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1.0 Law & Legal CLE Credit – A/V Approval #1087690

Recording Date - November 19, 2018

Recording Availability – November 21, 2018

Meeting Location	Date	Time	Topic
King County Bar Association 1200 Fifth Avenue - Suite 700 Seattle, WA	Monday, November 19, 2018	12:00 PM to 1:15 PM	Handling Clients on Appeal: A Discussion of Common Issues That Arise When Working With Clients in Civil and Criminal Appeals

AGENDA

12:00 PM Introduction

12:10 PM Presentation: ‘Handling Clients on Appeal: A Discussion of Common Issues That Arise When Working With Clients in Civil and Criminal Appeals’, by Kenneth W. Masters, Masters Law Group, PLLC; Catherine C. Clark, Law Office of Catherine C. Clark, PLLC and Eric Broman, Nielsen Broman & Koch, PLLC

1:15 PM Adjourn

SPEAKER BIOGRAPHY

Kenneth W. Masters, Masters Law Group, PLLC – Ken is a Trustee and the incoming President of the Washington State Bar Foundation. He recently chaired the Washington State Bar’s Escalating Costs of Civil Litigation Rules Drafting Taskforce, and previously chaired its Rules & Procedures and Amicus Committees. Ken also served as WSBA Treasurer and Governor, and chaired KCBA’s Judicial Screening Committee and Appellate Law Section. Ken was President of the Washington Appellate Lawyers Association from 2007 to 2013. He is a Fellow of the American Bar Foundation and of the American Academy of Appellate Lawyers.

Catherine C. Clark, Law Office of Catherine C. Clark, PLLC – Catherine C. Clark, or “Cat” as she is also known, is a graduate of the University of Washington and Gonzaga University School of Law. Cat attended the UW on an athletic scholarship (Swimming) where she earned four varsity letters and academic honors. While at the UW, She majored in history and political science and was a member of a

sorority. She attended Gonzaga University School of Law where she was also on the law review. Once she finished law school, Cat clerked for Justice Robert F. Brachtenbach (ret.) of the Washington Supreme Court in Olympia. She finished that position and went into the private sector and has practiced law since. She is a litigator and regularly appears in the trial courts and appellate courts in Washington State.

Eric Broman, Nielsen Broman & Koch, PLLC – Eric has handled appeals for Washington clients since 1988 and as a partner with the firm since 1997. He is counsel of record in over 180 published appellate decisions and has handled more than 700 criminal and civil appeals in Washington courts. Eric regularly volunteers to assist other attorneys in preparing for oral arguments, and has volunteered for years with the Washington Defender Association *amicus curiae* committee. He spent hundreds of hours over a dozen years volunteering with the Sierra Club in the successful effort to remove the two dams from the Elwha River on the Olympic Peninsula. Through the efforts of many dedicated activists, the Elwha again flows free, and the ecosystem is recovering. Eric received his undergraduate and law degrees from the University of Florida.

HOW DO I EARN CREDIT FOR SELF-STUDY OR AUDIO/VISUAL (A/V) COURSES?

For pre-recorded A/V (self-study) programs, although the sponsor should apply for accreditation, **lawyers need to report the credits earned for taking the course.**

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- ❖ Go to the "mywsba" website at www.mywsba.org/.
- ❖ Log in.
- ❖ Click on the "Access MCLE" link in the "MCLE Info" box on your home profile page.
- ❖ Click on "Add Activity." Search to find the approved course in our system. (See search suggestions on the screen.)

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Then claim the correct credits for which you attended this activity in the Credits Claimed fields and click the Submit button at the bottom of the page.

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11/19/2015 KCBA App. Section Meeting – Handling Clients on Appeal

- What to ask/tell during initial client contact
 - judge/trial court
 - Very basic facts of case
 - Conflict check
 - Criminal: N/A w/ appointed clients
- Initial contact after conflict check
 - Get a sense of what happened
 - What do they think appellate counsel can do?
 - Explain what you can and cannot do
 - Chances of prevailing on appeal
 - Explaining distinction between orders appealable as matter of right vs. discretionary review
 - Cost
 - Indigent clients have the right to court appointed counsel for appeal of termination of parental rights
 - If case involves mistake by trial counsel, malpractice carrier may pay appellate fees to avoid malpractice suit
 - Criminal; can't weed out issues
 - “Anders alternative” of RAP 10.10 statement of additional grounds
- How to evaluate appeal?
 - Keep simple/focus on “jugular” issues
 - Should be able to do for \$1,500 - \$2,500
- “Beauty contests” w/ institutional clients
 - Still ultimately a person to person relationship
 - Focus is on knowledge/capacity to handle work rather than cost
- Oral Argument
 - Reasons not to go
 - Inability to keep “poker face”/emotional outbursts will likely annoy judges
 - Explain how argument went
 - Set expectations for decision
 - Client can listen to argument after

- Past-Decision
 - Have to explain process
 - Post-decision motions
 - Mandate
 - Remand if applicable

- Other thoughts
 - Level of client input on brief depends on client
 - Beware “dangerous” cross-appeals, i.e., imperfect decision that could get worse