Justice Is Everyone's Business

Restore Faith in Government — Clean up the Justice System
WE CAN'T BREATHE!

- Complaint to the Commission on Judicial Conduct for Washington State
- Complaint to the Washington State Bar

Grant Degginger, partner in Lane Powell PC (Seattle), where he is manager of the Construction and Environmental Practice Group (cached). At the time his practice group agreed to represent us, Degginger was Mayor of Bellevue and presiding over Bellevue's biggest ever development boom. But Degginger did not tell us before we signed the retainer agreement that his political career was beholden to the same community of interests we were opposing in court.

Despite requirements of the American Bar Association, Lane Powell's conflict check did not mention Degginger's political career, Lane Powell's interest in that career, and Degginger's political supporters.

While Lane Powell represented us, we paid them $313,800. On 8/3/2011, after we terminated them, Lane Powell filed a lien against us for another $384,881.66. On 5/10/2011, Lane Powell filed suit against us for the amount of the lien plus unspecified interest. See the Synopsis of our Bar Complaint against Degginger and three others.

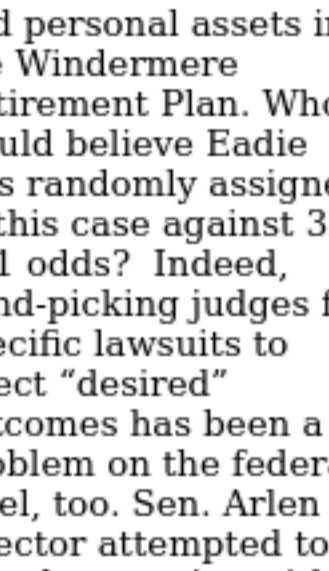
Lane Powell's Dream Team:

- **R. Eadie, Judge**
- **R. Sulkin, Attorney**
- **M. Eaton, Attorney**

In a docket of more than 400 entries, the dream team prevailed in 99.5% of the motions.

Hear Judge Eadie, Sulkin, and the DeCourseys speak at the November 16, 2012 Summary Judgment hearing. Official court transcript here.

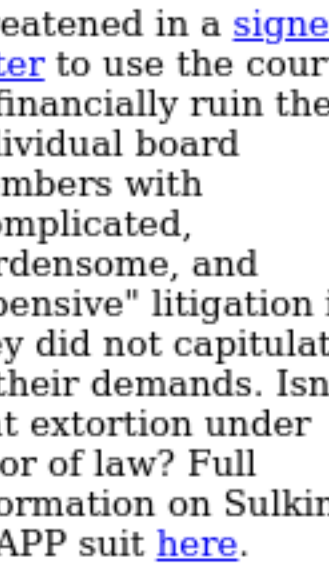
The event was witnessed by a number of horrified citizens, four of whom wrote affidavits of their observations. See "Supreme Court Ignores the Forest Fire," right column.



Richard D. Eadie, judge of the King County Superior Court, was one of 32 judges sitting on the Superior Court bench in October, 2011 when Lane Powell filed suit against us. At stake were the court awards from our Consumer Protection Act lawsuit against Windermere Real Estate. Of the 32 judges, Eadie was the only one married to a Windermere agent/broker and who had personal assets in the Windermere Retirement Plan. Who would believe Eadie was randomly assigned to this case against 32 to 1 odds? Indeed, hand-picking judges for specific lawsuits to effect "desired" outcomes has been a problem on the federal level, too. Sen. Arlen Spector attempted to halt the practice with his Blind Justice Act of 1999, S. 1484.
From the documents we filed in the first 30 days, Judge Eadie knew we were whistle-blowers who brought public exposure to the predatory practices of his wife's real estate company. Yet Eadie did not recuse[1] and did not disclose his Windermere connection, violating the Code of Judicial Conduct and the centuries-old principle of "the appearance of fairness." In the process of the case, Eadie stripped us of much of the Windermere award, steering **$842,734.67** to lying lawyers (see below). What message does Eadie send to the Washington public? **"Sue Windermere? Even if you win, you'll lose."**

To get to his final judgment, Eadie had to accept dozens of patent, verifiable lies from Lane Powell's attorneys – literally dozens that we have documented. See The Truth, the Lie, and the Judge.

Washington State has the death penalty; when hearing criminal cases, Judge Eadie has the power of life and death over the accused ... and demonstrably, no interest in the truth. (Picture source cached)



Robert Sulkin of McNaul Ebel Nawrot & Helgren PLLC represented Lane Powell in its suit against us. Sulkin is a pro-Israel activist known in the Northwest as the lawyer who sued the individual board members of the Olympia Food Coop for boycotting a few minor items made in Israel. (Cached.) After consulting with Sulkin and before filing suit, Sulkin's clients threatened in a signed letter to use the courts to financially ruin the individual board members with "complicated, burdensome, and expensive" litigation if they did not capitulate to their demands. Isn't that extortion under color of law? Full information on Sulkin's SLAPP suit here.

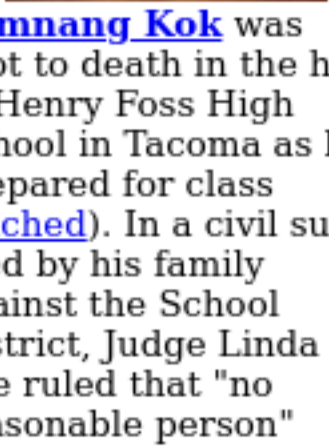
Lane Powell's suit against us (in the hands of Sulkin) was miraculously assigned to Judge Eadie, and Sulkin freely discarded the facts and the law in favor of his own inventions.

Sulkin's first move on filing suit was to serve illegal discovery requests for attorney client privileged material. In his second act, Sulkin called up the lawyer who was attempting to negotiate a settlement for us with Lane Powell, and threatened to spend "$800,000 to recover $300,000."

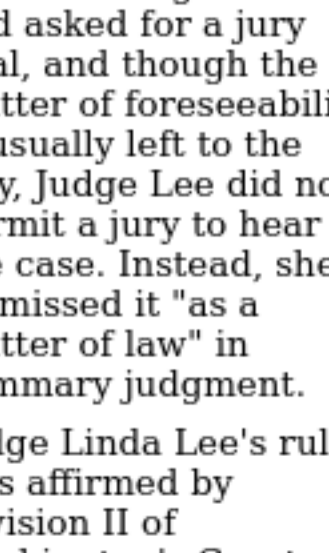
On the surface, Sulkin's tactics might appear to be nuts. Why run afoul of the rules, then threaten to spend more than twice as much in legal fees as you hope to recover?

In retrospect, however, it's not so nuts. Sulkin had Eadie on the bench, and Eadie had apparently never met a Sulkin he didn't like. Illegal and improper discovery demands were no problem for Eadie. And Sulkin's second move was really a tactic designed to scare off any attorneys who might be thinking of representing us. And it worked. Sulkin effectively prevented us from obtaining representation, forcing us (as *pro se* litigants) directly into Eadie's hands. (Picture source cached)

Malaika Eaton of the McNaul law firm filed most of the patently false material statements to the court over her own signature. The court cannot dispense justice using false information. Attorneys like Eaton should be disbarred and prosecuted (as they can be in New York under Judiciary Law 487). Instead, lying lawyers are rewarded in Washington Courts. See The Truth, the Lie, and the Judge. (Picture source cached)

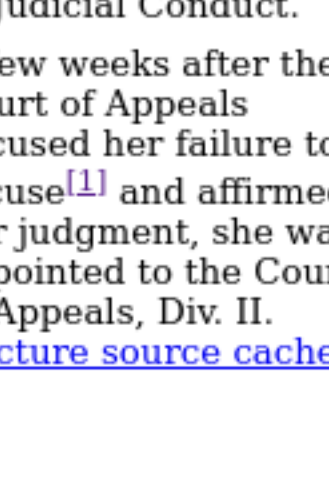


Q: What is the difference between a hearing in a King County courtroom and a liars' convention?
A: Not as much as there should be.
— Anonymous



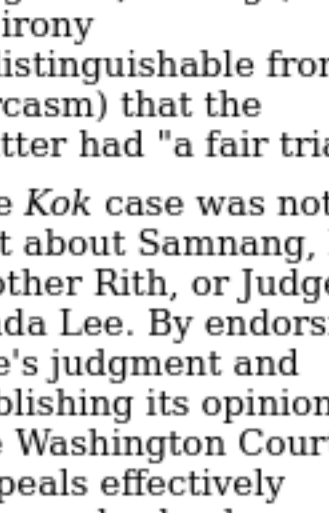
Samnang Kok was shot to death in the hall of Henry Foss High School in Tacoma as he prepared for class (cached). In a civil suit filed by his family against the School District, Judge Linda Lee ruled that "no reasonable person" could have foreseen the hazard, even though the assailant had a long history of psychiatric treatment, a diagnosis of schizophrenia, and a problem with hearing voices. Though the Koks had asked for a jury trial, and though the matter of foreseeability is usually left to the jury, Judge Lee did not permit a jury to hear the case. Instead, she dismissed it "as a matter of law" in summary judgment.

Judge Linda Lee's ruling was affirmed by Division II of Washington's Court of Appeals. (Picture source cached)



Linda Lee, former judge of the Pierce County Superior Court, presided over the Koks' suit against Tacoma School District 10, even though her husband's law firm regularly represented the same District in a variety of issues, and her household income was dependent on the good will of the County. She did not disclose her close connection to the parties in the lawsuit, as required by the Code of Judicial Conduct.

A few weeks after the Court of Appeals excused her failure to recuse[1] and affirmed her judgment, she was appointed to the Court of Appeals, Div. II. (Picture source cached)

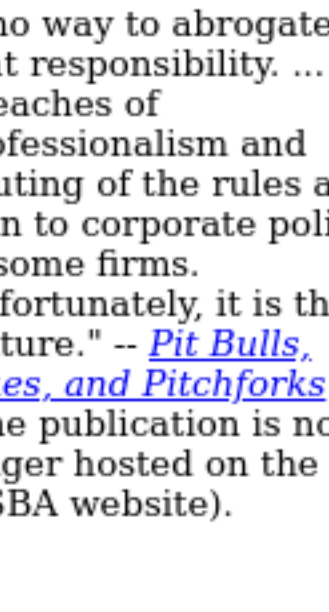


Rith Kok brought suit against Tacoma School District No. 10 on behalf of his brother, Samnang Kok. Samnang was gunned down in the halls of a Tacoma high school in 2007.

A compromised Superior Court judge denied Rith his one opportunity to present the facts of the case in court, and dismissed the case on summary judgment. And then the Washington Court of Appeals affirmed the judgment, stating (with an irony indistinguishable from sarcasm) that the matter had "a fair trial."

The *Kok* case was not just about Samnang, his brother Rith, or Judge Linda Lee. By endorsing Lee's judgment and publishing its opinion, the Washington Court of Appeals effectively informed school administrations that they need take no precautions to protect the students from roving psychotics, and that Superior Court judges can ignore the provisions in the Code of Judicial Conduct that protect the public from self-dealing judges.

The citizens of Washington are indebted to Rith Kok for the personal expense he undertook attempting to secure the safety of students in Washington public schools, and the appearance of fairness in our courts.



Ron Ward, past president of the Washington State Bar Association, was outraged by judicial tolerance of lawyer misconduct — particularly lying, intimidation, and discovery abuses.

"A more assertive role by judges is the single most important factor in fostering professionalism. There is no way to abrogate that responsibility. ... Breaches of professionalism and flouting of the rules are akin to corporate policy in some firms. Unfortunately, it is their culture." -- *Pit Bulls, Pikes, and Pitchforks* (The publication is no longer hosted on the WSBA website).

See also http://corruptwash.com, http://goldbarreporter.org, http://snocoreporter.com

Judges Allowed to Self-Deal and Lie in Washington Courts

Will Other States Follow Our Precedent?

The law requires:

> ***Not only must Justice be done: it must also be seen to be done.***
> ***- R v Sussex Justices, Ex parte McCarthy (1924, Great Britain)***

The case, *R v Sussex Justices*, provided precedent for more than a thousand judicial decisions among England's former colonies, and many dozens in US federal and state courts.

But in the State of Washington:

1. A judge is not required to disclose her conflicts of interest when judging cases.
2. A judge can knowingly incorporate lies in his rulings.
3. A judge can steer **$842,734.67** to lawyers he knows have lied to him in court.

So much for the appearance of justice.

Our Story in a Nutshell

New to the State of Washington, in 2004 we were ripped off by a real estate agent who worked for Washington's largest real estate company, Windermere Real Estate. (Full story at The Renovation Trap.) Briefly, the agent brought a contractor into a home purchase and renovation package without telling us the contractor was not licensed, bonded, insured, or qualified to do the work — and without telling us the contractor was his business partner. The contractor ruined the value of the home, and in 2006, one of the sub-contractors sued us, claiming he had not been paid. Following the Court Rules, we claimed against the Windermere agent, his agency, and other parties involved.

While researching the case, we discovered that Windermere tolerated incredibly bad practices among its agents, and State regulatory agencies had been incredibly permissive of Windermere's unethical business practices. We undertook a campaign to alert the public to Windermere, and to force the government to do its job. Some of our campaign can be found on Windermere Victims.[2]

We defended ourselves for 18 months, then hired a young lawyer with the Lane Powell law firm to take us through trial. But unknown to us, our new attorney's manager's manager at Lane Powell was Grant Degginger, Mayor of Bellevue. (Degginger's resume here, cached.) We did not know that Degginger was presiding over the biggest real estate/construction boom in Bellevue's history — that he had a supportive relationship with the very forces we were opposing. (Business Journal interview, cached.) In fact, the Washington Association of Realtors gave the single largest contribution to Degginger's 2007 election campaign. (Public Disclosure Commission documents here, cached.) Note that the second largest contributor was the Lane Powell law firm, showing Lane Powell's institutional interest in Degginger's political success.

While we won in court against Windermere before a jury of 12, our "victory" proved hollow: Lane Powell gave away some of our awards to Windermere, and let other awards evaporate in subsequent unchallenged court actions. See Synopsis of Bar Complaint. Then Lane Powell sued us, claiming we owed a fortune in legal fees.[3]

Lane Powell (probably Degginger) hired Robert Sulkin of McNaul Ebel Nawrot & Helgren PLLC as the attorney in the case. Sulkin is a SLAPP suit attorney, known for his attempt to squelch the Olympia Food Coop's boycott of Israeli products. The Olympian (cached). For current status, see Center for Constitutional Rights. In that suit, Sulkin and his clients are attempting to strip Washingtonians of their First Amendment rights to free speech and public participation.

In our case, Sulkin and Lane Powell took advantage of the Consumer Protection Act's fee provision to funnel **$842,734.67** from us — the intended beneficiaries of the Consumer Protect Act — into their own pockets. We believe this result is a perversion of public interest law.

We have told the story in more detail in our Synopsis, and in full particulars in the Bar Complaint.

V&E Medical Imaging, Inc. V. DeCoursey:

- Oct. 31, 2008: Jury Verdict in Our Favor

The King County Superior Court

There were 32 judges sitting on the bench in the Superior Court when Lane Powell filed suit. Defying the odds, the case was "randomly" assigned to Superior Court Judge Richard D. Eadie, who just happened to be married to a long-time Windermere agent/broker (cached). Claire Eadie has brought more than $289,000 in Windermere commissions into the Eadie household. Under the community property laws of Washington, Mrs. Eadie's income is Judge Eadie's income, and he himself is a beneficiary of Windermere's Retirement Plan. Court documentation here.

A reasonable person would expect Judge Eadie to be sympathetic to the interests of his wife's employer, and UNsympathetic to Windermere's noisy political antagonists (that is, Mark and Carol DeCoursey). Under the Code of Judicial Conduct, Judge Eadie was "disqualified" to preside over the case and was required to recuse.[1] See CJC 2.11, *Disqualification*.

But Judge Eadie kept silent about his financial entanglements with the Windermere Family until we discovered his secret nine months later. We told him he was disqualified to rule on the case and asked him to recuse. Lane Powell vehemently opposed our recusal motions. Instead of recusing, Judge Eadie kept the case and steered **$842,734.67** in damages and interest to Lane Powell (here and here). His apparent message was clear: "Sue Windermere? Even if you win, you'll lose." One can only conclude that Judge Eadie might indeed have had a purpose for keeping the case under his control, rather than step aside for an impartial judge.

In the process of that case, Lane Powell and its lawyers told amazing lies, apparently without fear that Judge Eadie would call them out. They lied about court documents that had already passed under the judge's nose, about the sequence of months in the calendar, about things they had said earlier in the case, about attorney client privilege, about the judge's own rulings, and an amazing assortment of other things — just brazen, shameless lies that only a compromised judge would accept. But accept them he did, even incorporating their whoppers into his rulings. Table of Lies here.

The King County Superior Court:

- Aug. 9, 2012: Our Motion to Recuse[1]
- Aug. 15, 2012: Lane Powell's Opposition to Our Motion to Recuse
- Aug. 16, 2012: Reply in Support of Our Motion to Recuse
- Sept. 5, 2012: Judge Eadie's Refusal to Recuse
- Nov. 16, 2012: Court Transcript of Summary Judgment hearing,
  Sound recording of Summary Judgment hearing.
- Dec. 4, 2012: Our Second Motion to Recuse
- Dec. 7, 2012: Lane Powell's Opposition to Second Motion to Recuse
- Dec. 10, 2012: Reply in Support of Our Second Motion to Recuse
- Dec. 13, 2012: Judge Eadie's Second Refusal to Recuse (written for him by Lane Powell)

The Commission on Judicial Conduct for Washington State

We filed a complaint with the Washington Commission on Judicial Conduct (CJC). However, the CJC had no interest in the judge's entanglements. Should we presume this kind of thing goes on all the time in Washington?

- Aug. 31, 2012: Our Complaint
- Oct. 9, 2012: The Commission's Decision

The Washington State Court of Appeals

On August 7, 2013, we appealed to Division I of the Washington State Court of Appeals. We were represented by the preeminent attorney, James Lobsenz of Carney Badley Spellman. He based his argument on the legal doctrine of the "appearance of fairness," which means that justice must not only be done according to law, "it must also appear to be done" in the eyes of the ordinary reasonable person.

But the Windermere family is apparently very important in Washington, as are judges and other public officials. To the Court of Appeals, Judge Eadie's failure to disclose his familial and financial connections to Windermere Real Estate while presiding over a trial against two Windermere whistle-blowers and stripping them of their court awards against Windermere — well, heck, that appeared to be just fine.

Judge Becker wrote that our worries about Judge Eadie's personal finances were speculative, illogical, unreasonable. See first paragraph of Opinion.

Rather than squarely addressing the disqualification of Judge Eadie as a violation the appearance of fairness doctrine and the Rules and laws of Washington, the Court of Appeals misrepresented our arguments and the thrust of our appeal (see in particular pages 7 and 8), and then decided against us on the basis of its misrepresentations.

But the Court of Appeals was apparently unwilling to stand behind its ruling by publishing its decision. When we asked the Court to publish its Opinion, Lane Powell vigorously opposed our motion. The Court lined up with Lane Powell and refused to publish.

The Washington State Court of Appeals:

- Jun. 10, 2013: Our Appeal Brief
- Sept. 3, 2013: Lane Powell's Opposition to Appeal Brief (Pg. 24 is expurgated of material Lane Powell claimed was obtained under attorney client privilege)
- Nov. 19, 2013: Reply in Support of Our Appeal Brief
- Apr. 21, 2014: The Appeal Court's Opinion
- May 8, 2014: Our Motion to Publish the Opinion
- May 13, 2014: Lane Powell's Opposition to Our Motion to Publish
- May 19, 2014: The Appeal Court's Refusal to Publish

> ***We can easily forgive a child who is afraid of the dark; the real tragedy of life is when men are afraid of the light.***
> ***— Plato***

The Washington State Supreme Court

On June 17, 2014, we petitioned the Washington Supreme Court to review Judge Eadie's refusal to recuse. We based our petition on the appearance of fairness.

We also told the Supreme Court that Judge Eadie had knowingly incorporated Lane Powell's multiple patent lies into his rulings — further damaging the appearance of fairness.

> The appearance of fairness was also damaged by the law firm's repeated misrepresentation of material fact and the judge's incorporation of those misrepresentations into his rulings over the DeCourseys' objections. Petition, Pg. 4, Ftn. 3.

In addition, we informed the court that four independent observers swore under penalty of perjury that Judge Eadie appeared appallingly prejudiced against us — and dishonest. Petition, Pg. 4, Ftn. 3. See excerpts right column.

Lane Powell did not dispute the appearance of fairness issue. Lane Powell did not dispute that Judge Eadie had knowingly incorporated Lane Powell's multiple patent lies in his rulings. Nor did Lane Powell challenge the four affidavits from independent witnesses attesting the Judge Eadie's appearance of unfairness in his courtroom.

Nonetheless, despite these and the many anomalies in the lower courts, the State Supreme Court denied our petition. The Supreme Court gave no reasons, of course.

It appears that judges who incorporate known lies into their rulings and appear to be unfair are usual and customary in Washington courtrooms; that practice appears perfectly fair to the Supreme Court and needs no review.

Because our case will not receive a public hearing before the Supreme Court — and because the Court of Appeals refused to publish its opinion — the facts concerning the operation of the courts in our case will effectively be shielded from public view and discussion.

The Supreme Court's refusal to review our matter of the compromised judge was particularly disastrous for the people of Washington. Ours was the second case in 2014 to petition the Supreme Court on the appearance of fairness issue. In the earlier case, the Court of Appeals had affirmed the decision of a compromised judge in the *Kok* case, ruling that because the judge had made the "right" decision (against the Koks and in favor of the School District), she was not required to recuse[1] or disclose her personal interest in the case. And then the Court agreed to publish the decision, giving it the force of State law.

When the *Kok* case was petitioned to the Supreme Court, we filed an *amicus curiae* brief arguing that a review was necessary to preserve an important element of justice, but the Supreme Court declined to review it. And now *Kok* is the law in Washington.

> ***I believe that there will be ultimately be a clash between the oppressed and those who do the oppressing. I believe that there will be a clash between those who want freedom, justice and equality for everyone and those who want to continue the system of exploitation. I believe that there will be that kind of clash, but I don't think it will be based on the color of the skin ...***
> ***— Malcolm X***

Summary of the *Kok* case: On January 3, 2007, Samnang Kok was shot to death inside the Foss High School in Tacoma as he was preparing for class. The Kok family sued the Tacoma School District No. 10, claiming that the history of his psychiatrically-challenged assailant was known to the School District, and it should have taken steps to protect the other students. The Koks had asked for a jury and the matter of foreseeability is usually left for jury determination. But in an unusual presumption of judicial power, Judge Lee ruled in summary judgment that *as a matter of law*, no reasonable person could have foreseen the attack and therefore the county was not liable to the Koks.

After the case was over, the Koks learned that the law firm that employed Judge Lee's husband regularly represented the School District in a wide variety of cases, and that judge's own income (in this community property state) was dependent on the good will of the School District toward her husband's law firm. The Koks appealed, but on October 22, 2013, the Court of Appeals affirmed the judgment:

> Because a reasonably prudent and disinterested person would conclude that all parties received a fair, impartial, and neutral hearing, we affirm the trial judge's decision that recusal was not necessary. (*Kok v. Tacoma School Dist. No. 10, 327 P.3d 55 (2014), 180 Wn.2d 1016*)

But there was hardly a "hearing" of the facts of the case. The results of discovery (such as who in the District knew what, when they knew it, whether they had acted prudently, etc.) had not been given a hearing by a trier of fact. The *Kok* case was dismissed in summary judgment *as a matter of law*, without regard of the facts.

Then (as mentioned above) the Court published the opinion, elevating its tolerance of compromised judges into the law of Washington. January 22, 2014 Order to Publish with Opinion. Kok petitioned the Supreme Court, but the petition was denied. And with that decision, a significant portion of the Code of Judicial Conduct passed into Washington's history.

By denying our petition, the Supreme Court allowed the *Kok* decision to stand as law in Washington. Like a campfire that has escaped to the surrounding brush, judicial corruption now threatens the whole forest. And the Supreme Court is simply letting it happen.

The Washington State Supreme Court:

- April 17, 2014: Our Amicus Brief in favor of Koks' Petition for review by the Supreme Court
- April 24, 2014: Tacoma County School District's Opposition to our Amicus Brief
- June 4, 2014: The Supreme Court declined to review the *Kok* Case
- June 8, 2014: Our Petition to the Supreme Court
- July 17, 2014: Lane Powell's Opposition to Our Petition
- October 8, 2014: The Supreme Court's declined to review our case

On October 7, 2014, a five judge panel composed of Chief Justice Madsen and Justices Owens, Stephens, González and Yu considered our petition, and unanimously agreed not to review the case. The order was signed on October 8.

> IT IS ORDERED:
> That the Petition for Review is denied.
> DATED at Olympia, Washington this 8th day of October, 2014.

Our Complaint to the Washington State Bar Association

On June 20, 2014, we filed a Complaint with the Washington State Bar Association (WSBA) against Degginger, McBride, Sulkin, and Eaton (the lawyers involved), and Lane Powell and McNaul Ebel (the firms involved). On August 6, WSBA sent a letter to each lawyer, noting that they had not responded by the deadline under the rules, and threatening to subpoena them if they did not respond in ten days.

On August 15, 2014, the lawyers responded, and on September 8, we replied. In our introduction to that reply, we pointed out that the Lane Powell/McNaul attorneys did not deny 50 of the violations of the Rules of Professional Conduct we had charged in our Complaint. Under the standard Rules of Procedure, failure to deny an accusation is a tacit admission. A WSBA finding against the four lawyers on these grounds should be a slam dunk.

Justice is everyone's business, and institutional injustice eventually hurts everyone, even those who think they might benefit. (Consider the words of John Donne.) Please contact Ms. Debra Slater, Disciplinary Counsel, Washington State Bar Association, 1325 Fourth Avenue, Suite 600, Seattle, WA 98101, phone 206-239-2124 to ask when Washingtonians might expect the WSBA to announce its findings. Until the WSBA publicly sanctions the miscreants, the misconduct of which we complain is effectively permitted.

Our Complaint:

- June 20, 2014: Our Complaint to the Washington State Bar (Synopsis)
- August 6, 2014: The Bar's reminder to Grant Degginger that he missed the deadline for response
- August 16, 2014: Degginger, McBride, Sulkin, and Eaton's (et al.)'s Response to Our Complaint
- Sept. 8, 2014: Reply in Support of Our Complaint
  - Introduction to Reply
  - Body of Reply

The Bar's Decision:

On April 9, 2015, the Washington State Bar Association (WSBA) dismissed our Grievances against Grant Degginger, Ryan P. McBride, Robert M. Sulkin, and Malaika M. Eaton. WSBA stated:

> "Based on the information we have received, insufficient evidence exists to prove unethical conduct by [name] by a clear preponderance of the evidence in this matter. Therefore, we are dismissing the grievance."

- Dismissal of Grievance against Grant Degginger
- Dismissal of Grievance against Ryan McBride
- Dismissal of Grievance against Malaika Eaton
- Dismissal of Grievance against Robert Sulkin

Our Requests for Review:

On May 26, 2015, we requested a review of those dismissals on the grounds that, among other things:

1. WSBA disregarded and mischaracterized many of our charges and much of our documentation.
2. WSBA disregarded undisputed evidence that the four lawyers violated many provisions of the RPC.
3. WSBA failed to find "sufficient evidence" of the lawyers' violations of the RPC, even though the four lawyers tacitly admitted many of the violations.
4. WSBA attacked our character on the basis of non-germane and misleading information.
5. WSBA refused to accept our complaint against the Lane Powell law firm, but nonetheless issued a glowing endorsement of Lane Powell's performance.
6. WSBA acted as BOTH the defense council and the judge for the accused lawyers.
7. WSBA failed to sanction the lawyers who lied to us -- despite emails proving the lies.
8. WSBA failed to sanction the lawyers who lied in court -- despite court pleadings that proved the lies.
9. WSBA disregarded a lawyer's failure to disclose his obvious conflict of interest when accepting our case.
10. WSBA failed to sanction lawyer fee gouging and exploitation of public interest law.
11. WSBA refused to sanction the lawyers' extortive use of attorney/client confidences.
12. WSBA adopted the words and stances of a compromised judge as a substitute for WSBA doing its job disciplining lawyers.
13. WSBA justified Lane Powell's "gift" to Windermere of more than $250,000 that had been awarded to us by the court

- Request for Review of Dismissal -- Grant Degginger
- Request for Review of Dismissal -- Ryan McBride
- Request for Review of Dismissal -- Malaika Eaton
- Request for Review of Dismissal -- Robert Sulkin

June 25, 2015: The WSBA forwarded the collective response from the four lawyers to our request for review of the dismissals.

July 6, 2015: We replied to WSBA and the lawyers' charge that we are "name-calling."

We Are Not Alone

Many distinguished lawyers, judges, scholars, and other citizens lament the state of justice in America and have suggested improvements. You can read about some of their suggestions in the Introduction to our Bar Complaint.

The quality of justice in the courts is the subject of elections. In Washington, we elect by popular ballot the judges in the Superior, Appeal, and Supreme courts. Those judges are directly responsible to the people of Washington for fairly and properly administering justice. If they do not their job well, who will hear of it? Who will tell?

> ***There really can be no peace without justice. There can be no justice without truth. And there can be no truth, unless someone rises up to tell you the truth.***
> ***— Louis Farrakhan***

Every person who notices injustice in the courts can and must tell neighbors, friends, and anyone else in the electorate who will listen, because it is only by such telling that elections have meaning.

Since the membership and discipline of the Bar is directly under the control of the Supreme Court, the judges on that court must be held responsible to the electorate for lawyer ethics in the State. If those judges permit the courts to be used for plunder and blackmail, the electorate must discipline the judges of the Supreme Court with the ballot box.

But since the problems we have documented cannot are not being solved by the Bar and the Judiciary, other citizen bodies, such as City Councils, should be able to pass ordinances outlawing the bad behavior and providing sanctions.

To have an orderly and just society, we MUST have fair courts. Let's all work together: The State Legislature should do whatever it can to achieve this goal.

What Can Be Done

In summary, the Lane Powell lawyers lied, a disqualified judge refused to recuse himself, and that judge knowingly incorporated Lane Powell's lies in his rulings. When we appealed, the Court of Appeals misrepresented the issues in question, refused to hear the matter we actually appealed, and ruled on an invented question. And the Supreme Court's refused to deal with it all ...

These abuses clearly break down the public trust.

But the Supreme Court can still fix things. The judges who ignored the rules and the basic principles of justice ("Not only must justice be done, it must also appear to be done") can correct their mistakes. And they can do so on their own initiative ("sua sponte") by applying already existing court rules.

Sua sponte is Latin phrase that means "of his own will; voluntarily." *Sua sponte* usually refers to a judge taking action without a request or motion by one of the parties. (Free Legal Dictionary)

The Washington Supreme Court doesn't have to wait for the Second Coming to correct its mistakes. On discovering it has been defrauded, any court at any time can *sua sponte* correct the mistakes. For the Superior Court, that procedure is described in CR 60(b). For the higher courts, it is RAP 12.9, quoted here in part:

> RULE 12.9
> RECALL OF MANDATE OR CERTIFICATE OF FINALITY
>
> (a) To Require Compliance With Decision. The appellate court may recall a mandate issued by it to determine if the trial court has complied with an earlier decision of the appellate court given in the same case. The question of compliance by the trial court may be raised by motion to recall the mandate, or by initiating a separate review of the lower court decision entered after issuance of the mandate.
>
> (b) To Correct Mistake or Remedy Fraud. The appellate court may recall a mandate or certificate of finality issued by it to correct an inadvertent mistake or to modify a decision obtained by the fraud of a party or counsel in the appellate court.

A state supreme court is not bound by precedents, of course; it creates precedents. Even so, there is ample Federal precedent for vacating judgments based on fraud. One of the best-known is *Hazel-Atlas Glass Co. v Hartford-Empire Co.*, 322 U.S. 238 (1944). In that 1932 patent infringement case, a lawyer arranged for the publication of a fraudulent article in a trade journal, and citing that article as an authority, won a large award for his client. Years later, the fraud was discovered and the U.S. Supreme Court overturned the judgment. The Supreme Court wrote:

> Furthermore, tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society ... The public welfare demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud. (*Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 246.)

As other judges point out, when lawyers lie in court, they commit fraud on the court:

> Since attorneys are officers of the court, their conduct, if dishonest, would constitute fraud on the court. (*H.K. Porter Co., Inc. v. Goodyear Tire & Rubber Co.*, 536 F.2d at 1115 (6th Cir. 1119.)

In 1985, *Federal Rules Decision* wrote:

> The lawyer's duty to place his client's interests ahead of all others presupposes that the lawyer will live with the rules that govern the system. ... Misconduct, once tolerated, will breed more misconduct and those who might seek relief against abuse will instead resort to it in self-defense. (Schwarzer, *Sanctions Under the New Federal Rule 11 — A Closer Look*, 104 F.R.D. 181, 184 (1985), cited in *Physicians Ins. Exch. v. Fisons Corp., 122 Wn.2d 299 (1993); 858 P.2d 1054*.

Thus does a camp fire become a forest fire.

This website should be regarded as an open invitation to the Washington Supreme Court to correct itself, the lower courts, and Washington attorneys. In these post-Ferguson and Eric Garner days, the Washington Supreme Court has a chance to lead the nation: To reassert the principle of "appearance of fairness" and regain the confidence of the American public in our system of justice.

We encourage our readers send a courteous letter to public officials and the Supreme Court judges suggesting that the corrections be made. They are public servants. And we are the public.

> ***Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly.***
> ***— Martin Luther King, Letter from Birmingham Jail, August, 1963.***

Footnote 1: Recusal — to withdraw from a position of judging so as to avoid any semblance of partiality or bias.

Footnote 2: How much damage were we doing to Windermere with our campaign? According to Windermere's own estimate, quite a bit. In settlement negotiations, Windermere required as an "essential" clause of any agreement that we never mention Windermere's role in the purchase of our house to anyone, ever. For each and every such mention, Windermere would be damaged by $25,000, which we would have to pay to Windermere. See the Dark Clause drawn up by Windermere's attorney. We did not sign the document.

Footnote 2: Quite aside from the monies we "owed" Lane Powell, we incurred other expenses and suffered other financial losses directly as a result of defending ourselves against the original 2006 lawsuit and Lane Powell's 2011 lawsuit. These expenses include but are not limited to fees spend during early case development, witness fees, and legal fees spend on appeals. That amount totals more than $250,000.

Disclaimer: We make no personal criticisms of these lawyers and judges. The courts are part of our system of government. It is both our right and our duty as citizens to draw attention to questionable behavior, publicly condemn it where appropriate, and call for reforms.

Each fact on this website is true at the time of writing.

This Page

The Problem

- Our Story in a Nutshell
- Superior Court
- State Court of Appeals
- State Supreme Court
- Commission on Judicial Conduct
- Washington State Bar

Suggested Solutions

- We Are Not Alone
- What Can Be Done

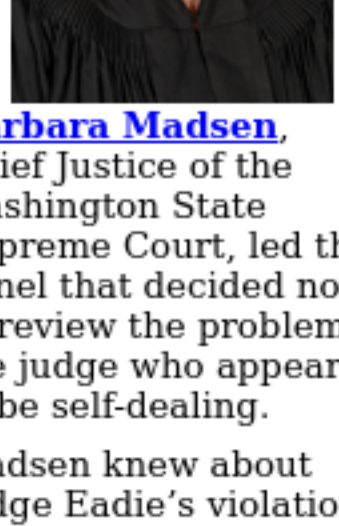
Who's Been Told?

Our Links

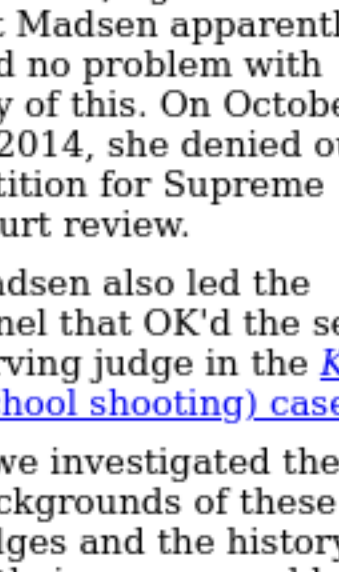
Mary Kay Becker, judge of Div. I, Washington State Court of Appeals. When we appealed Judge Eadie's refusal to recuse,[1] Judge Becker sided with Judge Eadie (and Lane Powell, Sulkin, etc.). In reaching her decision, she misrepresented the history of the dispute, misrepresented our arguments and the issue before the court, and then ruled on the basis of her misrepresentations. By that technique, a judge can arrive at any decision she wants.

So a curious person might ask, why did Judge Becker want to arrive at that decision? Was she protecting Judge Eadie, as one union member tends to protect another? Whatever the reason, Becker's misrepresentations and her ruling did not have the appearance of justice.

Stephen Dwyer, judge of Div. I, Washington State Court of Appeals, sat on the panel that affirmed the righteousness of the judge who appeared to be self-dealing.



Linda Lau, judge of Div. I, Washington State Court of Appeals, sat on the panel that affirmed the righteousness of the judge who appeared to be self-dealing.



Barbara Madsen, Chief Justice of the Washington State Supreme Court, led the panel that decided not to review the problem of the judge who appeared to be self-dealing.

Madsen knew about Judge Eadie's violations, and she knew Judge Eadie had knowingly forwarded lies in his rulings; she knew Eadie appeared prejudiced and dishonest to four independent observers (Petition, Pg. 4. Ftn. 3). Yet Madsen apparently had no problem with any of this. On October 8, 2014, she denied our petition for Supreme Court review.

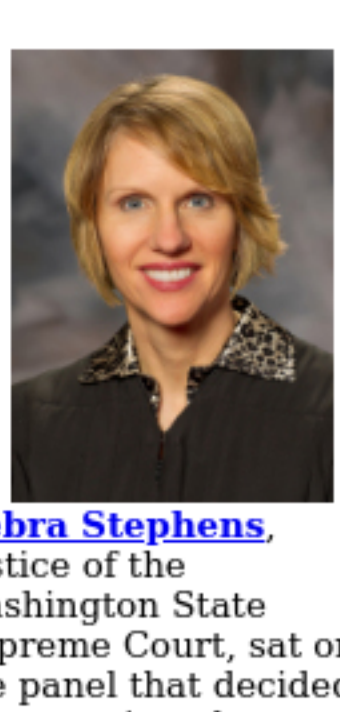
Madsen also led the panel that OK'd the self-serving judge in the *Kok* (school shooting) case.

If we investigated the backgrounds of these judges and the history of their cases, would we find apparently self-serving decisions, hidden from the public eye? This is a natural question: When apparent self-dealing is permitted in the courts, **all** judges become suspect, particularly those who find nothing wrong with the practice.

A Sophist Defense?
Suppose you are a forest ranger. You see a campfire escaping from an enclosure and engulfing the surrounding woods. You know what the consequences will be, but you take no action to stop the fire. Later you defend yourself: "I did not approve or endorse that fire. I merely decided not to decide to put it out."

Such is the position of the Supreme Court in deciding not to review the *Kok* and *DeCoursey* cases. The judges who made those decisions are knowingly allowing the injustice to spread, even though their job is supervising the dispensation of justice in the courts.

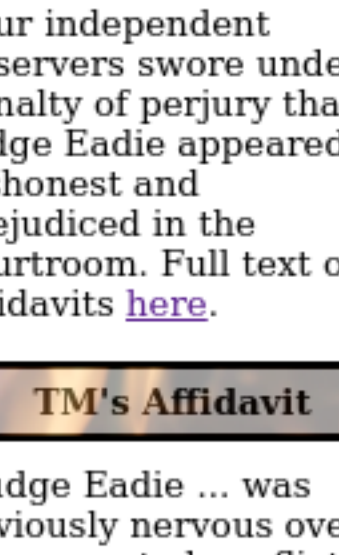
No one would accept that argument from an accused forest ranger — and we certainly expect more from Supreme Court judges. They had all the facts, the means to put the fire out, and the opportunity. That opportunity may not come again for a while. Until the Supreme Court re-establishes the proper standards, lower court judges may presume they have license to practice "what's-best-for-me-and-my-friends" in the public courts — in a word, cronyism.



Susan Owens, Justice of the Washington State Supreme Court, sat on the panel that decided not to review these cases of judges who appear to be self-dealing. She also took no issue with judges who knowingly pass on lies in their rulings. So much for the appearance of fairness.

Debra Stephens, Justice of the Washington State Supreme Court, sat on the panel that decided not to review these cases of judges who appear to be self-dealing. She also took no issue with judges who knowingly pass on lies in their rulings.

Steven González, Justice of the Washington State Supreme Court, sat on the panel that decided not to review these cases of judges who appear to be self-dealing. He also took no issue with judges who knowingly pass on lies in their rulings.



Mary Yu, Justice of the Washington State Supreme Court, sat on the panel that decided not to review these cases of judges who appear to be self-dealing. She also took no issue with judges who knowingly pass on lies in their rulings.

Supreme Court Ignores the Forest Fire

Four independent observers swore under penalty of perjury that Judge Eadie appeared dishonest and prejudiced in the courtroom. Full text of affidavits here.

TM's Affidavit

"Judge Eadie ... was obviously nervous over his suggested conflict of interest with the case (he is married to a Windermere Broker) and repeatedly proclaimed that he had no conflict of interest.

"Any reasonable person would agree that burying the DeCourseys in legal debt would certainly discourage any other plaintiff from suing Windermere. He gave little recognition to the fact that DeCourseys had pointed out lies and distortions told continually by the Lane Powell attorney, acting as if these lies and distortions were normal in the course of court business and he was little interested in the actual truth.

Judge Eadie's behavior gave me an uneasy feeling that this was but a kangaroo court whose final decisions were made long ago with the assistance of the plaintiffs' attorneys." — Affidavit of TM, December 18, 2012, Dkt. 337.

GD's Affidavit

"The judge seemed to ignore important facts in the testimony of Mark DeCoursey about dubious documentation of charges by Lane Powell ... The judge also would not reply to Carol DeCoursey in her request for an explanation for not discussing the records she had presented demonstrating false and contradictory testimony by Lane Powell. ... The judge politely ignored Mark and Carol DeCoursey and seemed willing to be led through the while proceeding by Lane Powell attorney Sulkin." — Affidavit of GD, December 12, 2012. Dkt. 327.

CD's Affidavit

"I was struck by the behavior of the Judge and the primary lawyer for Lane Powell. There was a symbiotic relationship that bordered on merging ... I have to officially say that it was in, my observed opinion, the Lane Powell lawyer that was running the show ... I simply did not see the impartiality that I expected in the courtroom from a representative of the state, the judge." — Affidavit of CD, filed December 12, 2012, Dkt. 326

DW's Affidavit

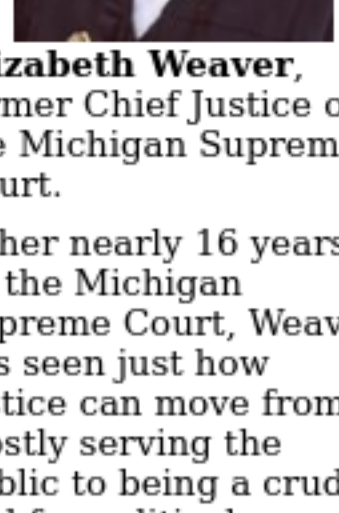
"[T]his was a sham of a hearing in my opinion ... If this hearing was in any way typical of the manner in which judicial decisions are made in King County Superior Court -- and especially in cases involving *pro se* litigants -- then the entire state of Washington should not only be highly concerned, but totally outraged ...

"It could not have been more obvious that Judge Eadie and Sulkin were the prime actors in this drama. Judge Eadie appeared riveted on every word Sulkin said, at time seeming to take his cues from Sulkin. He noted the document to which Sulkin referred, taking all the time he needed to make sure he understood what Sulkin wanted him to do ...

"Watching Judge Eadie show such favoritism to Mr. Sulkin while treating the *pro se* DeCourseys as nuisances, was a sad commentary on our entire judicial system. That was certainly not a fair and impartial hearing -- the every thing that our constitution guarantees every citizen." — Affidavit of DW, December 10, 2012. Dkt. No. 320.

Sidney Powell, former Department of Justice prosecutor and author of *Licensed to Lie*.

At a Cato Institute book forum, Powell castigated bar associations for permitting rampant misconduct among lawyers. Her presentation is available through the Cato Institute and C-SPAN. Judge Alex Kozinski, Chief Judge of the Federal Ninth Circuit Court of Appeals, in his personal capacity, wrote the Foreword for her book.



Alex Kozinski, Chief Judge of the Federal Ninth Circuit Court of Appeals, in his personal capacity, wrote the Foreword to Sidney Powell's book, *Licensed to Lie*.

Elizabeth Weaver, former Chief Justice of the Michigan Supreme Court.

In her nearly 16 years on the Michigan Supreme Court, Weaver has seen just how justice can move from mostly serving the public to being a crude tool for political, personal, and ideological gain — and she describes it in her book, *Judicial Deceit*.

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