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Chronicling the high cost of our legal system

[May 18 roundup](#)

by [Walter Olson](#) on May 18, 2010

- Upside-down logic of Supreme Court's Comstock, Graham cases: imprison youthful offenders for life only if they *haven't* had protections of formal trial [[Popehat](#), [Pilon](#), [Shapiro](#), [Volokh](#), [Pattis](#)] Kennedy returns to use of international "consensus" as guide in constitutional interpretation [[Shapiro](#), [Bader](#)]
- Connecticut AG Richard Blumenthal, noted scourge of misleading ad promotion (as in the Sony [ghost blurber case](#)), falsely claimed Vietnam service [[Raymond Hernandez](#), [NY Times](#)] Cf. the curious "Harvard swim captain" claims investigated by [Chris Fountain](#);
- Louisiana politico Theriot: my suit against online critics is meant not to shut anyone up but to pick up useful tips on governance [[Times-Picayune](#), [Jefferson Report](#), [Volokh](#), [NY Times](#)]
- South Carolina juries not allowed to hear evidence about seat belt use in car crashes [[Pero](#)]
- More links on "Lady KaGa" Supreme Court nomination [[Cato at Liberty](#), [Ted at PoL](#)]
- Risk of "minor" injuries may result in end to Naval Academy tradition of stunt climb [[John J. Miller](#), [NRO](#)]
- "Art of the Steal," documentary on epic battle over donor intent in case of suburban Philadelphia Barnes collection [[Kauffmann/TNR](#), [L.A. Times](#), [CultureGrrl/ArtsJournal](#)]
- "Why Good Intentions are Often Not Enough: The Potential for Ethical Blindness in Legal Decision-Making" [Kath Hall (Australian National University), [SSRN](#) via [Andrew Perlman](#), [Legal Ethics Forum](#)]

Tagged as: [art and artists](#), [crime and punishment](#), [ethics](#), [libel slander and defamation](#), [Philadelphia](#), [Richard Blumenthal](#), [seatbelts](#), [South Carolina](#), [Supreme Court](#)

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["South Carolina Supreme Court Brings Down the Hammer on Discovery Abuse"](#)

by [Walter Olson](#) on May 17, 2010

Trial courts should do more to police "oppressive" discovery requests, according to one state's high court.

[\[Abnormal Use\]](#)

Tagged as: [discovery](#), [sanctions](#), [South Carolina](#)

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[Suit: cellphone bill exposed my affair](#)

by [Walter Olson](#) on May 17, 2010

An Ontario woman wants Rogers Wireless Inc. to pay C\$600,000 for sending her household a “global” invoice that wrongly alerted her husband to lengthy phone calls from which he deduced her extramarital affair, leading him to walk out on her. [[Toronto Star](#)]

Tagged as: [Canada](#), [cellphones](#), [personal responsibility](#)

{ [8 comments](#) }

[Hardships of prolonged jury service](#)

by [Walter Olson](#) on May 17, 2010

They're felt more than ever in today's economy, [notes Amy Alkon](#).

Tagged as: [juries](#), [jury selection](#)

{ [3 comments](#) }

[Alan Dershowitz](#)

by [Walter Olson](#) on May 17, 2010

Scott Greenfield thinks it [must be wonderful to be him](#).

Tagged as: [Harvard](#)

{ [0 comments](#) }

[Welcome WRKO listeners](#)

by [Walter Olson](#) on May 16, 2010

I was a guest this evening on Kevin Whalen's [Pundit Review](#) talk show on the [Boston station](#). We mostly discussed the Elena Kagan Supreme Court nomination, on which I've blogged [here](#), [here](#), [here](#), and [here](#). **More:** a [write-up, and audio](#).

Tagged as: [Boston](#), [Elena Kagan](#), [on TV and radio](#)

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[May 16 roundup](#)

by [Walter Olson](#) on May 16, 2010

- Doc self-injects with Botox, wins \$15 million on failure-to-warn claim [[Legal Blog Watch](#)]
- Kindergarten teacher Tonya Craft acquitted in widely watched abuse-allegation case [[Sullum](#) and [more](#), [Greenfield](#), [Popehat](#), [A Public Defender](#), [Lynch](#)]
- Naughty Toyota, it defends itself when attacked [[Fumento](#), [Ted at PoL](#)]
- Washington Post [profiles](#) economist/perennial blogroll favorite Tyler Cowen ([Marginal Revolution](#)) with guest appearance by fashion business mentor/outspoken CPSIA critic [Kathleen Fasanella](#);
- Business groups oppose nomination to federal judgeship of Rhode Island trial lawyer/political kingmaker Jack McConnell [[ShopFloor](#)]
- “CEI’s FTC Complaint Against GM: A Response to Walter Olson” [[Fred Smith/Open Market](#), [earlier](#)]
- Bad: New York’s highest court limits assumption of risk defense [[NYLJ](#), [Mura](#), [Rapp](#)]
- Why we can’t represent you in your suit demanding removal of your microchip brain implant [[Popehat](#)]

Tagged as: [assumption of risk](#), [child abuse](#), [failure to warn](#), [New York](#), [Rhode Island](#), [Toyota](#)

{ [3 comments](#) }

[Disability-related commuting difficulties](#)

by [Walter Olson](#) on May 15, 2010

The Third Circuit has ruled that under the Americans with Disabilities Act “employers may need to make reasonable shift changes in order to accommodate a disabled employee’s disability-related difficulties in getting to work.” The case involved a Rite Aid worker who could not drive at night because of glaucoma and wanted a transfer to the day shift. [[Colwell v. Rite-Aid](#), PDF, via [Hyman](#)]

Tagged as: [disabled rights](#), [workplace](#)

{ [5 comments](#) }

[Sophisticated advisors?](#)

by [Walter Olson](#) on May 15, 2010

According to the New York Law Journal, “hundreds” at least of law firms have [fallen victim to advance-fee and counterfeit-check scams](#) in recent years.

Tagged as: [lawyers](#)

{ [5 comments](#) }

[The fatal workplace joke](#)

by [Walter Olson](#) on May 14, 2010

A lab technician in Bolton, Lancashire, U.K. kills himself after an offhand joke at his workplace is denounced as insensitive [[Telegraph](#), [Mail](#)]

Tagged as: [harassment law](#), [hostile environment](#), [suicide](#), [United Kingdom](#)

{ [3 comments](#) }

[“Palm Beach Gardens firm accused of filing lawsuits just to collect legal fees”](#)

by [Walter Olson](#) on May 14, 2010

The firm often sues insurance companies for amounts under \$50, sometimes under \$5. A manager with one defendant said the lawyers can use a \$1 settlement to leverage a demand for thousands in legal fees payable by defendants. The firm, which has filed more than a thousand cases since last summer, acquires potential claims from medical clinics which bill the insurers over care dispensed after no-fault auto accidents; often the clinics have been paid for the bulk of the case, leaving a small unpaid sum. [[Jane Musgrave, Palm Beach Post](#)]

Tagged as: [Florida](#), [insurance](#)

{ [2 comments](#) }

[Talking-squirrel injury lawyer ad](#)

by [Walter Olson](#) on May 14, 2010

With extra cheese:

Via [Above the Law](#) last month, which also found a [decidedly strange reggae video](#) singing the praises of a Los Angeles entertainment-law firm.

Tagged as: [chasing clients](#)

{ [2 comments](#) }

“California Court Rejects Santa Barbara Beach Club’s Attempts to Suppress Criticism”

by [Walter Olson](#) on May 14, 2010

Free speech wins one in a neighborhood dispute. [[Eugene Volokh](#)]

Tagged as: [libel slander and defamation](#)

{ [0 comments](#) }

Woman finds “demonic” face on canned pear

by [Walter Olson](#) on May 13, 2010

And wants recompense from the fruit canner, in New Zealand. [[Stuff.co.nz](#)]

Tagged as: [food safety](#), [New Zealand](#)

{ [7 comments](#) }

Food safety bill: big vs. small business

by [Walter Olson](#) on May 13, 2010

From the WSJ last month ([Division of Labour](#)) on the big federal food-safety bill sailing through Congress:

...small farmers worry the measure's fees and inspection requirements would be ruinously expensive and are pushing for exemptions.

"I know people who have been small farmers for 25 to 30 years who are looking to get out of the business because food safety is becoming so alarmist," said Mary Alionis, whose eight-acre Whistling Duck Farm in Grants Pass, Ore., sells produce to farmers markets and restaurants.

Big food companies generally support the bill, judging the added expenses it would bring to be small compared with the potential financial damage of a vast product recall.

It's a pattern we've [seen before](#).

Tagged as: [food safety](#), [small business](#)

{ [2 comments](#) }

[Connecticut: "Lawsuit Verdict May Shut MDC Reservoirs to Cyclists"](#)

by [Walter Olson](#) on May 13, 2010

As lawsuits advance, recreation retreats: the Hartford-area Metropolitan District Commission "is now looking at shutting access to its popular reservoir trails to cyclists" following a \$2.9 million jury award to a bicyclist who crashed into a gate. "The controversial verdict came after rulings that the MDC — a nonprofit municipal corporation — was not immune to lawsuits, in this case from a cyclist who wasn't paying enough attention as she rode the well-marked trails." [[Rick Green, Hartford Courant](#); [background](#) from 1999]

Tagged as: [Connecticut](#), [recreation](#), [taxpayers](#)

{ [7 comments](#) }

[Chasing the Toyota hobgoblin](#)

by [Walter Olson](#) on May 13, 2010

The quest to do something about the imagined Toyota crisis may result in a federal mandate for all cars to include "brake-override" features that cut off power when the driver hits the brake. [Writing in the Philadelphia Inquirer](#), Michael Fumento says many cars on the road do already have such a feature — but lawmakers don't seem overly curious as to whether it's made a difference.

Tagged as: [sudden acceleration](#), [Toyota](#)

{ [5 comments](#) }

[Home fire sprinkler mandates](#)

by [Walter Olson](#) on May 12, 2010

The government is playing more of a role these days in designing your next house. I've got some [thoughts up at Cato at Liberty](#) on the politics of it all.

Tagged as: [fire](#), [lobbyists](#), [real estate](#)

{ [18 comments](#) }

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- [Around the web, May 18](#)

So, I suppose Justice Sotomayor, contrary to her Senate testimony, is okay with the use of international precedent to strike down laws passed by 37 states. [Graham v. Florida; Whelan @ Bench Memos; see also Volokh on the Stevens concurrence]... [...]

Ted Frank

- [Catsouras v. Department of California Highway Patrol](#)

Within fifteen minutes of 18-year-old Nikki Catsouras stealing her father's Porsche, she (perhaps under the influence of cocaine) decapitated herself when she smashed into a California State Route 241 tollbooth at 100 mph. Two California Highway Patrol officers released some... [...]

Ted Frank

- [The Kagan nomination, May 18](#)

FrumForum's John Vecchione and Eugene Volokh independently discuss the merits of fighting the Kagan nomination starting from opposite positions, and generally come to the same conclusion. Similar to Volokh's reasoning, Bainbridge calls Kagan a conservative win, considering the politically feasible... [...]

Ted Frank

- [BREAKING: AG Richard Blumenthal revealed to have lied about Vietnam service](#)

A New York Times blockbuster could have dramatic implications for the activist attorney general's career, which seemed Senate-bound.... [...]

Ted Frank

- [Around the web, May 17](#)

Review of "Inside a Class Action: The Holocaust and Swiss Banks," with attention paid to the battle between Ed Fagan and Michael Hausfeld. [Trask] Second Circuit acts to narrow Twombly in antitrust conspiracy case. [WLF; CPI Antitrust Journal; Loeb &... [...]

Ted Frank

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