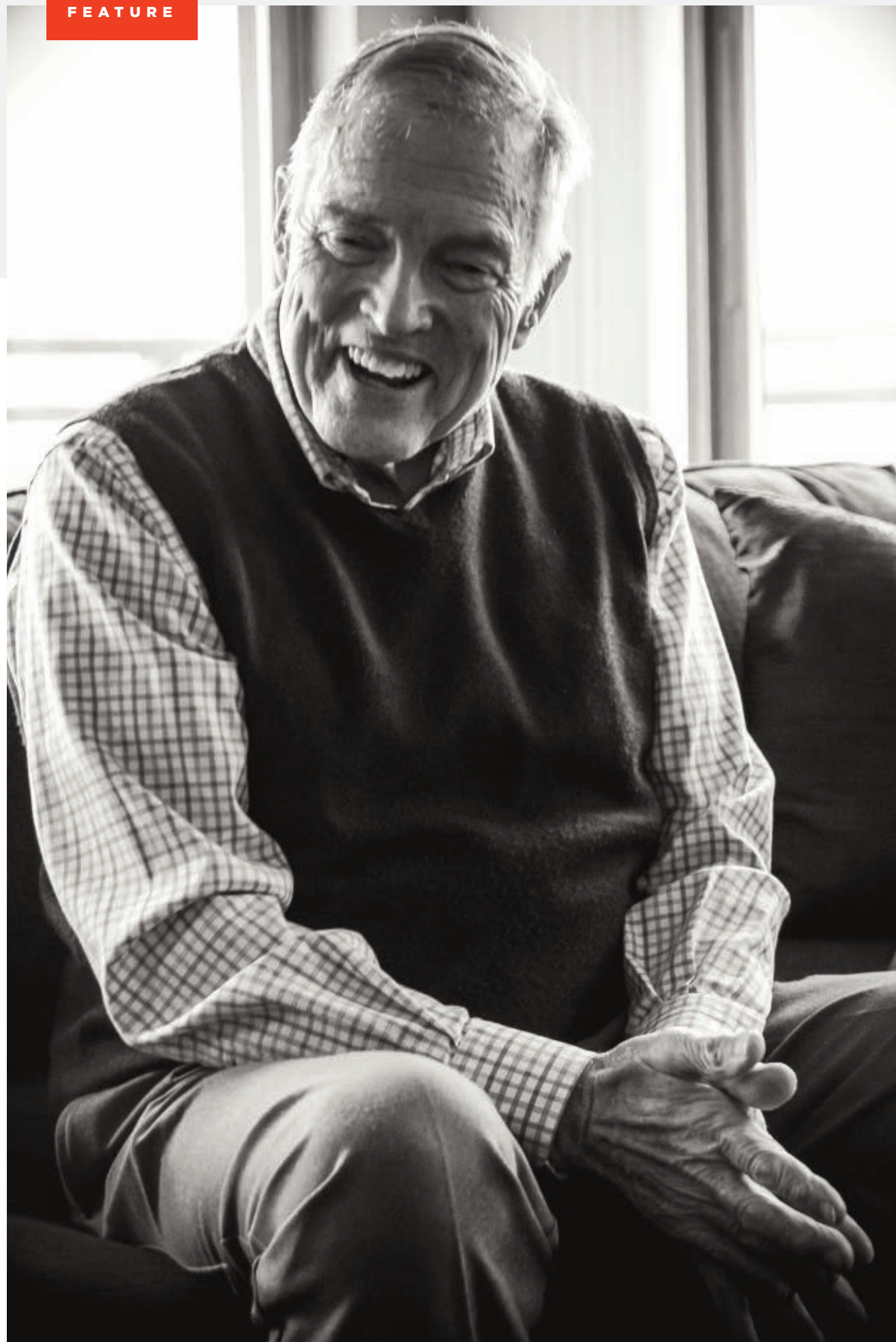


FEATURE



A Legal Legacy Forged From Afar

How a lawyer from Poulsbo altered the course of the Albanian judiciary

BY COLIN RIGLEY



It would have been a warm, humid evening when the Americans went out onto the terrace to light their sparklers and wave their flags. As they gazed at the Adriatic Sea from the southern coast of Albania on July 4, 1994, they celebrated, they sang “The Star-Spangled Banner,” and they socialized with their hosts. Back home it barely would have turned heads. In Albania, however, these were acts that in the not-so-distant past could have landed them in jail, or worse.

At the time, Roger Sherrard was an attorney in private practice in Poulsbo, still in his 40s and about 20 years out of law school. He’d never set foot in Albania before the summer of 1992; within a few years of his first visit he was something of an Albanian celebrity.

For the 1994 trip he brought along his wife, Katoo, and an assembly of U.S. judges including now retired Washington Supreme Court Justice Charles K. Wiggins; then Washington Supreme Court Chief Justice Robert Utter and his wife, Betty; and other judges from local, state, and federal courts around the country. Their hosts were the justices of the Albanian Supreme Court and their accommodations were remarkable, even if the Americans didn’t know it at the time.

The Albanian chief justice made a toast at dinner, Katoo recalls, saying “if we can have Americans here in this home, I know we must be free.” Curious about his statement, after dinner she asked him to explain. “And he told us we were in the [former] home of the dictator.” (Not only that, the couple’s accommodations were his former bedroom.)

Albanian Communism had come to an end only two years before this visit, when the Albanian Democratic Party unseated the long-ruling Communist Party, as the newly independent nation took political baby steps into a post-Soviet Union world. For four decades, until his death in 1985, Enver Hoxha (pronounced “ho-jeh”) led Albania down a staunchly Communist path, seizing private property, abolishing religious expression and implementing an atheist state (Albania today is approximately two-thirds Muslim, 12 percent Catholic, and 8 percent Orthodox), and maintaining a tight rule through a combination of fear and imprisonment of dissenters.

Clearly, had Hoxha been alive and his party still in power, he would not have taken kindly to an American lawyer sleeping in his bed and sharing dinner with Albanian Supreme Court Justices in his summer home. Yet, there Roger was.

WHO IS ROGER AND WHY ALBANIA?

Roger Sherrard is the youngest of four boys. His father died when Roger was 8 years old and he and his siblings were raised by his mother, who took over the family business and moved from Des Moines to Normandy Park, where Roger grew up.

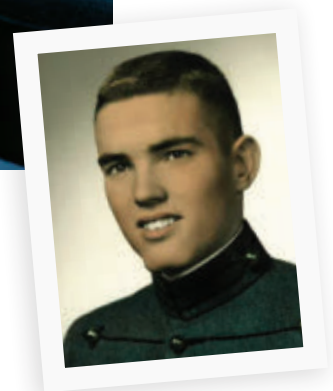
Roger wanted to follow in a friend’s footsteps and attend the U.S. Naval Academy, but he didn’t have the 20/20 vision needed to get in, so he went instead to the U.S. Military Academy at West Point. From there it was off to airborne and ranger training at Fort Benning, under leaders who thought the training was “too soft,” according to Roger. (Roger likes to boast that Pulitzer Prize-winning author Rick Atkinson’s book *The Long Gray Line* recounts the grueling treatment of Roger’s 1966 class at West Point and the ranger training they endured.) Roger pursued the armored branch and was sent to Germany, where he became a company commander of 17 tanks, then off to Italy as aide-de-camp to two major generals, and later to Vietnam.

He was awarded three Bronze Stars for

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Roger Sherrard, left, holding a picture of himself and Hon. Paul A. Magnuson standing outside the Pyramid of Tirana in Albania. Katoo Sherrard, right, holding a picture from the 1994 Judicial Conference held in the same building. Below, Sherrard as a plebe (freshman) at West Point in 1962.



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valor and other recognitions for his military service.² His original plan was to stay in the military, but the call to start a family with Katoo back in Washington shifted things. He actually took the LSAT from Vietnam, started law school at Seattle University, and graduated with distinction in 1975, the same year Saigon fell.

He worked as a prosecutor his last year of law school before becoming partners with Bill McGonagle and his brother, Jean, at Sherrard McGonagle Tizzano & Lind, a firm that specializes in estate planning, real estate, and business consulting. Over the course of his 41-year legal career, he litigated constitutional law issues at the trial and appellate level, which is partly what took this small-town lawyer's career in a decidedly international direction.

POULSBO TO ALBANIA BY WAY OF BULGARIA

Roger's meandering journey into the Albanian judiciary first took him to Bulgaria.

He represented the defendant in a high-profile 1986 Washington Supreme Court case involving anti-abortion protests at a Tacoma health clinic³ which, in addition to further immersing him in constitutional law jurisprudence, caught the attention of Sam Ericsson, a Virginia attorney and then-executive director of the Christian Legal Society, who was looking for ways to get involved in advising

post-Communist judiciaries in Eastern Europe. Bulgaria in particular was looking for American lawyers who had not worked for the government and knew constitutional law. In the summer of 1991, Roger and Ericsson headed to Sofia, Bulgaria.

Over the next year, Roger made three trips to Bulgaria. On the first trip, when tensions were still high between the new party and the Communists, he and Ericsson made news when they nonchalantly walked through a wall of protesters to get into the law school. They passed an overturned car in flames on the way, Roger remembers.

Once inside, a student said to Roger, "Don't you think it's great that Parliament is granting us human rights again?"

"And I said 'no.' You could hear a pin drop," Roger recalled. "I said, 'If Parliament gives you these human rights today, they'll think they can take them away. And we don't



SIDEBAR

In December 2005, Roger Sherrard received the “Medal for Special Civil Merits” from the President of Albania, Alfred Moisiu. According to John L. Withers II, the U.S. Ambassador to Albania from 2007 to 2010, tensions among Albanian political parties would have resulted in controversy over this award going to anyone else. “As far as I know, there was no objection from any of the political factions in Albania to Roger accepting that award.”

believe you can do that. Those rights are given to us as human beings.”

Later that night, Bulgarian news stations broadcast images of American lawyers walking through a protest to meet with law students.

“They all thought we were these heroes,” Roger said. “We were oblivious enough; we weren’t scared at all walking through the picket line to go into this law school.”

In the airport waiting to fly home, Roger and Ericsson decided they should continue that work and form a company, which became Advocates International, self-described as “the largest, oldest, most efficient, legal aid organization you’ve never heard of before.”⁴ Roger was the first board chair and a member of the board until recently, which today includes such recognizable names as Ken Starr.

“We were happy to have the experience,” Roger said. “How many chances do you get in a lifetime to do this kind of stuff?”

In 1992, Roger was invited to come for the elections, which put Bulgarian Democrats in power. Around that same time he got two separate letters on the same day asking him to come to Albania.

In the summer of ’92, Roger landed for the first time in Tirana, Albania. Over the next 25 years, he would visit Albania more often than many people visit their parents, with more than 50 trips to the country.

WINNING HEARTS AND MINDS

There’s no rulebook for an American lawyer advising a formerly Communist country on

the foundational principles and logistical infrastructure of a constitutional judiciary. If there’s any secret to how Roger did what he did, it’s probably his personality. There’s no law barring a private American citizen from advising foreign officials,⁵ according to John L. Withers II, U.S. ambassador to Albania from 2007 to 2010. But it’s rare for anyone to listen.

“As a practical matter, most foreign officials have neither the time nor the interest in meeting with most private citizens, be they American or other,” Withers said. “That’s what was remarkable about Roger. Officials—from all parties—and the legal community wanted to hear what he had to say and sought his advice.”

Looking back, Roger marvels at how he was actually invited to participate in shaping a new, independent judicial system in Albania.

“They wanted American lawyers who knew something about the constitution to come over there—*American lawyers*,” he said in a video interview as a winner of a WSBA 2019 APEX Award.⁶ “Now where in the world do they like American lawyers?”

One of the reasons that Roger became one of, if not *the* key figure in creating the new Albanian judicial system, added Withers, is that he was able to listen to and appreciate the perspective of the Albanian people.

“And Roger was extraordinary. ... His devotion was something like I’d never seen. Not only would he meet the people there and discuss things with them, but he would address their conferences, he would go on television, he would advise them on documents that they were trying to prepare to meet NATO standards or European Union standards. He would set up programs to bring jurists out to Albania to hold seminars, discuss things, advance proposals, advance procedures. And then he would find ways of bringing Albanian jurists here, and when they would come here he would find ways of introducing them to noted judges.”

Roger became an advisor, friend, and confidant to many Supreme Court justices, members of Parliament, and other Albanians.

“Whenever you went to Albania, and this is because of the ground that Roger plowed, you’re just treated like royalty; you speak and they hang on to every word you say,” said Hon. Paul A. Magnuson, a senior judge with the U.S. District Court for the District of Minnesota who has done rule-of-law work in more than 50 countries, including in Albania with Roger. “You go to Albania with Roger and first you meet with the chief justice of the state Supreme Court and their entire Supreme Court; then chief of Constitutional Court and the entire Constitutional Court; then meet the president, and they’re in a ceremonial location; then meet with the prime minister; and then you go meet with the minority leader. It was just kind of a routine to do that because Roger had so much standing and so much respect that the people, they wanted to see Roger Sherrard.”

Roger’s efforts were also appreciated by his own government.

“If I were to speak as an American ambassador ... what [Roger] was doing was very important for me from the perspective of advancing our interests,” Withers said. “One of the big, big things that was part of our program as an embassy was the judiciary, and we actually had people from the [U.S.] Justice Department who were officers in the embassy and who were working via official means to try to im-

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prove the judiciary. ... Again, to have a private American doing that, not a U.S. government official but a private American, was really, really truly exceptional. And I valued our relationship at every level.”

HUSTLING FOR GAVELS AND LITIGATING IN A PYRAMID

A typical trip to Albania was usually an “absolute whirlwind,” said Katoo, who accompanied Roger on more than a half-dozen visits. Roger was always invited and hosted by the Albanian Supreme Court justices. He and those he brought with him advised on topics including constitutional government modeled on the American democratic system, property law (to help manage the transition of property from the government back to private citizens), and the day-to-day logistics of court process and procedure. Often he cobbled together—with the help of others—creative solutions to more practical needs.

Enter Charles Wiggins, future Washington Supreme Court Justice, recruited by Roger to help find robes and gavels for Albanian jurists. Wiggins’ eureka moment occurred when he noticed that the choir robes at his mother’s church in Alabama were near identical to judges’ garb.

“It turns out there are robes, if you know where to look,” Wiggins said.

Encouraged by Wiggins’ Alabama-to-Albania success, Roger next asked Wiggins to find 180 gavels on a thimble-sized budget. After scouring trophy stores with no luck, Wiggins happened upon a “gavel dealer in Chicago” and convinced him to supply the needed gavels at a steep discount. He picked them up during a layover at O’Hare on the way to Tirana.

If you’re thinking that customs agents might have questions about boxes full of choir robes and gavels, you’re right.

“Suffice it to say we were greeted with suspicion,” Wiggins said, adding that Roger schmoozed customs agents and even got them to waive fees on their supply of smuggled gavels and judicial attire. “It’s just really characteristic of him that he wouldn’t flinch.”

Roger’s telling of the story adds an additional layer of mystery. Despite securing 200 choir robes, they were still 92 short. But during a judges’ conference, the U.S. Embassy’s information officer was called to pick up a package at the airport.

“She excitedly waved to call a recess in the mock trial,” Roger said. “The package she had retrieved contained 92 robes, enough for all the judges to receive one. To this day we do not know where the package came from.”

A thoroughly invested Wiggins went on to accompany Roger to Albania several times. On one trip, the two played lawyers for a mock trial. The subject matter was fairly dull—easement issues, Wiggins remembers—but the location was anything but.

“The place where we did this was literally a pyramid,” Wiggins said. In fact, the location was the Pyramid of Tirana, built by Hoxha’s family shortly after his death to serve as a museum to the legacy of the decades-long Communist ruler. “It was kind of a sign of a remarkable thing that there we were. ... To then be transforming that for a day to a venue for a mock trial was very special.”

“I don’t remember how much I knew of what it would be like in Albania, but it was an adventure and it was something that sounded really interesting to me,” Wiggins said. “And the idea of trying to help a country through a transition from communism to democracy, how they would deal with constitutional rights and constitutional issues and how, in fact, their entire judicial system would deal with all kinds of issues—it’s a look back in time almost, to a time when the United States was formed.”

A BACKWARD GLANCE

When I met Roger, one of the first things he told me is that he has Parkinson’s disease, which he attributes to being sprayed with Agent Orange in Vietnam. He offered this information by way of explaining one of its side effects—that he cries more easily. Saying this actually caused him to cry. When he described past experiences in Albania or recounted tales from his military service, the emotions would well up and choke his breath momentarily ... before he dove right back into telling the story.

Roger converses through a web of stories, daisy-chaining one to the next in vivid detail with arching plotlines and a slew of characters—he even does voices. With a soft, almost whispering voice and an open-mouthed smile that gives him the appearance of Dick Van Dyke having a great day, Roger happily shares the almost outlandish tales from Albania, often featuring coincidences and serendipitous moments he chalks up to nothing short of divine intervention.

An example: A winding tale about efforts to prevent Parliament from implementing rules that would have been used to oust three judges. Roger took the judges to lobby (successfully, as it turned out) 18 members of Parliament. Then he helped earn favorable coverage in the press. In an environment where the press was often used to squelch the judiciary, Roger was successful because,

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as the reporter he was talking to explained, Roger had given advice to a woman years before that kept her son out of jail.

And then the reporter said, “Well I was that guy and you got me out of jail!”

That’s the type of person Roger is, said Magnuson, the Minnesota District Court judge—someone who dives straight in when he believes what he’s doing is right and will help people.

“You’re dealing with a guy that’s a West Point grad, a guy that’s gone through hell in Vietnam, has had roadblocks thrown up in his face,” Magnuson said. “A bunch of Albanian judges, that’s another challenge to him. Sort of like charging the hill; you go out and do it. And he did.”

It would be impossible to chronicle all that Roger has done in one article; in fact, he is working with a friend to share his experiences in a book. This has been but a sliver of the sprawling, decades-long saga of how a Poulsbo attorney found himself in the midst of a revolutionary reconstruction of a judicial system on the other side of the world.

Toward the end of our last interview, Roger is telling another story about Albania when he trails off. He’s quiet for a moment and gazes toward his window overlooking Edwards Point.

“It’s a privilege to have had this opportunity,” he says. “Anybody, if you were a lawyer, you don’t want to let these people down. I just feel incredibly fortunate, I guess I would say, to be able to have had these experiences.” **BN**

NOTES

1. https://eacea.ec.europa.eu/national-policies/eurydice/content/population-demographic-situation-languages-and-religions_en.
2. <https://www.sherrardlaw.com/roger-d-sherrard>.
3. Federal Way Family Physicians, Inc. v. Tacoma Stands Up for Life, 106 Wn.2d 261, 721 P.2d 946 (1986).
4. <https://advocatesinternational.org/our-core-values>.
5. So long as they don’t falsely claim to be representatives of the U.S. government or commit illegal acts such as bribery.
6. Roger won the WSBA’s 2019 APEX award of merit, after being nominated by his peers, many of whom Roger had coaxed into joining in his Albanian escapades. Roger Sherrard, Award of Merit, 2019 WSBA APEX Awards, YouTube, <https://www.youtube.com/watch?v=u97amTy2PxY>.

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___ P.3d ___, 2020 WL 614329 (2020) (district responsible for student killed by driver who ran off road striking him during improper off campus walk)

Habu/Chinn v. Topacio, et al.,

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(reversing enforcement of CR 2A agreement)

**Hendrickson v. Hempzen Enterprises;
Sotebeer; Davenport; Ware, et al.**

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192 Wn.2d 178, 438 P.3d 522 (2019); 923 F.3d 728 (2019) (recognizing liability of Port as premises owner)

Kimberly Gerlach v. The Cove Apts.,

437 P.3d 690 (2019) (reversal of judgment based on voluntary intoxication defense)

Ingenco Holdings v. ACE American Insurance Company,

921 F.3d 803 (9th Cir. 2019)
(reversal of district court summary judgment in insurer’s favor as to all risk policy coverage)

Brunson v. Lambert Firm and Bechtel National,

757 Fed. Appx. 563 (9th Cir. 2018) (Court upholds district court confidentiality rulings in qui tam action)

Chan Healthcare Group v. Liberty Mutual Fire Insurance Co.,

192 Wn.2d 516, 431 P.3d 484 (2018) (court dismissing new class action based on Full Faith & Credit)

Sampson and Raymond v. Knight Transportation et al.,

193 Wn.2d 878, 448 P.3d 9 (2019) (amicus brief for WTA/ATA supporting income averaging)

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