

Selected Prior Washington Appellate Cases

Court of Appeals and Supreme Court

State v. Flora, 68 Wash. App. 802 (Court of Appeals 1992): conversation between police and arrestee is not private and may be recorded by either party. -

State v. S.S., 67 Wash. App. 800 (Court of Appeals 1992): court affirms trial court's imposition of a "manifest injustice" sentence in juvenile prosecution.

State v. Olson, 74 Wash. App. 126 (Court of Appeals 1994): establishing baseline standard for reciting police credentials in search warrant application; affirming sufficient probable cause from detection of odor of marijuana.

State v. Olson, 126 Wn.2d 315 (Supreme Court 1995): reviewing the proper method for perfecting an appeal from the superior court when a case is dismissed by suppression of the evidence.

State v. Jimenez, 128 Wn.2d 720 (Supreme Court 1996): court allows admission of evidence gathered with court authorized wire intercept though intercept application was flawed, when officer make good faith attempt to complete authorization form/application.

State v. Anaya, 95 Wash. App. 751 (Court of Appeals 1999): Court rules that pretrial domestic violence no-contact order becomes invalid with dismissal of case, notwithstanding terms of order stating otherwise.

State v. Williams, 97 Wn.App. 257 (Court of Appeals 1999): district court probation officers do not practice law; judge can ratify probation conditions after established independently by probation officer; court can impose reasonable affirmative crime related conditions in misdemeanor setting.

State v. Frank, 112 Wn.App. 515 (Court of Appeals 2002): affirming arraignment procedures of Whatcom County District Court against due process challenge; affirming DUI conviction for offender who failed to appear at arraignment and was on warrant status for over three years.

Smith v. Whatcom County Dist. Court, 147 Wash. 2d 98 (Supreme Court 2002): a court must conduct some form of indigency review before issuing an order requiring an offender to "pay or stay" for nonpayment of fines.

State v. Justesen, 121 Wn. App. 83 (Court of Appeals 2004): court disallows use of polygraph in custodial interference prosecution to illustrate unreasonableness of belief in claim of child abuse.

State v. Wilbur-Bobb, 134 Wash. App. 627 (Court of Appeals): affirming conviction for vehicular homicide; trial court properly admitted evidence of blood alcohol, including use of retrograde extrapolation, so-called "backing up" BAC from test result outside two hours.

Linth v. Gay, 190 Wash. App. 331 (Court of Appeals 2015): an attorney drafting estate planning documents has no duty to estate beneficiaries, even if the attorney drafts defective documents

which deprive the beneficiary of a share of the subject estate, and regardless of whether such effective drafting triggers estate litigation; attorney has no duty to withdraw from case following the initiation of such post-death litigation.

Aiken, St. Louis & Siljeg, PS v. Linth, 195 Wn. App. 10 (Court of Appeals 2016): an attorney lien for services performed for a trust beneficiary does not attach to the trust corpus.

Appellate cases currently pending

Welch v. Boardman, Div. I: whether service of process has been sufficiently made on a municipal entity in a defective road design action

Bosone v. Bosone, Div. I: whether court properly dismissed vulnerable adult protection petition and whether court properly awarded attorney fees to following dismissal.

Franulovich v. Spahi, Div. I: whether court properly awarded summary judgment to estate on claim for collection of unpaid judgment from dissolution decree.

Selected prior litigation

State v. Powers, Skagit County, c. 2004: successful prosecution for second degree felony murder based on felony of forgery in missing person case.

State v. Irby, Skagit County, c. 2004-2007: successful prosecution for Aggravated First Degree Murder (case later reversed b/c of anomalous jury selection issue; retried 2x with subsequent convictions)

State v. Dean & Mullen, Skagit County, c. 2003-2005: successful prosecution of complex theft and embezzlement case involving bookkeeper and general manager of car dealership; 1.5 month trial resulting in convictions for Theft, Criminal Conspiracy, and Criminal Profiteering; established amount of loss at \$1.3 million; successful imposition of exceptional sentences for both defendants.

State v. Ausilio, San Juan County, c. 2007-2008: prosecution of vehicular homicide and assault as Special Deputy Prosecuting Attorney.

Thorson v. Compass Health, Skagit County, 2007: secured personal injury settlement for client suffering injuries from attack by co-resident in defendant's mental health facility.

Ballhorn v. Wright, Skagit County, c. 2007: defense of defendant in MVA with catastrophic injuries to plaintiff; secured policy limits settlement with complete release for client and family, including parents.

Janicki Industries v. Comm. Aircraft Interiors, Skagit County, c. 2007-2009: successfully recovered, through unjust enrichment claim, est. \$20K in utility bills unknowingly paid for benefit of defendant.

Follman v. Lee, Skagit County, c. 2007-2014: financial recovery of approximately \$35K for business from former bookkeeper for negligence in failing to prepare and remit federal payroll taxes and concealing same for prolonged time.

Client X v. National Bank B, Skagit County, c. 2008: national bank negligently opened business bank account and related business credit card allowing employee theft; recovery of funds illicitly deposited from bank under overlapping negligence, contract and UCC standards.

Wilbur v. Rockafellow, Skagit County, c. 2008: recovery for personal injuries suffered from leg burn and resulting scar from contact with exterior muffler of sports car.

Dep't Revenue v. First Baptist Church of Mount Vernon and Cascade Christian Center, Skagit County, c. 2008-2009: defense of collection action against church entities for failure to collect and pay sales tax following church merger; negotiated settlement.

Client X v. National Bank A, Skagit County, c. 2009: national bank dishonored cashier's check; recovery of check and 4X face value as consequential damages under UCC as part of confidential settlement.

ET Inc. v. Defendant X, Skagit County, c. 2009: settlement of accounting malpractice claim with payment to client for full amount of loss, est. \$42K.

Commercial Bank C v. Client X LLC, Skagit County, c. 2010: defense of receivership/collection action for alleged \$1 million delinquency, including repurchase of business through receivership from related entity; negotiation and settlement of underlying personal guaranties at 10% (approximate) of face value.

Hill v. Drews, Skagit County, c. 2010: secured settlement for dog bite.

Whatcom County Humane Society v. Spink, Whatcom County, c. 2010: defense/response to interpleader complaint concerning seizure of multiple horses by humane society.

Ram Construction v. Cress, Whatcom County, c. 2010-2011: defense of negligence claim concerning accidental damage from falling tree to construction equipment; resolved by settlement after defeat of plaintiff's motion for summary judgment.

Verkamp et al. v. Tanning Company X: Skagit/Island County, c. 2010: confidential recovery for multiple plaintiffs for injuries suffered from overexposure/burning from defective tanning bed.

State v. Gatmaytan, Whatcom County, c. 2010-2011: defense of First Degree Theft charges for embezzlement by bookkeeper; negotiated agreed plea disposition including agreed restitution.

Industrial Resources v. Professional Employment Organization X, Skagit/Whatcom Counties, c. 2011-2017: seized and secured court order recovering illicitly collected funds, est \$55K, from Bellingham PEO.

DiLeo v. Craig, Skagit County, c. 2011: secured settlement for dog bite.

State v. K, Skagit/Whatcom County, c. 2012-2014: defense of attorney in Theft prosecution for unlawful taking of fiduciary funds.

Jaffrie v. Defendant X, Skagit/Island County, c. 2012: recovered settlement from employer for unlawful discharge based on gender discrimination.

State v. Defendant X: Board of Accountancy, Dep't Fin. Institutions, c. 2012-13: negotiated settlement/consent order with DFI re commingled IRS 1031 funds; consent order with BOA re suspension CPA license; later dismissal of criminal prosecution based on same.

W. v. S, San Juan County, c. 2013-2014: negotiated settlement in committed intimate partner division of property.

Pizzuto v. Hetherington, Island County, c. 2013-2017: secure judgment for plaintiff following bench trial of est. \$75K for fraudulent nondisclosures during sale of real estate.

Hash v. Skagit County, Skagit County, 2013: negotiated severance for outgoing public works director based on employment related claims.

Korvin v. Hassler, Skagit County, c. 2014: secured settlement for premises liability; client fractured leg when foot caught in hidden industrial rebar on rental property.

Buckenmeyer v. Nooksack School District, Whatcom County, c. 2014-2015: secured settlement for client injured in high speed rear end collision with school bus on Highway 542.

City Sedro Woolley v. Estate of Peters, Skagit County, c. 2014-2015: defense of nuisance/forfeiture action related to alleged drug house; secured agreed settlement of same with city on behalf of estate.

Island County & Island Beach Access v. Greenbank Beach Property Owners, Island/Skagit County, c. 2014-17: represented group of lot owners within Greenbank Beach plat concerning access to dedicated waterfront easement; suit by Island County to repudiate easement for general benefit of county; resolved by settlement/compromise following defeat of Island County/IBA summary judgment motions on same.

In re Accountant X, Skagit County, c. 2014-2015: negotiated settlement/consent order with Board of Accountancy concerning surrender/suspension of accounting license following IRS capital gain issue of over-reporting adjusted basis; coordinated same with concurrent federal criminal prosecution.

Dwire v. Stevenson, Skagit County, c. 2015: revocation of POA in name of defendant; secured \$30K judgment for breach of fiduciary duties.

Berry v. Estate of Daniels, Whatcom County, c. 2015-2017: prosecution and settlement of claims of close friend/confidante/caretaker of deceased.

Shin v. Bitybaby LLC, no court, c. 2015-16: secured recovery of est. \$20K for Vietnamese company for unpaid invoice for Asian manufacturing of handbags/apparel by Colorado/Vermont company.

Best v. Freeland, Skagit County, c. 2016: recovered policy limits on slip and fall with leg fracture at VRBO home with non code-compliant walkways.

In re Estate of Bolster, Whatcom County, c. 2016: represented trust beneficiaries in breach of fiduciary duty proceedings before existing trustees; resignation of one trustee following court ordered accounting.

Bosone v. Bosone, San Juan/Skagit County, c. 2016-17: secured two dismissals of allegations of financial and general abuse against fiduciary in overlapping vulnerable adult protective order petitions.

Fairhaven Legal v. Hitz, Whatcom County, c. 2017: recovery of unpaid legal fees of est. \$30K from defense of property action in Whatcom County.

City of Seattle v. Kershner, Skagit County, c. 2017: secured timber trespass judgment against defendant for illicit harvest of old growth timber in eastern Skagit County.

Selected current litigation

Reyes Estate v. Loomis, Skagit and Whatcom County: Wrongful death claim of estate and family for hit and run fatality on I5 on ramp November 23, 2018.

Lincoln National Life Ins. v. Ridgway, Western District Washington: interpleader/bad faith action for recovery of \$243K life insurance proceeds payable to client; recent summary judgment opinion (Feb. 2018) orders life insurance company to pay funds to registry of court for benefit of client; counterclaim for wrongful nonpayment/bad faith against insurance company pending.

State v. Horne, Skagit County: defense of charge of Assault in 1st Degree with defenses of *mens rea*/necessity/domestic abuse-battery.