


SCBA NEWS

The Official Publication of the Snohomish County Bar Association -

January 2003



**THERE WILL BE NO
AUCTION FOR SNOHOMISH
COUNTY LEGAL SERVICES
THIS YEAR
WITHOUT YOUR HELP**

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SCBA NEWS

Published by the
**Snohomish County
Bar Association**

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Everett, WA 98206

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SCBA Members Calendar of Events

January 2003

15th Deadline SCBA Newsletter
16th SCBA Board of Trustees Meeting
27th Family Law Section Meeting
28th SCBA Auction Meeting
31st SCBA Annual General Member-
 ship Meeting

February 2003

17th Deadline SCBA Newsletter
20th SCBA Board of Trustees Meeting
24th Family Law Section Meeting
25th SCBA Auction Meeting

March 2003

17th Deadline SCBA Newsletter
20th SCBA Board of Trustees Meeting
22nd SCBA ANNUAL AUCTION
24th Family Law Section Meeting

April 2003

18th Deadline SCBA Newsletter
17th SCBA Board of Trustees Meeting
21st Family Law Section Meeting

May 2003

18th Deadline SCBA Newsletter
16th SCBA Board of Trustees Meeting
19th Family Law Section Meeting

June 2003

16th Family Law Section Meeting
19th SCBA Board of Trustees Meeting
21st Deadline SCBA Newsletter

Superior Court Assignments: December 2002

Presiding Judge: Judge Joseph Thibodeau

Trial Calendar Call and Motions to Continue Trial: Judge Thibodeau, Dept. 10

Juvenile Court: Judges Allendoerfer and Farris; Commissioner Waggoner¹

Civil Motions: Judge Fair: January 1 - January 10
 Judge Knight: January 13 - January 24
 Judge Cowsert: January 27 - January 31

Criminal Hearings: Judge Knight: January 1 - January 10
 Judge Fair: January 13 - January 24
 Judge Thorpe: January 27 - January 31

Criminal Dept. Judges:² Judges Knight, Thorpe, Castleberry, Wynne,
 Hulbert, French, Fair and Cowsert

Civil Dept. Judges:² Judges Thibodeau, McKeeman, Krese, and Bowden

Ex Parte/Commissioner Civil Motions:¹ Commissioner Bedle

Family Law Calendars:¹ Commissioners Stewart and Brudvik¹

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,
DAVE KURTZ**

The Bully Pulpit

Teddy Roosevelt referred to the Presidency as “the bully pulpit.” This month I’m using my “bully pulpit” as SCBA President to comment on a couple of important matters.

I have tried to adopt a positive tone in my columns as President. I’d rather not be “preachy” or a “scold.” But as my term nears its close, I want to weigh in on (a) the Bar Auction and (b) the Jail Initiative.

First, the upcoming Auction. Folks, we are facing a bad situation. We know times are tough (witness the woes of charitable organizations like the United Way). And as to our Auction next March, donations of items are only 14% of where we were at the comparable time last year.

The Auction is critical to Snohomish County Legal Services. I understand that last year’s proceeds were about one quarter of their total budget. SCLS does good things, and we’ve been a big part of what they do. We need to step up; and to step up soon to make the upcoming event a success. Please promptly donate an Auction item. Please.

The second matter is less emergent, but it’s important, too. Last September the voters narrowly rejected a local initiative to fund operations at the new Jail. During that campaign many County leaders were remarkably quiet on this issue. Perhaps fear of folks like Tim Eyman made leaders shy away from campaigning hard for any kind of tax increase, however small or necessary.

But, the new Jail must be built and the funding dilemma is not going to go away. At some point the

proposition to fund Jail operations will have to be resubmitted to the people. Next time political leaders need to be out front on this issue. Next time we as lawyers especially need to be heard on a matter which is critical to the functioning of the justice system.

Enough of the sermon. Congratulations to Deane Minor for being selected as our “Local Hero” and best wishes to all for a Happy Holiday season.

**Auction Time Is Coming
A Knight For Justice
Mark This Date**



March 22, 2003

Howard Johnson Plaza Hotel
Everett

Invitations will be mailed out in January
2003

We need your ideas for auction items and also your donations for auction items Call Joyce Wood at the SCBA office with your ideas.

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2003 SCBA Trustee Election

A huge "thanks" should go out to the five candidates for Trustee this year. The SCBA Trustees and the Association, as a whole, are only as good as their membership. These five individuals demonstrate the willingness to participate and give of their time that makes our association a success.

Thank You.

And the winners are...



George Appel



Richard Okrent



Ruth Blanchard-McLean



James Shipman



**2003
SCBA/SCLS
AUCTION**



**By Ruth Blanchard-McLean,
Auction Chair**

Happy Holidays to all! No matter which holiday you celebrate during this season stop for just a moment to think about those who are less fortunate than you. These are the clients that are seen by Snohomish County Legal Services. These are the people that seriously need our help.

For those of you that are new to the profession and our county (there were 30 new admittees sworn in by Judge Thibodeau in November) each year we hold an auction for the benefit of Snohomish County Legal Services. This year the auction will be on March 22, 2003 and the theme is "A Knight for Justice."

During this season of giving please remember that we desperately need your donations. We are far behind this year and need all the assistance we can get. Please remember that this service benefits our community thereby benefiting our profession.

Additionally, try to remember the meaning of this season: helping those less fortunate than ourselves. For those of you who still remember the delight of pleasure reading, I would recommend re-reading the Gift of the Magi and lending a helping hand to the Snohomish County Bar Association's Annual Auction.

The Lawyer Referral Service of the Snohomish County Bar Association would like you to become a member of the LRS. We need input and representation from many areas. For example we do not have any attorneys in Snohomish County that practice law in the following areas: Workman's Comp Federal, Mental Health, Special Education, Non-profit charities, and Civil Rights/Liberties.

We only have one or two attorneys in the Snohomish County area that practice law in the following areas: Consumer Protection, Tenant, Workman's Comp, Employment, SSI, Internet, Patent and Copyright, DSHS, Military, Securities. and Tribal.

We receive on the average of 70 calls a day from clients requesting legal assistance. If you would like to increase your practice in a specific area, LRS is a great way to do that. In an effort to better serve all clients we need you as a member. You can obtain an application for the LRS at <http://www.snobar.org> or by visiting the SCBA office.

If you have any questions please give Joyce Wood a call at the SCBA office at **(425) 388-3056**.



News from Snohomish County



Legal Services

**By Threesa Milligan,
Executive Director**

As I come to the end of my first year directing Snohomish County Legal Services, I have taken some time to reflect over the accomplishments of the past year. I am again so impressed with the dedication of the attorneys who work with our program. I feel blessed to be in a county where there is such support for pro bono work. Those who volunteer to assist needy clients with legal problems are providing an invaluable service to the clients. In addition to helping solve critical legal problems the contributions of these volunteers are an essential component in access to justice, which is fundamental to a fair and just society.

In the past month the following attorneys have accepted clients for pro bono representation: Lisa Clark, John Frawley, Christine Crowell, Fred Gillings, Deane Minor (who took two cases), Karen Moore, Gail Nunn, Richard Okrent, Satwant Pandher, Aaron Shields and Ron Steingold. Thank you!

Thank you to Dennis Burman, who conducted the November Bankruptcy clinic. Thank you to Kent Millikan, Russ Juckett, Deane Minor, Karen Moore, Lisa Micheli, Lisa Clark, Cindy Bailey, Satwant Pandher, Aaron Shields and Gail Nunn, who have volunteered at Family Law Advice Clinic in the past month. Thank you also to Patty Young and Jeanne Barrans, paralegals for Lisa Michele, Mark Patterson and Ruth Spalter, who donated their time volunteering at the Family Law Clinic. We would like to expand our use of volunteer family law paralegals in the coming year, so contact me if you or your staff wish to help out in this way.

We are very excited about the development of the Housing Justice Project, spearheaded by our “non-family-law” attorney, Ishbel Dickens. Please see her article elsewhere in this newsletter for more information about this exciting project.

As you can see in this newsletter, the auction is just around the corner and now is the time to get your donations in. How important is the auction to the ability of Snohomish County Legal Services to do the work we do? It is not only important, it is an essential part of our budget. In 2002 the auction proceeds paid for more than half of our rent, so that we have a place to hold the clinics and meet with clients. Thousands of auction dollars went to interpreters who enabled us to assist clients with no or very little English skills. Other auction moneys contributed to staff salaries, payroll taxes, telephone, postage, and insurance. Without donated items the auction doesn’t happen. Please show your support by sending in your item donation information TODAY.

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Housing Justice Project

— an idea whose time has come in Snohomish County

Attorneys at Snohomish County Legal Services, Northwest Justice Project, and Columbia Legal Services along with private bar attorneys are very interested in starting a Housing Justice Project at the Snohomish County Courthouse in Everett.

The Housing Justice Project would provide “day of” hearing legal advice and/or representation for *pro se* tenants attending hearings regarding unlawful detainer actions.

Similar Housing Justice Projects are in existence in King County and Spokane County, and another project is planned for Pierce County. Snohomish County ought not to be left out in the cold, or at least our citizens ought not to be left out in the cold.

The goal of the Housing Justice Project is to provide a win-win situation for all involved. The court wins by having a shortened calendar as attorneys for both the landlords and the tenants are often able to come to settlement agreements outside of the courtroom. The landlords win because the settlement agreement could potentially guarantee a set move out date and/or some repayment of rent. The tenants win because they get access to justice, representation by a *pro bono* attorney, and/or the opportunity for an attorney to negotiate a move out agreement that benefits everyone.

Volunteering at the Housing Justice Project is a great opportunity for new attorneys to get courtroom experience. It is also an ideal volunteer opportunity for attorneys who are looking to give back to the community by utilizing their legal skills. The commitment of limited representation for the morning of the Hearing (3 hours) is not overly onerous, but

still incredibly valuable to the low-income clients who need the representation. Please give serious consideration to volunteering your time for this worthwhile project.

A free CLE training for attorneys interested in volunteering at the Housing Justice Project will be held on Tuesday January 14 from 2 -5pm in the Kinard Room, fifth floor, Snohomish County Courthouse. Attorneys who attend the training and then provide *pro bono* representation for SCLS-eligible clients may earn up to 6 free CLE credits. If you are interested in attending this free CLE, please contact Ishbel Dickens at Snohomish County Legal Services, by telephone at (425) 258-9283, or by email at ishbeld@snocolegal.com

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FOR THE KIDS' SAKE SEMINAR, A DISCUSSION

by Mark T. Patterson II

Approximately eight years ago following the lead of Cobb County, Georgia, our county approached the issue of what we could do about the impact of divorce on children. A rule was promulgated by which the court required the parents of children going through divorce to take a parenting seminar designed to address this issue. The most popular offered became the "For the Kids' Sake" seminar. The Rule is found at SCLSPR 94.04(5).

As with any program, there are many successes and some failures. The Snohomish County Bar has determined that a discussion is appropriate, and instructed authorship of this article, largely because I posed the following background and hypothetical.

The legislature has enacted certain requirements for the court to enter a decree of dissolution for persons divorcing with children. They are that the parties have a parenting plan and a child support order, which meet certain requirements in the context of the statute. None of the statutory requirements for divorce include attending a parenting seminar. There needs to be 90 days that pass from the time of filing and service of a petition. Thereafter, the Court has the authority to enter the decree, but often they do not due to the fact one parent has failed to take the seminar.

The rule itself does not preclude entry of a *decree*, it precludes entry of a *permanent parenting plan*. SCLSPR 94.04(5)(D). In practice; however, all final pleadings are rejected without the seminar certificate.

Consider this: A man and his attorney approach the bench with a completely settled case. All of the nec-

essary documents are drafted and executed, and all time periods have passed. It is the end of the year. The parties desire to be divorced in that calendar year for tax purposes. However, the court refuses to enter the decree unless and until the "For the Kids' Sake" seminar has been taken by one of the parties. The parties take the "For the Kids' Sake" seminar in January, the decree is entered nunc pro tunc to December 31, and the parties file separately. The IRS then rejects these tax reports alleging the parties were married and a different tax is due. Angry, the parties sue the lawyer - of course - and the State of Washington, alleging that the Superior Court has impermissibly required new terms into the requirements for divorce in our state, thereby denying them their civil rights with identifiable damages flowing from the denial. The Court hearing the case, presumably in Thurston County, agrees with them, the ruling on appeal is sustained, and the upshot of it is that the "For the Kids' Sake" seminar and similar seminars around the state fall into disfavor and disuse.

Obviously, this is not a result that anyone wants. The "For the Kids' Sake" seminar by all anecdotal evidence that I have gathered is a positive experience for everyone involved. I think we can glean from this that it actually has improved the lives of children going through divorce. On the other hand, it is another hoop for the parents to jump through in what is a difficult time in their lives. On balance it is worth it; however, there are a few people who resent it. Specifically, a person I have as a client that had the foregoing hypothetical happen to him in a prior year. The facts as stated are true right up to where the IRS responds. Right now we are just hoping they see it our way. This puts a face on this very question I raise today, which I understand was in play at the time the rule was adopted. Now that we have an actual potential plaintiff that some smart lawyer, (not me) is going to take on, should we rethink how we do this?

Upon raising this topic with the Snohomish County Board of Trustees there were those who agreed that this policy of not allowing decrees to enter does in fact violate separation of powers and could possibly threaten the entire program and we should take this up with the bench. There are others who say the court

has broad authority to administer conflicts that come before it. King County for example requires there to be a settlement conference before you can go to trial, and the Court has otherwise promulgated court rules which exist to administer justice. The counterargument, however, was that there does not need to be a trial; there is a settlement, and these people have a right to divorce and that, when the legislative requirements are met, ought to be granted.

Some of us believe that the Court could fashion other sanctions in order to enforce that rule that did not constitute new requirements for divorce. It has been the experience of most of the bar that no matter how many times you tell your client this seminar is necessary, there are some that just do not get it done. What is the peril they should face?

The purpose of this article is to start the discussion as to perhaps doing things different. As a remedy to this issue, I suggest the following: Continue with the policy, but allow an escape clause. It seems to me that individuals could, upon showing cause why they should have their decree entered before they have completed the "For the Kids' Sake" seminar, be required to appear and show cause within 90 days why they have not taken the seminar, or that they have taken the seminar. I am not sure this really answers the primary question, whether we have strayed out of bounds into the world of legislation, but it may avoid a challenge.

My e-mail is pete@rockefellerlaw.com, and I would be happy to engage in further discussion with any groups that see this as a potential problem or a non-problem. This means not only members of the Bar, but the Bench.

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**"Attorney of the Year" award
to be given at the
January 31, 2003
General Meeting.**

As some of you may remember at the dinner dance, which is now the SCBA/SCLS auction, we used to give an award to an outstanding attorney in the community. We have decided that this award served such an important purpose in recognizing one individual's contribution to the practice of law that we will now be giving this every year at our Annual General Membership Meeting.

This year's meeting will be held on January 31, 2003 at the Everett Transit Station at Noon. Please R.S.V.P. for the meeting with the SCBA office at (425) 388-3056.

We are seeking nominations for an attorney from the general membership, who has gone the extra distance in ensuring that the legal profession is represented to the highest level and justice for all is served.

**The Deadline for nominations is
Noon, January 17, 2003.**

You may FAX, mail, call, stop by, or simply e-mail your nomination to the bar office.

Send it to:

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FROM THE BENCH OF JUDGE FRENCH

Professionalism (Yours) And Guardians Ad Litem

As you may know, and for those that do not, the Snohomish County Superior Court has a Guardian Ad Litem Committee. This committee was formed in response to the need to have a more formalized oversight process for GALs. The committee also monitors our compliance with the GAL court rules. Ann Howard, the GAL Coordinator (at least when she is not acting in her capacity as the Family Court Supervisor), coordinates the committee's efforts. The committee consists of the coordinator, two judges, a commissioner, and a SCBA representative. Among other things the committee:

- Approves additions and deletions to the GAL Registries.
- Addresses complaints made against GALs in the performance of their duties.
- Responds to issues raised by GALs, when appropriate

So, at least part of the committee's time is spent talking about lawyers and GALs. When I was in practice, I always figured that when it came to committee discussions about lawyers — such as, say, before the disciplinary committee — it was best not to be an agenda item. Nothing good could come from mention at such meetings. For instance the best you could do from the disciplinary committee would be an award for “Least Complained About Attorney of the Year,” or “Least Disciplined Attorney of the Year.” These are not the sort of accolades to write home about. Even your mother would sense this was not a good thing.

At the last meeting our discussions focused on a

particularly well-regarded GAL who had withdrawn from our registry. When Ann inquired of the reason, she was told the GAL was simply tired of being abused by attorneys, principally the one with whom she was most recently acquainted. Further discussion disclosed other GALs have voiced similar complaints, disillusion, and considerations of quitting over the behavior of attorneys. Imagine that. Folks have higher expectations for members of our profession. Fortunately, this behavior is not widespread. It is nonetheless worrisome. Maintaining a registry of GALs who are readily available, affordable, and able to competently complete their work has not resulted in a limitless supply. It takes a fair amount of time, effort, expense, and altruism to end up on our registry.

Okay, you want examples. Here are a few:

GALs are being sworn at by attorneys.

Yep, no kidding. I have been to any number of seminars, conferences, and attorney swearing-in ceremonies, and have yet to hear that swearing is an effective tool for lawyers. Plus, I have actual experience with this. I have been sworn at by attorneys and non-attorneys alike. Attorneys are not very good at it. I never found it to be persuasive. Indeed, I found it to have just the opposite effect. On top of all that swearing can get you on the agenda at the disciplinary committee meeting mentioned above. The practice of law can be exciting enough without the adrenaline rush occasioned by a summons from that committee.

Appearances at hearings or proceedings that have been stricken or continued.

Some attorneys have the practice of not notifying GALS when hearings, depositions, and other proceedings have been rescheduled. Consequently, the GALs take time from their schedules and travel to such proceedings only to find their time has been wasted. There are economic effects on the GAL, the clients and the Court from this practice. My clients were never too big on paying me or anyone else for wasted activity. Few could afford to do so

on a regular basis. Keep in mind too, the court sometimes funds the GAL. How would you like to be in court to explain to a commissioner or judge the justification for wasting the GAL's time and the Court's limited funds? The Court is likely to spread this economic downside around. While this practice, or oversight, may not be as egregious as swearing, it is still inconsiderate and unprofessional. Attorneys get paid \$150 and up per hour to get the details right.

General lack of respect and courtesy.

This is more difficult to quantify. Attorneys have all sorts of different personalities and professional demeanors. Some attorneys have a need for control and display "alpha male" personality characteristics. My Welsh Terrier does this too. I must admit, I have never had the occasion while practicing law or judging to wonder what my terrier would do if confronted with the situation I was facing. Who knows? Maybe this mindset has worked at one time or another for these attorneys. This "alpha male" thing cuts across gender lines, so women lawyers need to watch out for this as well.

Why, you might ask, should attorneys be polite to GALs? It seems to me there are other reasons to those set forth above. When I was sworn in as an attorney, Judge Britt had some useful information to impart. Judge Britt was really intimidating that day. Come to think of it, he was like that on most other days as well. So, I took him at his word when he said these rules should always be followed:

Your word is your bond.

If you cannot be trusted, you will not succeed as a lawyer. Can you really trust a lawyer who is swearing at you? Do you really want to?

When you bring a file to court, it is your file – not a file you were just given by a senior partner and don't know much about, but YOUR file.

As most everyone in the Bar was senior to me at the time I figured this would apply to me a lot. The only thing Judge Britt liked worst than attorneys who

were unfamiliar with their files, was dividing up pots and pans in a divorce case. And it only took once for you to find out this was the case.

What goes around comes around.

Snohomish County is still pretty small and fairly collegial. Word still gets around. The attorney or GAL you horsed around today will probably be in a position to return the slight in the relative near future. Lawyers may have a short memory for your good deeds, but will never forget being slighted. I suspect GALs are the same. Whether they will respond in kind is a question you do not want to be asking yourself with any frequency.

Judge Britt's rule, repeated often by other attorneys offering mentoring advice, is really about burning bridges. My expectation is the GAL you swore at today is not the GAL you will want to see on your case tomorrow. At least not if you want an even playing field for yourself and your client. So, your choices become more limited. It would be unfortunate if your next client really needed the insight and experience of the GAL who quit due to your abuse. It is helpful for lawyers to act and behave with a view for the long term.

It may be the GAL got it all wrong in your case. That happens under the best of circumstances. It may be the GAL got it wrong for all the wrong reasons. That happens too. The work of a GAL is not; however, an exact science. Much the same can be said of lawyering. While you do not have to agree with the GAL, there is absolutely no excuse for abusing them, verbally, financially or otherwise.

Snohomish County Local Hero

At the Washington State Board of Governors meeting on December 6, 2002 the Snohomish County Bar Association hosted a reception at the Marina Village Inn for the Washington State Board of Governors.

At this event a SCBA Attorney received the "Local Hero" Award. That attorney was Deane W. Minor.

The Board of Governors recognizes those local lawyers who have distinguished themselves through public and community service and Deane was is a well qualified and deserving candidate to receive it.

Congratulations Deane!

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- * **Jury Trials in Superior Court**
- * **Appeals to the Board of Industrial Insurance Appeals**

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2003
Snohomish County Bar Association
Annual Meeting

You Must R.S.V.P.
with the SCBA Office

Come make your vote count. The election of Officers will take place at the meeting along with general membership business and lunch. Also on the agenda will be major by-laws changes.

Also, back by popular demand:
Award for "Attorney of the Year"
will be presented at this annual meeting.

Please make your nomination known to the SCBA office.

Come join the action!
Friday, January 31, 2003
Noon to 1:30 p.m.
Everett Transit Station
3201 Smith St

R.S.V.P. with the SCBA office (425) 388-3056

MICKEY KROM

ATTORNEY AT LAW

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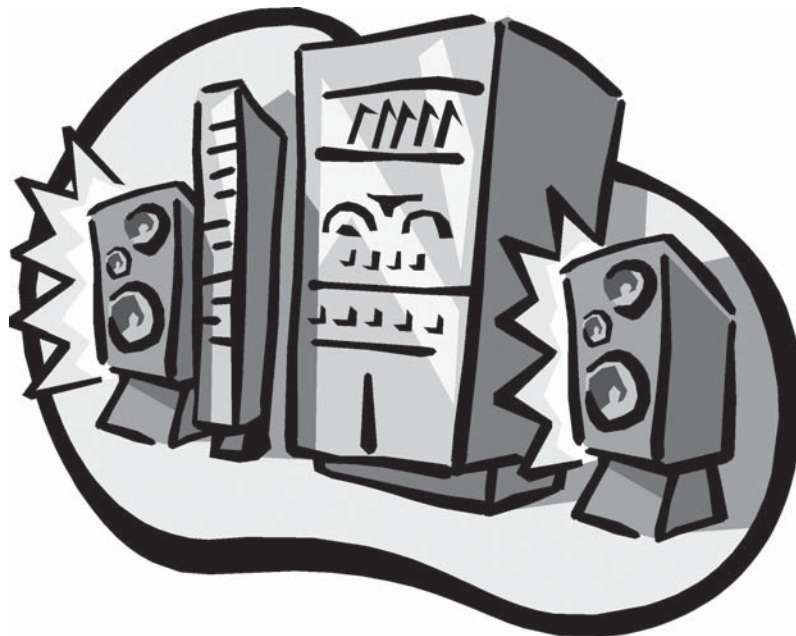
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Lawyers for Access to Justice

Yes! I want to donate to the 2003 SCBA to support access to justice in Snohomish County through Snohomish County Legal Services.

By my Signature below, I authorize the Snohomish County Bar Association to bill my account the sum of \$50.00, as a tax-deductible contribution. I understand that my name will be included with other attorneys who have made the same commitment.

Name: _____ Bar # _____

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**You are cordially invited
to attend**

the Swearing in Ceremony for

Patricia L. Lyon,

newly elected Judge for
Snohomish County
District Court,
Evergreen Division
14414 179th Avenue SE
(next to Fairgrounds)

January 10, 2003 at 4:30 p.m.

Reception to follow

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