Practitioner

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Robert J. Drewell Administration Building First Floor Conference Room

William Sullivan of the law firm of Marsh Mundorf Pratt Sullivan + McKenzie will be discussing real ethical issues confronting us all. Please e-mail bill at bills@millcreeklaw.com with any ethical dilemmas or ethical questions that you've encountered in your practice. Bill will present them as hypotheticals at the CLE for a roundtable review and discussion, with the development of common sense solutions. This should create a CLE that will benefit everyone, focusing ethical quandries that we can all expect to face. To effectively assist and participate in the discussion, it would be helpful if all attendees brought with them a copy of the RPCs.

Elizabeth Turner of the Washington State Bar Association Assistant General Counsel will be presenting a seminar on retainer letters and fee agreements. A topic that every practitioner needs to hear. What are the ethical implications in the fee agreements and retainer letters that you use in your daily practice? End the year with timely advice for 2009.

Both presentations will be one hour in length.

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The following legal practitioners are well-trained in the collaborative method, and welcome your referrals:

Al Armstrong aarmstrong@purcelladams.com	425-774-0444
Laura A. Banks laura.bankslaw@comcast.net	206-542-1840, x1
Cynthia First, Schwimmer First, LLP cynthia@everettlawyers.com	425-259-5000
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SCBA Lawyer Referral Service

The Lawyer Referral Service of the Snohomish County Bar Association would like you to become a member. We need input and representation in many areas. For example, we do not have any attorneys in Snohomish County who practice law in the following areas: DSHS, Mental Health Issues, Federal L&I, ADA/Disability, Privacy Laws, Identity Theft, Slander/Libel, Employee Benefits, Employment (ADA accommodations, FMLA), or Veterans Administration Law.

We only have a few attorneys in the Snohomish County area who practice law in the following areas: Animal Law, Landlord/Tenant (for tenants), Collection (debtor), Education, Professional License, Non-Profit Organizations, Tribal, Unemployment/Workmen's Compensation, Police Misconduct, International Law, Environmental Law, and Taxation.

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or pay before December 31, 2008
and get the tax write-off this year.

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EX-PARTE BENEFITS ROLLING IN**

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Snohomish County Bar Association presents

Ethics Advice for the Busy Practitioner: Real Life Quandaries Wanted!

December 18, 2008 at 1pm

Two Credits Ethics Approved

PRICE: \$60.00

Bob Drewel Administration Building First Floor Conference Room

William Sullivan of the law firm of Marsh Mundorf Pratt Sullivan and McKenzie will be answering real life ethical questions as presented by our members.

Bill is looking for members to share real life quandaries/issues that you have faced. If you are uncomfortable with sharing a real life situation, Bill is also seeking hypotheticals that members would like to share. (Obviously anonymity is guaranteed). You can reach Bill at bills@millcreeklaw.com or you can call him at 425-742-4545.

The presentation will allow you to :

- Avoid or prevent common and not so common ethical quandaries
- Prevent a decision you make today from causing predicaments down the road
- Explore common sense answers to common ethical problems

Elizabeth Turner of the Washington State Bar Association Assistant General Counsel will be presenting an hour long seminar on retainer letters and fee agreements, a topic that every practitioner needs to hear. What are the ethical implications in the fee agreements and retainer letters that you use in your daily practice? What new rules has the WSBA approved in regards to flat fee or availability retainers and how do these new rules apply to your fee agreement? End the year with timely advice for 2009.

Both presentations will be one hour in length.

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Snohomish County Superior Court
Superior Court Pro Tempore
Superior and Juvenile Court

Applications are due January 9, 2009

The Snohomish County Superior Court will be adopting a new Pro Tempore List for 2009. All applicants for Judge and/or Commissioner Pro Tem positions in Snohomish County must be active members of the Washington State Bar Association or a retired Superior Court Judge or Court Commissioner.

At this time applications are being accepted for the following four separate Pro Tempore lists:

1. Superior Court Commissioners' calendars;
2. Juvenile Court Judges' and Juvenile Court Commissioners' calendars;
3. Civil Commitment calendars; and
4. Superior Court Judges' calendars and trials.

All applications shall consist of:

1. A resume, which outlines professional knowledge, skills, years of experience, training/certifications, professional affiliations, and professional references.
2. A cover letter, which specifies which of the four lists he or she is applying for. The letter must indicate the number of years of experience in that area of the law. It must also indicate the applicant's ability to accept assignments from the court on short notice.
3. A copy of the applicant's bar card.

Mail applications to:

Superior Court of Snohomish County
Attn: Pro Tempore Positions
3000 Rockefeller Ave., MS 502
Everett, WA 98201-4060

The names of the applicants and the application documents **will not be confidential**. Input from the Snohomish County Bar Association, specialty bar groups and the general public will be sought regarding the applicants.

If you have any questions, please contact Superior Court Administration at (425) 388-3834.

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The Honorable Richard J. Thorpe

**December 10, 2008
4:30 pm to 7:30 pm**

**Monte Cristo Ballroom
1507 Wall Street
Everett, Washington 98201**

Please R.S.V.P. with the SBCA Office (425) 388-3056

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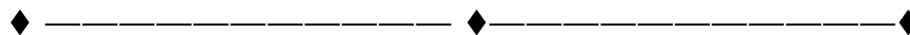
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**Snohomish County Superior Court
Court Commissioners' Calendars (1ST FLOOR)
JANUARY 5, 2009 THROUGH JUNE 26, 2009**

	DEPT A (CM) (XA) (MU) (EX) LESTER H. STEWART	DEPT B (D3) (XB) (VP) (HP) TRACY G. WAGGONER	DEPT C (D5) (XC) (VP) (HP) SUSAN C. GAER	DEPT D (PA, PM, S1, TH, GP, CD, XD) JACALYN D. BRUDVIK
MONDAY	9:00 – 11:00 AM Ex Parte 1 11:00 AM Extended (EX) Hearings 2	9:00 AM Family Law Motions	9:00 AM Family Law Motions	9:00 AM Ex Parte Mail 9:30 AM State Paternity 3 (PA)
TUESDAY	1:00 – 4:00 PM Ex Parte 1 9:00 – 10:30 AM Ex Parte 1 10:30 AM Civil Motions 5	1:00 PM Domestic Violence 9:00 AM Family Law Motions	1:00 PM Extended Hearing 2 9:00 AM Family Law Motions	1:00 PM Child Support Modifications 4 (S1) Mental Hearings
WEDNESDAY	1:00 – 4:00 PM Ex Parte 1 9:00 – 10:30 AM Ex Parte 1 10:30 AM Civil Motions 5	1:00 PM Domestic Violence 9:00 AM Family Law Motions	1:00 PM Extended Hearing 2 9:00 AM Family Law Motions	9:00 AM Clerks Dismissals/ (CD) State telephonic hearings 6 (TH)
THURSDAY	1:00 – 4:00 PM Ex Parte 1 9:00 – 10:30 AM Ex Parte 1 10:30 AM Civil Motions 5	1:00 PM Domestic Violence 9:00 AM Family Law Motions	1:00 PM Pro Se Dissolutions 9:00 AM Family Law Motions	1:00 PM State Paternity 3 (PM) 9:00 AM Guardianship/Probate 7 (GP)
FRIDAY	1:00 – 4:00 PM Ex Parte 1, 8 9:00 – 10:30 AM Ex Parte 1 10:30 AM Civil Motions 5	1:00 PM Extended Hearing 2 9:00 AM Family Law Motions	1:00 PM Domestic Violence 9:00 AM Family Law Motions	1:00 PM State Paternity 3, 9 (PM) 9:00 AM Ex Parte Mail 9:30 am Guardianship/Probate 7 (GP)
	1:00 – 4:00 PM Ex Parte 1	1:00 PM Extended Hearing 2	1:00 PM Domestic Violence	1:00 PM Interpreter/Extended Hrgs 2,10,11 (XD)

- 1 Ex Parte:** Attorneys will have priority from 9:00 a.m. to 10:30 a.m. daily. Pro se parties will have priority from 1:00 p.m. to 2:00 p.m. daily.
- 2 Extended hearings** are set only by the Court Commissioner.
- 3 State Initiated Paternity** calendar.
- 4 Child Support Modifications** of final support orders.
- 5 Civil Motions:**
The following are heard in Dept. A: Defaults; Discovery Motions and enforcement thereof; Supplemental Proceedings; Unlawful Detainers/Evictions; Receiver Actions and Motions to Amend Pleadings.
Probate and Guardianship are heard in Dept. D.
All other civil motions are heard on the Judges Civil Motions Calendar.

- 6 Clerks dismissals:** To be heard on the 1st, 3rd, and 5th Wednesdays;
State Telephonic Hearings: To be heard on the 2nd and 4th Wednesdays.
- 7 Guardianship and Probate** hearings are now heard only on this calendar.
- 8** Heard in Department A by Department D Commissioner.
- 9** Heard in Department D by Department A Commissioner.
- 10 Interpreter Hearings** are set only by the Court Commissioner.
- 11 Pro Se Dissolutions Requiring Interpreter Services** – heard in Dept D – 4th Friday of the month, set by Court Facilitator only.
FURTHER EXPLANATIONS: (OVER)

Confirmations: The local court rules require confirmation of ALL motions. Call 425-388-3587 to confirm all motions, including those set in the Presiding Department.

Family Law Motions: Matters set on the Family Law Motions Calendar will later be assigned to a specific Commissioner department. The commissioner department assignments are posted the day of the hearing.

Attention Snohomish County Young Lawyers: The Snohomish County Young Lawyers Division will be holding an Annual Meeting on **Monday, January 12, 2009 at 5:00 p.m.** The meeting will be held at the Flying Pig in Downtown Everett. We encourage *all* young lawyers to attend this meeting. We will be appointing new members to the Young Lawyers Division Board of Trustees and electing new officers. All members are invited to attend.

Any active member in the *Snohomish County Bar Association* is a young lawyer until 36 years of age or until the fifth year in which any member has been admitted to practice, whichever is later. If you are interested in becoming involved with the SCYLD, please attend our next meeting (second Monday of every month at the Flying Pig - 5:00 p.m.) or email Michael Kvistad at mkvistad@andersonhunterlaw.com. We look forward to seeing everyone at the annual meeting on January 12, 2009 at 5:00 p.m.

Snohomish County Bar Association
P.O. Box 5429
Everett, WA 98206

