



# THE SUMMONS

Saginaw County Bar Association

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## 70th District Court Magistrate



**Richard L. Alger**  
2014 – 2020



**Kent Greenfelder**  
2021

# MEETING DATES FOR 2021

*(Go to [www.saginawbar.org](http://www.saginawbar.org) for meeting updates)*

## **Board Meeting by ZOOM**

*(All Board Meetings will be held via ZOOM until further notice 1st Wednesday of every month at 12:00 PM )*

## **Pro Bono Committee Meeting by ZOOM**

*(All PB meetings held via RING until further notice 3rd Tuesday of every month at 12:00 PM)*

## **Law Day**

*May 1st*

## **Golf Outing & Annual Meeting**

*Thursday, June 3, 2021 –  
Saginaw Country Club*

## **Red Mass**

*Thursday, October 14, 2021*

## **Pro Bono Week**

*October 24 – 30, 2021*

## **Holiday Party**

*Friday, December 3, 2021 –  
Horizons Center*



Courthouse Closed  
February 15, 2021  
President's Day

*(If you want your committee meeting dates listed here, send them to Kelli Scorsone, Executive Director)*



## **Changes in the Magistrate Office**



The judges of the 70th District Court would like to take this opportunity to thank Attorney-Magistrate Richard Alger for his service to the Citizens of the County of Saginaw and to the District Court Bench. Effective the beginning of 2021, Mr. Alger has entered the next phase of his life – retirement. We wish him the best of luck and much happiness in his new adventure!

With that, the judges would also like to welcome to 70th District Court

the new Attorney-Magistrate Kent E. Greenfelder. Mr. Greenfelder has been in private practice since 2000 and has been in Saginaw County for over 20 years. He has experience in several areas of law which will assist him in handling small claims matters, misdemeanor and civil infractions.

Please join us in welcoming Magistrate Greenfelder to District Court of Saginaw County.

# THE SUMMONS

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### **SCBA Website**

[www.saginawbar.org](http://www.saginawbar.org)

### **Lawyer Referral Service**

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## PRESIDENT'S MESSAGE

By: Millicent E. Shek

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### ***Hi and welcome to 2021!***

As The Summons has no January article, let me take this opportunity to wish everyone a happy, healthy New Year! A celebration that we have made it through another 365 days (or 366) - the unit of time by which we keep chronological score of our lives. It is symbolic of a fresh beginning that we all so desperately need after last year was ravaged by COVID-19.

Ancient Babylonia is where one finds the first recorded celebrations in honor of a new year and are said to have been the first people to make New Year's resolutions over 4,000 years ago. The Babylonians promised their gods they would pay off debts and return borrowed objects. Similar practices persist even today, where people make resolutions to improve their quality of life (e.g., quit smoking, exercise regularly). Have you stuck with your New Year's Resolution so far?

We now have a vaccine for COVID-19 which was created in record time. In a remarkable achievement for medical science, we went from identifying a new pathogen to discovering an immune response against it, to developing and testing a safe and effective vaccine for it in less than 12 months. Previously, the fastest vaccine to go

from development to deployment was the mumps vaccine in the 1960s, which took about four years.

I would like to extend my extreme gratitude to all of our members for your continued support to the Saginaw County Bar Association, even though we had an unusually uneventful year in terms of membership meetings and social gatherings. But do not fret! The Board is working hard to make sure the events we are able to hold this year are bigger and better than ever.

As some of you may be aware, criminal jury trials were supposed to commence last November but were postponed due to the rising levels of COVID-19 in Saginaw County. But if there is anything 2020 taught us, its when life gives lemons then its time make lemonade. The short adjournment of trials allowed Saginaw County to run in-person preliminary examinations which was great because it allowed everyone involved to work out all the impediments. Now, criminal jury trials are scheduled to commence this month and the Court can hit the ground running.

Please be advised that we have a new Case Evaluation Selection Committee made up of seven members who each serve a two year commitment. The responsibilities of the Committee include

examination and qualifications of applicants, the decision as to approval of the applicant and placement in the Plaintiff, Neutral, or Defendant pool. The Committee also considers complaints and ultimately recommend the removal of any person from the approved list.

The Committee recently met and poured over fifty applications to form eighteen new case evaluation panels. I would like to thank each of you that took the time to submit an application so that the Committee could get to know you better. For the foreseeable future, all case evaluations will be done via Zoom. Should you have any questions or concerns regarding the new case evaluation panels or conducting case evaluations via Zoom, please contact our ADR clerk.

The Board is working on the idea of internet at the jail for attorneys when meeting with clients. Currently, the jail offers no internet and there is no cell service in the jail meeting rooms. It's

impossible to do any research with your client, review the register of actions on another case, etc.

Saginaw County recently swore in six new attorneys. I'd like to extend a warm welcome to:

**Marisa R. Copes** - sworn in November 13, 2020 by Hon. Andre Borrello

**Emilie DeRemer** - sworn in November 13, 2020 by Hon. Andre Borrello

**Uduak-Obong Tolulope Eyo** - sworn in November 13, 2020 by Hon. Andre Borrello

**John Kurtis Kauten** - sworn in January 12, 2021 by Hon. Manvel Trice, III

**Jacob Graham Lyday** - sworn in November 13, 2020 by Hon. Andre Borrello

**Zachary Yancer** - sworn in November 20, 2020 by Hon. Janet Boes

*"You cannot escape the responsibility of tomorrow by evading it today."  
~ Abraham Lincoln*



## *In Memoriam*



**Kenneth Kable** P15635. Died December 15, 2020. He was born November 25, 1946 and was admitted to the State Bar of Michigan December 8, 1972.

Please help the Memorial Committee make sure no member is forgotten. Contact SCBA office at 790-5285 or [scba@saginawcounty.com](mailto:scba@saginawcounty.com) regarding the passing of any Saginaw County Attorney.

*Our thoughts and prayers go out to all those who lost loved ones to Coronavirus.*



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## PORTRAIT OF JUSTICE: ERNEST ALBERT SNOW

By: Judge Fred L. Borchard

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*(Reprinted with permission of the Michigan Supreme Court Historical Society from the Portraits of Justice series)*

Justice Snow was born on April 17, 1876, in Hanover, Michigan. Shortly after his birth, the family moved to Kansas, and after a short stay, returned to Michigan, taking up residence on a Chesaning Township farm. Following his primary education in Saginaw, he attended the University of Michigan for three years, and graduated with the law class of 1896. He subsequently was admitted to the State Bar, and took up practice with his father. He spent most of his life in Saginaw, Michigan. He married Miss Jeannie J. Frazee on October 10, 1900.

Following a successful law practice, Justice Snow was elected to the Saginaw Recorder's Court in 1902. From 1907 to 1908 he served as a member of the Michigan Constitutional Convention. In 1917 he became a member of the Saginaw Circuit Bench (10th Circuit) and was re-elected in 1923 without opposition. It was on January 1, 1926, that the Governor Alex Groesbeck appointed Snow to the Michigan Supreme Court to replace Justice Moore. Justice Snow won the vacancy election in November 1926,

but died less than a year later, suffering a heart attack.

Attorneys that were familiar with Justice Snow described him as being better known as a trial attorney and Circuit Judge, because of his short tenure on the Michigan Supreme Court.

In private practice, Judge Snow loved to defend rather than prosecute, and during his years on the criminal court he appeared for the accused with one exception. In that case Justice Snow, while a trial attorney, assisted an old friend in a prosecution in Bad Axe, Michigan. The case involved a physician accused of poisoning seven children of one family. One of the doctor's attorneys was George Clark, who would later serve as a justice on the Michigan Supreme Court with Justice Snow. The newspapers described the case as being bitterly fought, with a verdict of guilty obtained, and the doctor being sentenced to life in prison in Jackson. The physician was subsequently pardoned by Governor Ferris, because of his profession, and was appointed prison physician.

As an attorney, Justice Snow was quoted as saying there is much more satisfaction in freeing a man than sending one to prison. The papers

at then time described him as being very successful in his defense of high crimes. It noted he defended 23 persons charged with murder, and that they were either acquitted or dismissal was made of the charges. Nineteen of the decisions were by juries.

During Justice Snow's tenure on the bench, he decided one of the largest civil cases to this day ever heard in the Saginaw courts. The case involved the Wellington R. Burt Estate, and distribution of Minnesota iron ore property. The aggregated amount of the case totaled six million dollars.

Shortly before Justice Snow's death, he had related to colleagues that he was not feeling well, and following a session of the Court, left for Saginaw with his daughter and wife. While en route, he suffered a heart attack and subsequently died. Justice Snow was the only member of the Saginaw County Bar and Bench to serve on Michigan's high court. His opinions can be found in volumes 233 to 240 of the Michigan Reports. Described as talented and learned in the law, he achieved the unusual, and won for himself a lasting place in the legal history of our state. His portrait was presented on June 12, 1929 and hangs in the Michigan Hall of Justice in Lansing.





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## SAGINAW COUNTY LAWYERS' AUXILIARY

By: Claudia J. Wallace

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As we come into a new year, a new president and a new way of living let us give thanks for what we have and not dwell on what we don't have. Take charge of things we have control of and let others deal with things that are out of our hands. All very frustrating to say the least.

On behalf of the Auxiliary we want to extend our thoughts and prayers to those that have lost loved ones, friends and acquaintances during these trying times. There is never a good time but for those lost to and during the pandemic it's hard not to share the losses with loved ones and find closure.

The SCLA is anxious to come out of seclusion and start interacting once again. The longer we are held captive the harder it will be to step back into social settings but, I think it's like riding a bike or falling off a horse! You just get right back on and RIDE! Be careful though, check the mirror before walking out the door to assure yourself you did get out of jammies and combed your hair.

If you haven't read Red Marbles!!!! It's a good heartwarming read. Read it to the end. You won't be disappointed. When my time comes, I want this to be me. How about you?

### Red Marbles

by W. E. Petersen



I was at the corner grocery store buying some early potatoes. I noticed a small boy, delicate of bone and feature, ragged but clean, hungrily appraising a basket of freshly picked green peas.

I paid for my potatoes, but was also drawn to the display of fresh green peas. I am a pushover for creamed peas and new potatoes. Pondering the peas, I couldn't help overhearing the conversation between Mr. Miller (the store owner) and the ragged boy next to me.

"Hello Barry, how are you today?"

"Hello, Mr. Miller. Fine, thank ya. Just admiring them peas. They sure look good."

"They are good, Barry. How's your Ma?"

"Fine. Gittin' stronger all the time."

"Good. Anything I can help you with?"

"No, Sir. Just admirin' them peas."  
"Would you like to take some home?" asked Mr. Miller.

"No, Sir. Got nuthin' to pay for them with."

"Well, what have you to trade me for some of those peas?"

"All I got's my prize marble here."

"Is that right? Let me see it" said Miller.



“Here ‘tis. She’s a dandy.”

“I can see that. Hmmmmm, only thing is, this one is blue and I sort of go for red. Do you have a red one like this at home?” the store owner asked.

“Not exactly but almost.”

“Tell you what. Take this sack of peas home with you and next trip this way, let me look at that red marble”, Mr. Miller told the boy.

“Sure will. Thanks Mr. Miller.”

Mrs. Miller, who had been standing nearby, came over to help me. With a smile said, “There are two other boys like him in our community, all three are in very poor circumstances. Jim just loves to bargain with them for peas, apples, tomatoes, or whatever. When they come back with their red marbles, and they always do, he decides he doesn’t like red after all and he sends them home with a bag of produce for a green marble or an orange one, when they come on their next trip to the store.”

I left the store smiling to myself, impressed with this man.

A short time later I moved to Colorado , but I never forgot the story of this man, the boys, and their bartering for marbles.

Several years went by, each more rapid than the previous one. Just recently I had occasion to visit some old friends in that Idaho community and while I was there I learned that Mr. Miller had died. They were having his visitation that evening and knowing my friends wanted to go, I agreed to accompany them.

Upon arrival at the mortuary we fell into line to meet the relatives of the deceased and to offer what ever words of comfort we could.

Ahead of us in line were three young men. One was in an army uniform and the other two wore nice haircuts, dark suits and white shirts... all very professional looking. They approached Mrs. Miller, standing composed and smiling by her husband’s casket. Each of the young men hugged her, kissed her on the cheek, spoke briefly with her and moved on to the casket.

Her misty light blue eyes followed them as, one by one, each young man stopped briefly and placed his own warm hand over the cold pale hand in the casket.

Our turn came to meet Mrs. Miller. I told her who I was and reminded her of the story from those many years ago and what she had told me about her husband’s bartering for marbles.

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With her eyes glistening, she took my hand and led me to the casket.

“Those three young men who just left were the boys I told you about. They just told me how they appreciated the things Jim ‘traded’ them.”

“Now, at last, when Jim could not change his mind about color or size... they came to pay their debt.”

“We’ve never had a great deal of the wealth of this world,” she confided, “but right now, Jim would consider himself the richest man in Idaho”.

With loving gentleness she lifted the lifeless fingers of her deceased husband. Resting underneath were three exquisitely shiny red marbles.

The Moral of this story: We will not be remembered by our words, but by our kind deeds.

Life is not measured by the breaths we take, but by the moments that take our breath. Today I wish you a day of ordinary miracles:

An unexpected phone call from an old friend.

Green stoplights on your way to work.

The fastest line at the grocery store.

A good sing-along song on the radio.

Your keys found right where you left them.

Never be in too much of a hurry to even notice the ordinary miracles when they occur. It’s not what you gather, but what you scatter that tells what kind of life you have lived!

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## SCBA EXECUTIVE DIRECTOR'S REPORT

By: Kelli Scorsone, Executive Director

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**SCBA Listserv.** Please contact me if you are not receiving emails from the listserv. The listserv is our best way to communicate with members, especially during the Pandemic.

**2021 MEMBERSHIP DUES,** which were due January 1st, can still be mailed or emailed to me. If you need a form, please call the Bar office and request one.

**Committees and Chairpersons.** Please reach out to your board members for or with ideas on how to get your committees active again.

**SCBA 2021 Events.**

As you can see, we have several events planned for this year with hopes we

can again meet in person by the time they are set for.

Please **Save the Date** for the following events.

Law Day

May 1st

Golf Outing & Annual Meeting

Thursday, June 3, 2021 –

Saginaw Country Club

Red Mass

Thursday, October 14, 2021

Pro Bono Week

October 24 – 30, 2021

Holiday Party

Friday, December 3, 2021 –

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While we are all keeping a positive mindset, we must remember that as COVID-19 continues, we must learn to social distance. This also means that connecting with family, friends and fellow SCBA members will continue to look quite a bit different. While nothing can replace the in-person meetings, here are 9 great apps, devices, and online services to help you stay in touch while staying safe.

**WhatsApp:** A great way to message, call or video chat with basically anyone. Download WhatsApp for iOS or Android or use it on your computer.

**Skype:** After creating an account, Skype allows you to send messages, pictures, and videos to other Skype accounts. You can also make phone calls to non-Skype contacts, including landline numbers — however, this

functionality comes with a fee. Download Skype for iOS or Android or use it on your computer.

**Zoom:** Zoom has emerged as a popular video chat hangout option. Keep in mind, however, that there are privacy concerns with Zoom calls, as well as a 40-minute time limit if you have a free account. Download Zoom for iOS or Android or use it on your computer.

**Google Hangouts:** Most people have a Gmail account these days, and anyone who does can start and join a Google Hangouts video call. The advantage of Google Hangouts is that there is no time limit to your video chat. The downside, however, is that only 10 participants are allowed in the video chat room. Download Google Hangouts for iOS or Android or use it on your computer.



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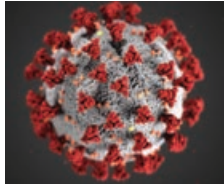
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## MESSAGE FROM HON. ANDRÉ R. BORRELLO

10th Circuit Court Judge

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COVID-19 has affected all of us in many ways and I appreciate the efforts that have been made



to conduct the court's business given our unfortunate circumstances.

However, hearings in our court have been problematic and I need your help to run the court more efficiently. Here is a list of issues I'd like you to address as best you can.

1. Be on time for all hearings
2. If you may be late because you're in another court or if you need to re-schedule, contact Lauren as soon as possible
3. Be PREPARED for your case
4. Inform and educate your clients that even though Zoom is being used, this is still a COURT OF LAW and all decorum still applies
5. Make sure your clients know how to work their computers/phones/ipads BEFORE coming to court so that there are no delays in conducting hearings
6. Make sure your clients are in a quiet place with no interruptions when they Zoom

7. Make sure your clients are appropriately dressed

I ask that you work with your clients in making sure our hearings go as smoothly as possible.

*Thank you.*



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## AN OVERVIEW OF MICHIGAN'S RECENT COVID-19 MANDATES AFFECTING EMPLOYERS

By: Kraig M. Schutter JD LLM  
Masud Labor Law Group

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From the start of the COVID-19 pandemic through the end of September, 2020, employment related COVID-19 rules were handed down primarily, and nearly exclusively, as executive orders from Governor Gretchen Whitmer's office. For employment purposes, those rules included employment protections for workers and various restrictions on the type and manner of work employees were allowed to perform. The Governor's actions were eventually challenged in court as having gone beyond the scope of executive authority.

In early October, 2020, the Michigan Supreme Court ruled that the Governor had, indeed, exceeded her statutory authority. As a consequence, employers have seen updated State legislation and administrative regulation in the last several months of 2020 aimed at managing COVID-19 concerns in the employment context. On October 14, 2020, the Michigan Occupational Safety and Health Administration ("MIOSHA") issued an emergency rule in effect until April 14, 2021, concerning COVID-19 safety precautions in the workplace. On October 22, 2020, Governor Whitmer signed three pieces of legislation into law as a package deal from the Legislature concerning other employment rights

and obligations.

This article describes these administrative and legislative mandates in summary fashion.

### Public Act 236

This law protects employers from tort liability retroactive for all actions arising since March 1, 2020, so long as the employer has complied with all federal, state, and local COVID-19 mandates at the time they were in effect. In the employment context, this law prevents tort claims from family members of employees harmed by COVID-19.

### Public Act 237

This law protects employers from liability under MIOSHA for employee exposures at work, again, so long as the employer has complied with all federal, state, and local COVID-19 mandates at the time they were in effect. It is also retroactive to March 1, 2020.

Of note, nothing in PA 236 or PA 237 alters the possible applicability of the workers compensation system based on COVID-19 exposures.

### Public Act 238<sup>1</sup>

Technically, this law appears to lack any affirmative obligations for employers. It prohibits *employees* from com-

ing to work when certain COVID-19 concerns are prevalent and provides those employees a cause of action if their employer seeks to impose adverse employment action against them for following the law. Its essential provisions are as follow:

- Employees must not report to work if (1) they have tested positive for COVID-19, (2) they have the symptoms of COVID-19, or (3) they have been in close contact with some other person who has tested positive for COVID-19.
- Employees may return to work (and presumably an employer may require the employee to return to work) after the various timeframes and related conditions set forth in the law have been met. For example, an employee exposed to another individual testing positive for COVID-19 must wait until the applicable quarantine period identified by the federal Center for Disease Control (“CDC”) has lapsed before returning to work.
- Employers who take adverse employment action against employees for (1) following these rules, (2) op-

posing violations of the act, or (3) reporting “health violations related to COVID-19,” are subject to a civil action by the employee. A successful plaintiff is entitled to injunctive relief and must be awarded a minimum of \$5000 in damages.

- Employers have defenses to liability. They are not prohibited from taking adverse action against employees with symptoms of COVID-19 who remain untested for the virus if the employee fails to make reasonable efforts to get tested within three days of the employer’s directive to do so. Additionally, an employer demonstrating reliance on prior rules and guidance from the CDC and other federal, state, and local government entities, can avoid liability for actions occurring before the date PA 238 was enacted (October 22, 2020).
- Several categories of employees (healthcare workers, first responders, child care employees, etc.) are exempted from the quarantine requirements. However, the exemptions apply only if the employee’s in-person presence is strictly neces-

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sary to preserve the function of the facility and cessation of the facility would cause serious harm or danger to public health or safety.

### **MIOSHA Emergency Rules**

MIOSHA is charged with promulgating and enforce workplace standards in Michigan. Its recent Rules concerning COVID-19 set forth the following, non-exhaustive list of requirements:

- Employers are to designate one or more COVID-19 safety coordinators to implement and enforce all COVID-19 mandated strategies.
- Employers must evaluate routine and reasonably anticipated employee tasks and procedures which might lead to COVID-19 exposure and categorize the functions into four categories; low exposure, medium exposure, high exposure, and very high exposure.
- With the four categories in mind, employers are to develop a written preparedness and response plan detailing measures to limit exposure through various controls such as personal protective equipment (“PPE”), social distancing, administration of tasks, engineering of equipment, employee scheduling, and the like. MIOSHA has a sample plan available on its website.
- Employers must prohibit in-person work for employees to the extent their work activities can be completed remotely.
- Employers must conduct daily self-screening protocols, including (at a minimum) questionnaires concerning symptoms and exposures, and disallow entry to workers with symptoms unless they can work in isolation.

- Where employers discover cases of COVID-19 within their ranks, they must (1) prevent such employees from working until no longer infectious, (2) immediately report such infections to their local health department and (3) notify within 24 hours those persons who came in contact with infected employees.
- Employers must provide appropriate PPE to workers and promote infection prevention practices such as handwashing and equipment cleaning.
- Employers must provide COVID-19 safe work practices training to all employees.
- Employers must maintain adequate records of compliance with MIO-SHA’s Rule for at least one year.
- The Rule also sets forth additional requirements for construction, manufacturing, restaurants and bars, health care facilities, and certain other specific industries.

Attorneys should note that additional federal and local rules beyond the scope of this article may apply to employers they represent. Attorneys in the Saginaw Bar Associations should also feel free to contact any of the attorneys of the Masud Labor Law Group to discuss the impact of these new, and constantly changing, rules and regulations.

<sup>1</sup> Like so many other COVID-19 rules, PA 238 has gone through various iterations. It was most recently amended on December 29, 2020. As of the date of publication of this article, only the October 22, 2020, version of the law was available on the Michigan Legislature’s website.





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## BANKRUPTCY CASE NOTES

By: Jack Weinstein

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In an attempt to increase my readership (if that's possible) and still considering my topic, I am going to share the following story of frustration that we have all experienced by setting forth the modern day version of Noah and the building of his Ark...

**In the year 2021, the Lord came unto Noah, who was now living in America and said unto him:**

“Once again, the earth has become wicked and over-populated, and I see the end of all flesh before me. Build another Ark and save 2 of every living thing along with a few good humans.”

He gave Noah the blueprints, saying: “You have 6 months to build the Ark before I will start the unending rain for 40 days and 40 nights.”

Six months later, the Lord looked down and saw Noah weeping in his yard - but there was no Ark to be seen. “Noah!, I'm about to start the rain! Where is the Ark I told you to build?”

“Forgive me, Lord,” begged Noah, “but things have changed. I needed a Building Permit. I've been arguing with the Boat Inspector about the need for a sprinkler system. Then my homeowners association claimed that I've violated the by-laws by building the Ark in my back yard and exceeding

the height limitations. I had to petition the local Planning Committee for a decision. Then the City Council and the electricity company demanded a shed load of money for the future costs of moving power lines and other overhead obstructions, to clear the passage for the Ark's move to the sea. I told them that wouldn't be a problem because the sea will be coming to us! But they would hear none of it. Getting the wood was another problem. There's a ban on cutting local trees in order to save the Greater Spotted Barn Owl. I tried to convince the environmentalists that I needed the wood to save the owls - but no go! They didn't get it. Then when I started gathering the animals, PETA (People for the Ethical Treatment of Animals) took me to court. They insisted that I was confining wild animals against their will. They argued that the accommodations were too restrictive and it was cruel and inhumane to put so many animals in a confined space. Then the Environmental Protection Agency ruled that I couldn't build the Ark until they'd conducted an environmental impact study on Your proposed flood. I'm still trying to resolve a complaint with the Human Rights Commission on how many minorities I'm supposed to hire for my building crew. The Immigration Department is

checking the visa status of most of the people who want to do the work. The labor unions say I can't use my sons. They demand that I can only hire union workers with ark-building experience! Where do I find them? To make matters even worse, the IRS seized all my assets, claiming I'm trying to leave the country illegally with endangered species. (and I had to hire Weinstein to file bankruptcy for me – see I haven't forgotten my topic) So, forgive me, Lord, but it would take

at least 20 years to raise the money and meet all of the requirements in order to finish the Ark.”

Suddenly the skies cleared, the sun began to shine and a rainbow stretched across the sky.

Noah looked up in wonderment and asked, “You mean you're not going to destroy the world?”

“No,” said the Lord. “The Government beat me to it.”

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