

DRUNKS AND THIEVES JUNES 2015 PART 1



By John Hoffmann

June 18, 2015

We will be featuring three consecutive newsletters dealing with drunk drivers and thieves and how the municipal prosecutors and judges plus occasionally how a Circuit judge deal with these cases.

To produce these newsletters I have to start tracking cases sometime more than a year in advance. I get cases to review and track by first obtaining records of arrest. These are open for 30 days after the arrest. I will also print out cases that are entered into the Missouri court case system Casenet. Defense attorneys will often make a "jury demand" with no intention of trying a case, but instead because they can walk from their office to the courthouse in Clayton and deal with the case during the daytime.

Only four cities are transparent enough to put the court cases in the Casenet system. Town and County and Chesterfield don't and hide the cases in municipal court data bases that cannot be accessed by the public.

The problem with these cases is justice is rarely ever served. Prosecutors and judges who also are defense attorneys usually offer the same great deals they hope to get as defense attorneys. Those deals leave no points on a drunk driver's driving record but will collect \$500 or more for the city by reducing serious traffic cases to "Illegal Parking."

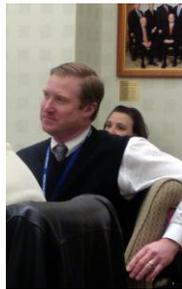
The worst team we have seen at this is Chesterfield city prosecutor Tim Engelmeyer (who is also the judge in Creve Coeur and a city prosecutor in

two other cities) and Judge Rick Brunk. Brunk is also the judge in Wildwood and the provisional (fill-in) judge in Town and Country.

Serious offenders routinely leave the courtroom with no points on their driver's license and will pay a \$500 fine for "Illegal Parking." This causes good drivers to have to underwrite the insurance costs of these drunk drivers, since the insurance companies are unaware of any convictions and do not increase their rates.



Brunk



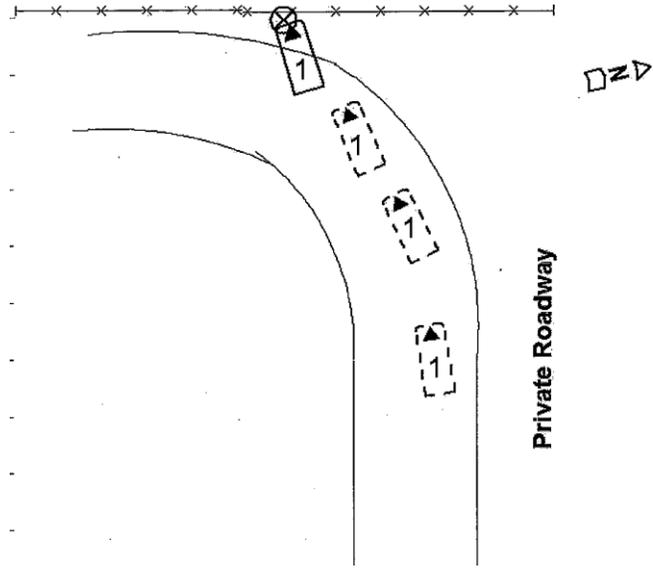
Engelmeyer

Cities in West County like to brag about how they are #1 in many areas such as per-capita income, education and low crime rates. They are also #1 in Municipal Courts where justice is for sale as long as you hire a lawyer.

These municipalities need to pass legislation where prosecutors and judges cannot reduce moving violation charges to non moving charges, like "Illegal Parking." They should only be allowed to reduce a charge to a lesser included offense, such as reducing DWI to Excessive BAC or a 2-point speeding ticket to a one-point violation.

These city councils and boards of aldermen need to have a new claim. How about their city is Number #1 in Municipal Court Reform!

MEXICAN NATIONAL IN ONE CAR ACCIDENT AND DRUNK...DWI CHARGE IS DROPPED: On December 14, 2013 around 10:30 p m Juan Vargas was stopped by St. Louis County Police Officer Burke. Officer Burke stopped the 2006 Honda being operated by Vargas on the Windsor Crossing Church parking lot in the 100 block of Eatherton Road after observing fresh front end damage on his car.



Vargas told Officer Burke that he was going home to Maryland Heights after leaving a company Christmas Party when he ran off the road and hit a fence. Vargas works for Chesterfield Fence and Deck Company. Vargas appeared to be intoxicated.

Since the accident and where Officer Burke observed Vargas were in Chesterfield, the Chesterfield Police were called and Officer Lowe was dispatched to the scene.

Once at the scene Officer Lowe contacted Vargas and asked to see his drivers' license. He did not have a license and instead showed him his Mexican Consular Card. Vargas appeared to be intoxicated. Besides his eyes being bloodshot, his balance was unsure and his speech was confused.

He was arrested and transported to the police station where he agreed to take a breath test. His blood alcohol content was **.142%**. He was cited for DWI and Operating a Motor vehicle without a Valid Driver's License.

Outcome: I can think of several reasons why a foreign national driving drunk without a driver's license and being involved in an auto accident should be identified as a drunk driver. Apparently Chesterfield prosecutor Tim Engelmeyer doesn't agree. He dismissed the DWI charge altogether reducing it to Careless and Impudent Driving. He also dropped the "No Drivers' License" charge. On June 3, 2014 Vargas appeared before Judge Rick Brunk and pled guilty to the C & I Driving charge and was fined \$526.

POLICE FIND DRUNK DRIVER ASLEEP AFTER CRASHING INTO A TREE:

Here is the story from December 20, 2013. 19-year-old Andrew Peters was highly intoxicated when a female friend had dropped him off at his house at 1181 Nooning Tree Drive in Chesterfield.

Instead of calling it a night Peters got into his 2005 Jeep Liberty (registered in his father Craig Peters' name). Peters drove away from his house and within a block crashed the jeep into a tree at 1099 Nooning Tree Drive. Peters was not wearing a seatbelt and hit the windshield cutting his lip.



The police were called to the accident scene at 1 a. m. Officer Queen arrived and found Peters asleep in the back seat of the jeep. Despite heavy front end damage the Jeep was still running. All the doors were locked and Peters's legs were draped over the driver's seat. Officer Queen knocked and yelled for Peters to wake up. Peters did momentarily wake up long enough to give Officer Queen the finger and then went back to sleep.

Officer Queen was joined by Officer Rupp. A rear window was broken and the door was opened. They were able to get Peters out of the vehicle. Once out of the Jeep Peters kept his hands jammed into his pockets. He was told to take his hands out of his pockets. He complied and when he did a baggie of marijuana fell out of a pocket. The officers reported that Peters appeared to be very intoxicated.

When Officer Rupp asked Peters what he was doing before the accident his reply was, "I'm really drunk."

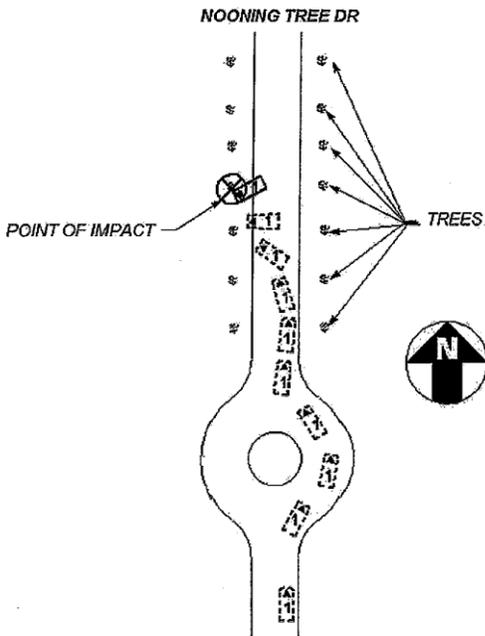
He was then asked if he was driving the Jeep and he replied that he didn't know.

A fire district ambulance responded to the scene, but Peters refused to be transported by ambulance to a hospital.

He was then arrested for DWI, Possession of Alcoholic Beverages by consumption and Possession of Marijuana.

Despite refusing the ambulance ride to a hospital, Officer Queen took Peters to St. Luke's Hospital to be sure he was fit for being committed to the Chesterfield holdover.

At the hospital Peters agreed to have a blood sample drawn to test for his BAC level. That blood sample tested at **.21%**.



Here is the narrative not from the DWI report but from the accident report written by the first officer on the scene.

UPON ARRIVAL MY INVESTIGATION REVEALED D1 WAS DRIVING TOO FAST FOR CONDITIONS IN AN INTOXICATED CONDITION WHEN HE LOST CONTROL OF V1 AND STRUCK A TREE ON THE SIDE OF THE ROADWAY.

UPON APPROACH OF V1, D1 WAS LAYING IN THE DRIVERS SIDE REAR SEAT WITH HIS LEGS AND FEET LAYING OVER THE BACK OF THE FRONT DRIVERS SEAT. BOTH SHOES WERE STILL IN THE FRONT DRIVERS SEAT AREA. D1 WAS UNRESPONSIVE TO OUR COMMANDS TO UNLOCK THE DOORS THEREFORE THE REAR PASSENGER SIDE WINDOW WAS BROKEN TO UNLOCK THE DOORS.

UPON CONTACT WITH D1 I ASKED WHAT WAS GOING ON AND HE RESPONDED "I HAVE NO IDEA". I THEN ASKED WHAT HAD HAPPENED BEFORE THE ACCIDENT AND HE RESPONDED "I'M REALLY DRUNK". AT FIRST D1 STATED THAT HE WAS NOT DRIVING V1 BUT AFTER FURTHER INVESTIGATION HE RELATED THAT HE WAS DRIVING V1 AND THAT THERE WERE NO OTHER PASSENGERS. HE STATED THAT HE DID NOT KNOW HOW THE ACCIDENT OCCURRED.

WITNESS 1 DID NOT OBSERVE THE ACCIDENT HAPPEN. HE RELATED THAT HE WAS INSIDE HIS HOME WHEN HE HEARD WHAT HE ASSOCIATED AS A VEHICLE TRAVELING AT A HIGH RATE OF SPEED. HE THEN HEARD A LOUD CRASH AND LOOKED OUT HIS WINDOW AND OBSERVED V1 IN FRONT OF HIS HOUSE AGAINST THE TREE. THAT IS WHEN HE CALLED 911.

AFTER FURTHER INVESTIGATION IT WAS FOUND THAT V1 WAS TRAVELING NB ON NOONING TREE DRIVE JUST PASSED THE ROUNDABOUT. THE SKID MARKS SHOWED THAT V1 HAD MADE HIS FINAL RIGHT TURN COMING OUT OF THE ROUNDABOUT. D1 HAD TURNED TOO FAR WHILE MAKING THE TURN AND AFTER TRYING TO CORRECT THE TURN HE HIT A WET AREA NEAR THE GUTTER ON THE RIGHT SIDE OF THE ROADWAY AND LOST CONTROL OF V1. V1 THEN CONTINUED NB ON NOONING TREE WITH V1 TURNING COUNTER-CLOCKWISE. V1 TURNED APPROXIMATELY 100 DEGREES WHEN IT LEFT THE ROADWAY TO THE LEFT AND STRUCK A TREE.

MONARCH FIRE PROTECTION ARRIVED ON SCENE AND TENDED TO D1. OFFICER QUEEN #259 TRANSPORTED D1 TO ST. LUKES HOSPITAL FOR FURTHER EVALUATION.

CITY OF CHESTERFIELD PUBLIC WORKS WAS CONTACTED REFERENCE THE DAMAGE TO THE TREE.

Outcome: Ignoring a break of a friend driving him home because he was so drunk, Peters not only drove drunk, but had a serious accident and was in possession of marijuana.

Super non-prosecutor Tim Engelmeyer recommended a No-record probation term for the DWI, plus 40-hours of community service and attendance at an alcohol seminar. He did leave court with no-points on his driving record.

The last two cases involved drunks drivers involved in accidents. Perhaps, drunk drivers involved in accidents should not be eligible for sentences that don't result in the DWI going onto their driving record. It will never happen in Chesterfield as long as Tim Engelmeyer is the prosecutor and Rick Brunk is the judge.

JENNINGS WOMAN ARRESTED FOR DRIVING CAR IN CONNECTION WITH THEFT MUSCULAR DYSTROPHY DONATION JAR AT GAS STATION...ENGELMEYER AND BRUNK REDUCE CHARGE OF STEALING FROM A CHARITY TO LITTERING: On November 3, 2013 at 6:50 pm a black male wearing a hoodie, along with a small child about 6-years-old walked into the the Phillips 66 station

on the north side Olive Street Road in Chesterfield. Meanwhile out on the lot behind the wheel of a car was Jessica Vinson, 25, of Jennings, Missouri.



It turns out the man in the hoodie made \$30 worth of purchases on a debit card before stealing the donation jar for Muscular Dystrophy. Video showed that while the clerk's back was turned the man took the donation jar and with the child left the store.

The police were not called until the next day by the station manager who had the event on surveillance video.

The estimated value of the cash and coins in the Muscular Dystrophy donation jar was put at \$100. That made it a misdemeanor. However, the Chesterfield Police Department investigated it as if it was a \$10,000 theft. That is one of the things I like about the Chesterfield Police. They don't "file it and forget it" when it comes to minor crimes, whether it is a parking lot hit and run or \$100 theft.

A Chesterfield police detective was assigned the case.

The \$30 purchase inside the convenience store was made with a debit card. Detective Powell obtained the card information from the gas station. He then obtained a subpoena for bank records concerning the debit card. That subpoena resulted in Det. Powel learning the debit card was issued to Jessica Vinson of Jennings.

Det. Powell then was able to obtain a drivers' license photo of Vinson. This photo matched up with the gas station video of the woman driving the car the theft suspect and little boy were in at the gas station.

On December 3, 2013, a month to the day of the of the donation jar theft, Det. Powell interviewed Vinson at her place of employment (redacted from police report).

During the interview Vinson remembered stopping at the gas station and using her debit card. She was then shown a photo of the suspect and she made the following statements:

1. She had been dating the man in the hoodie for two weeks, but only knew his nickname and did not know his actual first name or last name. She added that she had stopped seeing him.
2. She did not know where he lived as he would always come to her house for dates.
3. She no longer had his phone number.

Det. Powell asked if she saw the large donation jar when her boyfriend got back into the car. She said she did not. He then asked her if she did not hear \$100 worth of coins while driving home. She said she did not. She claimed once she got home she went into her house and her boyfriend walked home and she never noticed the donation jar.

Det. Powell told her he did not believe her. He later obtained a city arrest warrant for Vinson for stealing.

On December 13 she was later arrested on the stealing warrant. She told Det. Powell she had no new information. A summons was prepared and she was released on a \$300 bond.

On December 20, 2013 Det. Powell and Det. Wittman from Chesterfield along with Det. Don Harris of the County Police assigned to Jennings, took the male suspects' photo and did a neighborhood canvas around Vinson's house in Jennings in an attempt to find someone who could identify him. They were unsuccessful.

The male suspect has never been identified and statute of limitations has expired on a misdemeanor theft.

OUTCOME: On March 24, 2014 Chesterfield Prosecutor Tim Engelmeyer, who rarely ever prosecutes anyone, reduced the theft of a charity donation jar charge (accessory and conspiracy) against Vinson to Littering. She paid a \$300.50 fine.

SECOND TIME DWI LEAVES COURT WITHOUT A DWI CONVICTION BUT WITH AN ALCOHOL RELATED CONVICTION: Steven Fuchs, 43, who lives in the Willow Bend Apartments in Town and Country, was observed driving home on westbound I-64 by Town and Country Police Officer Fowle. On Wednesday night/Thursday morning July 25 at 12:13 am Fuchs' 1998 red Ford Expedition SUV was all over the road. Officer Fowle reported it was weaving between several lanes, that the driver failed to signal his exit onto North 40 Outer Road and then the vehicle continued to weave.



Steven Fuchs

Officer Fowle then stopped Fuchs on the Outer Road. Fuchs appeared to be intoxicated, with bloodshot eyes, his breath had a strong odor of intoxicants, his balance was unsure and his speech was confused. Officer Fowle also marked a box on the report form that Fuchs was using profanity, but Fowle, who is known for his very short DWI reports, did not bother to share with his supervisor, the prosecutor, the defense attorney or me and now you what Fuchs was exactly saying.

He did report that as part of the field sobriety tests Fuchs was challenged. Fuchs was asked to recite the alphabet starting with the letter J and ending with the letter W. Fuchs then said, "J,I,D,H." He was then given a second chance and said, "J,I,D,H" again.

On the "Walk a straight Line, turn and Walk back" test Fuchs gave up before reaching the "turn" portion of the test. The report says Fuchs decided to quit the test saying he no longer wanted to take the test.

A field breath test showed that Fuchs was intoxicated. He was arrested and taken to the Town and Country

At the station a set interview was conducted using questions on the police report form.

1. Fuchs admitted that he was "under the influence of alcohol."
2. At the time of the stop Fuchs said he had three drinks. At the station he started with three, "a vodka and cranberry and two beers." He went briefly went to five drinks and finally settled on four drinks with some friends at Bar Louie.
3. The interview was done at about 1:17 am. Fuchs said he thought it was "late, like 8 o'clock maybe."

Fuchs agreed to take a breath test at the station. The results of that test showed he had a BAC level of .145%.

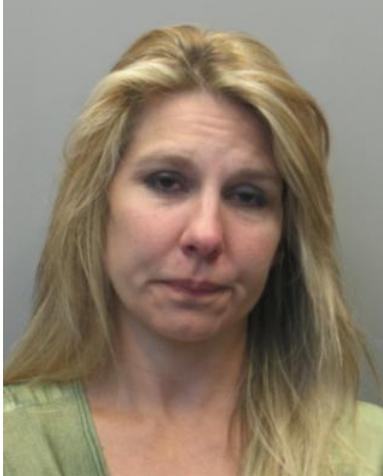
Officer Fowle was aware that Fuchs had a DWI arrest with the Ladue Police on August 8, 2006.

OUTCOME: It was unusual that on August 21, 2014 Fuhs plead guilty to a reduced charge of Excess Blood Alcohol Content and was fined \$500. The second citation for Improper Lane Usage was dismissed. Fuchs who has a prior DWI, got a break with the reduced charge of Excessive BAC instead of DWI. Excessive BAC is an 8-point violation, while DWI is a 12-point violation. With the dismissal of the other ticket and only the Excessive BAC violation means Fuchs' drivers license was merely suspended for a month instead of revoked for a year.

However, it is normally unusual to have anyone leave court with points on their record. Normally they are given a "no record" two-year probation term.

WITH A DWI PENDING, BIRTHDAY GIRL IS DRUNK AND CLOCKED AT 107 MPH DURING AFTERNOON RUSH HOUR. SHE RECEIVES A NO-RECORD

PROBATION: It was her 39th birthday. She told officers she was in a hurry to get to a birthday party for her in Columbia, MO. The only problem was she was going east on I-64 instead of west toward Columbia. Oh...and the after problem was she was doing 107 MPH during afternoon rush hour traffic.



Jill E. Michaelson

Michaelson was driving a 2010 Infiniti G37 at 4:47 pm on a cold January 30 Wednesday 2013, when Town and Country Police Lieutenant Nelke driving a Town and Country police car east on I-64 in a right through lane was passed by Michaelson in her Infiniti at a very high rate of speed.

Lt. Nelke was able to determine that the Infinity was traveling faster than 107 mph approaching I-270, during which time she drove across four lanes of traffic at the 100-plus mph speeds. The Infinity was force to slow down due to congested traffic east of I-270 and Nelke was able to stop it on the median shoulder.

The lone driver of Infinity was identified as Jill Michaelson of Columbia, MO. She had apparently returned from a trip at Lambert Airport earlier in the day. It was her 39th birthday and she said she was in a hurry to get back to Columbia for a party. Unfortunately she was going in the wrong direction to get to Columbia, MO.

Lt. Nelke reported the usual signs of a drunk driver: strong odor of intoxicants of Michaelson's breath, bloodshot eyes, slurred speech and unsure-swaying balance.

Michaelson stated that she had one mixed drink with lunch and later admitted having some champagne. Due to heavy rush hour traffic conditions and the location of Michaelson's car field sobriety tests were not done on the scene. She was arrested for the 107 MPH and Careless and Impudent Driving. She was taken to the Town and Country Police station where the field sobriety tests were completed, which she failed. She also tested intoxicated on a portable breath test unit. She was then also arrested for DWI.

In an interview she admitted she thought she was under the influence of alcohol. However she refused to take the official Breath Test.

It was determined at the police station that Michaelson had a pending DWI from the Highway Patrol Troop D on 03/02/12. We could not find that offense, but we did find a moving violation issued by the Missouri Highway Patrol Troop I in Phelps County that was reduced to a "loud muffler" violation that resulted in a \$210 fine on January 10, 2013 or 20 days when her 107 MPH rush hour excursion occurred.

Lt. Nelke did what we hate and accuse supervisors of being lazy for doing. He did not handle the paper work of this case. He made Officer Phelps do it.

OUTCOME: The Town and Country case resulted in Michaelson pleading guilty to DWI, but being given a 2-year SIS "No-record" probation term by Town and Country Judge Dean Waldemer, who apparently did think that a drunk driving doing 107 mph during afternoon rush hour should be disqualified from getting a "no-record" probation term. Really why should her insurance company find out about this and increase her rates? Why not just let you and me continue to underwrite these dangerous drivers who are not paying for their actions.



Judge Waldemer



Brian Malone

Michaelson did plead guilty to the speeding charge but prosecutor Brain Malone dropped the Careless and Impudent Driving charge. I mean who can say that changing four lanes on an Interstate Highway at 107 MPH during rush hour is dangerous?

TOWN AND COUNTRY FOUR TIME DWI DRIVER DENIES HAVING ANYTHING TO DRINK IN 2 1/2 YEARS...BREATHALYZER SAYS OTHERWISE: Gary Dean Siegfried of 12817 Topping Woods Estates was driving NB on I-270 October 13, 2012 at 1:41 am. Town and Country Officer Scott Schlager observed Siegfried's 2003 Silver Lexus weave onto the shoulder of the road twice around NB I-270 and Clayton Road.

Officer Schlager then attempted to pull over the Lexus and Siegfried stopped on the shoulder on EB I-64 off ramp from I-270. Schlager is well known for writing short narrative on his DWI reports...but he did write something assuming concerning his first contact with Siegfried.

I asked the driver to step out and to the rear of his vehicle. The driver walked to the rear of his vehicle, he turned to face me, and he began doing the Walk and Turn Test before I gave him any instructions. I asked the driver what he was doing. The driver said what you want me to do.

Prior to Siegfried exiting the car and giving himself a field sobriety test, he had denied drinking and told Schlager that he had not had anything to drink.



Officer Schlager reported Siegfried's breath reeked of the smell of intoxicants, his eyes were bloodshot, his speech was slurred and he staggered while he walked and gave himself a walk and turn test.

Siegfried was upset that Officer Schlager was embarrassing him by making him do roadside tests. Here is what Schlager reported Siegfried said on the side of road as to how much he had to drink.

then stated "You know what I am not going to do this." I asked the driver why. The driver said because it is degrading. The driver further stated 'You take me to the Town & Country Police Station this is degrading and I am not going to do it we are out here on the fucking highway alright I haven't been drinking I haven't had a drink since April 14 2010."

Siegfried then took a field breath test that showed his BAC was above the legal limit. He was arrested and taken to the Town and Country Police Station. Keeping in mind that Siegfried less than an hour earlier said first that he had not been drinking and later said he had not had a drink in over 2 1/2 years, suddenly changed his story.

In an interview with Officer Schlage he stated that he had been drinking wine at home from 5 pm to 3 am. This is a little unusual since he was stopped by Officer Schlage at 1:41 am and Schlage had not been serving any wine. Also it was 2:25 am when the interview was conducted.

An official Breath Test at the station showed Siegfried's BAC level to be .109%.

Also Siegfried's license was over a year expired.

At the police station it was determined that Siegfried had the following DWI arrests before meeting Officer Schlage on October 13, 2012. They were:

12/12/92 St. Louis PD
02/03/95 Chesterfield PD
11/03/00 Bellefontaine Neighbors PD
11/02/05 Maryland Heights PD

Siegfried was also arrested by the Town and Country police again on August 2, 2013 for Speeding and Driving on a Revoked License. City Prosecutor Brian Malone thought that a 5-time DWI defendant who was driving on a revoked license in connection with a DWI arrest deserved a break. On August 2, 2014 Malone reduced the 12-point Driving While Revoked Charge to a 2-point No Operators License offense and Siegfried was fined \$500. The 2-point Speeding citation was reduced to "Illegal Parking" with a \$150 fine.



Siegfried's 2013 mug shot His home at 12817 Topping Woods Estates Dr.

OUTCOME: The felony fifth time DWI case was out of the hands of city prosecutor Brian Malone, being handled by the St. Louis County prosecutor's office. On January 30, 2015 Siegfried pled guilty to his fifth DWI before St. Louis County Circuit Judge Steven Goldman. He was sentenced to one-year in jail, but then placed a 2-year Suspended Execution of Sentence probation term...meaning his driving record will show the DWI conviction and points.

Judge Goldman also ordered Siegfried not to drive without a valid license and if he has a valid license to have an alcohol interlock ignition device installed on his car.

Siegfried also has had plenty of tax problems.

03/17/08	Div of Empl Sec v Siegfried	\$269 judgment
01/29/09	Div of Empl Sec v Siegfried	\$592 judgment
10/24/10	DOR v Siegfried	\$3,596 judgment for back taxes
11/16/10	DOR v Siegfried	\$1,120 judgment for back taxes
12/17/10	DOR v Siegfried	\$ 423 judgment for back taxes not yet satisfied
03/21/11	DOR v Siegfried	\$ 423 judgment for back taxes not yet satisfied
06/21/11	DOR v Siegfried	\$ 423 judgment for back taxes not yet satisfied
09/20/11	DOR v Siegfried	\$ 423 judgment for back taxes not yet satisfied
09/04/12	DOR v Siegfried	\$20,817 judgment for back taxes
12/26/12	DOR v Siegfried	\$ 675 judgment for back taxes
06/24/13	DOR v Siegfried	\$ 447 judgment for back taxes not yet satisfied
11/04/13	DOR v Siegfried	\$ 1,469 judgment for back taxes not yet satisfied
01/03/14	DOR v Siegfried	\$ 1,466 judgment for back taxes
03/27/14	DC Management v Siegfried	\$13,896 default judgment
04/15/14	DC Management v	\$13,896 default judgment
06/20/14	DOR v Siegfried	\$1,465 judgment for back taxes

SUNDAY MORNING 11:08 DRUNK DRIVER CRASHES INTO REAR OF CAR...CHESTERFIELD PROSECUTOR REDUCES CHARGES DESPITE HIS BAC BEING .30%. When you obtain DWI reports at random you get some surprises. But with the Chesterfield prosecutor Tim Engelmeyer you no longer expect the unexpected. Outrageous deals to serious offenders who show up with a lawyer are to be expected. The case of Eric Stephen Schmalkuche is a perfect example.

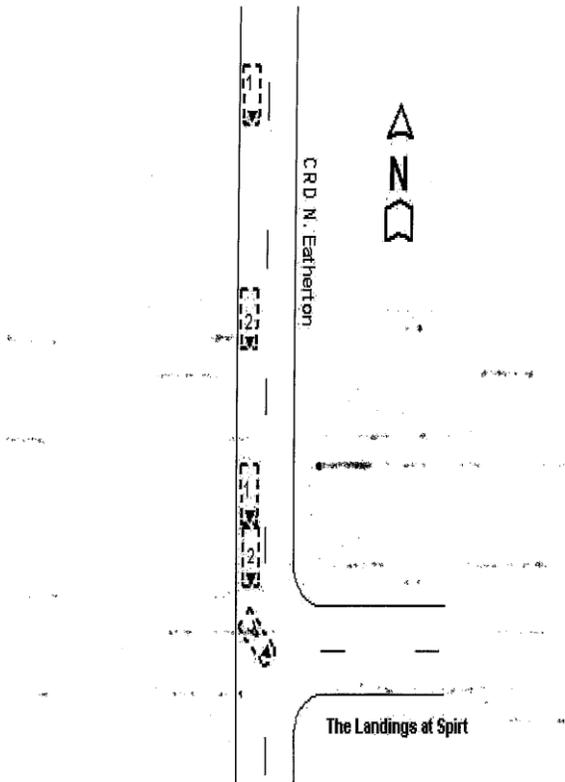
Schmalkuche, 30, on Sunday morning May 1, 2011 at about 11:08 am had just rear ended a car in front of 180 Eatherton Road. The driver of the car struck by Schmalkuche told Chesterfield Police Officer Antry that while driving south she saw in her rear view mirror that Schmalkuche's white Honda Civic swerving from one side of the road to the other rapidly overtaking her. The Honda struck the rear of her car.

After the crash the driver walked to Schmalkuche car and found that he was intoxicated. She grabbed his keys to keep him from leaving and waited for police.



Eric Schmalkuche

Also at the crash scene were two other witnesses who had been following Schmalkuche for miles, since I-64 and Winghaven in St Charles County. They had been making a video of Schmalkuche's weaving all over the highway. They attempted to reach police on 9-1-1 but were unsuccessful. They sent the video of Schmalkuche's driving and of the accident to Officer Antry.



Schmalkuche was nearby standing in a field. Officer Antry called him to the street and noticed that he was stumbling when walking. When he reached the street Officer Antry reported that his eyes were glassy and his breath smell of intoxicants.

When asked what happened by Officer Antry, Schmalkucke simply said "I fucked up." When asked what he meant by "I fucked up" Schmalkuche would only repeat, "I fucked up." He then refused to submit to any field sobriety testing or to take an unofficial field breath test (PBT). He was arrested and taken to the Chesterfield Police Department.

However it was Schmalkuche who gave an even better statement to Officer Criag Friemel who was working the accident.

DRIVER #1 WAS EXTREMELY INTOXICATED WHEN INTERVIEWED REGARDING THE ACCIDENT. WHEN ASKED ABOUT THE ACCIDENT AND HOW IT HAPPENED HE WOULD STATE "I FUCKED UP" "IM DRUNK," "IVE BEEN DRINKING," AND "IM SORRY." DRIVER #1 COULD PROVIDE NO FURTHER DETAILS ABOUT THE ACCIDENT.

Here is the "Contributing Circumstances" box from Officer Friemel's accident report:

PROBABLE CONTRIBUTING CIRCUMSTANCES			
	V1	V2	
	<input type="checkbox"/>	<input type="checkbox"/>	1. Vehicle Defects (explain)
	<input type="checkbox"/>	<input type="checkbox"/>	2. Traffic Control Inoperable or Missing
	<input type="checkbox"/>	<input type="checkbox"/>	3. Improperly Stopped on Roadway
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4. Speed - Exceeded Limit
	<input type="checkbox"/>	<input type="checkbox"/>	5. Too Fast for Conditions
	<input type="checkbox"/>	<input type="checkbox"/>	6. Improper Passing
	<input type="checkbox"/>	<input type="checkbox"/>	7. Violation Signal / Sign
	<input type="checkbox"/>	<input type="checkbox"/>	8. Wrong Side (not passing)
	<input type="checkbox"/>	<input type="checkbox"/>	9. Following Too Close
	<input type="checkbox"/>	<input type="checkbox"/>	10. Improper Signal
	<input type="checkbox"/>	<input type="checkbox"/>	11. Improper Backing
	<input type="checkbox"/>	<input type="checkbox"/>	12. Improper Turn
	<input type="checkbox"/>	<input type="checkbox"/>	13. Improper Lane Usage / Change
	<input type="checkbox"/>	<input type="checkbox"/>	14. Wrong Way (One-Way)
	<input type="checkbox"/>	<input type="checkbox"/>	15. Improper Start From Park
P1	P2	<input type="checkbox"/>	16. Improperly Parked
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	17. Failed to Yield
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	18. Alcohol
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	19. Drugs
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	20. Physical Impairment (explain)

At the police station he was much more cooperative. In an interview Schmalkucke said he had smoked marijuana on Saturday and was at a "buddies house" where he had a couple of beers." He said he didn't know the time he started drinking or when he stopped.

When asked by Officer Antry what he had been doing for the last three hours, Schmalucke replied, "Coming from my buddies' and hanging out with you."

He then agreed to take a breath test at the police station. The results of the breath test showed that Schmalkucke was either lying about having just two beers, or they were extremely large beers. The BAC level was .303%

Chesterfield Police policy requires that any person who tests at .30% or higher must be taken to an emergency room and be examined for alcohol poisoning and have a "fit for commitment" form signed by a doctor. Schmalkucke was found fit to be in jail and was taken back to the police station where he was held until he could post bond.

OUTCOME: Schmalkucke who lives at 13339 Audubon Village Drive in Wildwood, MO was arrested on May 1, 2011...he with the help of Chesterfield city prosecutor Tim Engelmeyer and city judge Rick Brunk who granted continuances so the case was allowed to drag on and on in the Municipal Court for three years. Then Schmalkucke and his attorney James P. Towey, Jr. sent the case to the Circuit Court in Clayton on a jury demand. Engelmeyer continued to act as the prosecutor.

The Careless Driving charge which was documented by the accident and three different witnesses, plus a video was reduced by Engelmeyer to Illegal Parking. Schmalkucke was fined \$125 and had no points, despite driving recklessly for miles and then hitting a car.

The drunk driving charge, which carried 12 points and results in a one-year driver's license revocation was reduced by Engelmeyer to "Operate A Motor Vehicle with an Excessive BAC." This is an 8-point violation, meaning Schmalkucke will only have a 30-day license suspension.

Handling cases like this one makes Engelmeyer well deserved for our title of "Most Dangerous Man in Chesterfield." People who have BAC levels of .30 and cause accidents should not be given deals. However, apparently Mayor Bob Nation and the Chesterfield City Council think otherwise as they continue to reappoint this guy as city prosecutor.

CITY PROSECUTOR AND JUDGE GET TOUGH ON CASE WHERE THE DEFENDANT DOES NOT HAVE A LAWYER. February 2015 marked the second time I purchased the same police report from the Chesterfield Police Department. I had originally purchased a copy of the Theft and Trespassing Report listing Patricia Susan Boyer as the suspect in 2013. I was already doing the DWI and Thieves Columns twice a year. When I read the report, the circumstances seemed so sad that I decided not to use it.

But the in 2014 the case was back on the docket, this time with the Eastern District of Missouri Court of Appeals, this was after Boyer had been found guilty in City Court and later in the Circuit Court. This \$324 unpaid hotel bill resulted in thousands of dollars in expenses to three different courts.

You could make a movie with all the craziness involving the courts and Patricia Susan Boyer. I dare you to try and follow everything.

PART 1 On August 20, 2012 at 11:50 on a Monday morning Chesterfield Police Officer Dees responded to the Homewood Suites by Hilton at 840 Chesterfield Parkway West on a theft and trespassing call. The hotel manager told Officer Dees that a guest who was staying in a room with her daughter was refusing to pay her \$324 bill and also refusing to leave.



Officer Dees contacted the 56-year-old Boyer in the hotel room. Boyer claimed she had not paid the bill because was not satisfied with the service from the hotel. Officer Dees told Boyer she had to leave the hotel by 1 o'clock. According to Dees' report Boyer claimed she could not leave the hotel room, because her adult daughter, Laurie was sick and she was her daughter's primary care provider.

According to the report Boyer claimed that she had been in contact with a vice-president of the hotel chain and was working out the matter and she didn't have to leave. Meanwhile the hotel manager called the chain's vice president and learned that he had never talked to Boyer.

By this time Sgt. Dunn had arrived on the scene and Officer Dees and Sgt. Dunn told Boyer that she and her daughter would have to be out of the hotel by 1:30 or be arrested for trespassing.

When police returned at 1:30 Boyer's car was gone from the parking lot. Officer assumed she and her daughter had left. They asked the hotel staff to check the room for damage. It was at that time they found that the adult daughter was still in the room.

Boyer had told officers that her daughter needed a wheelchair that had been in the room for mobility issues, but the wheelchair was missing taken by Boyer according to her daughter.

Officers then determined that the daughter did not need the wheelchair. She gathered her belongings and waited outside with Officer Dees for the return of her mother.

At 3:10 the daughter said she could wait for her mother inside the lobby. Officer Dees left and later mailed two summonses to an address given by Boyer, charging her with Stealing and Trespassing.

PART 2: MUNICIPAL COURT AND CIRCUIT COURT: Boyer had a trial in Chesterfield City Court, prosecuted by Tim Engelmeyer and heard by "The Judge Whisperer," Rick Brunk. She was not represented by a lawyer and was found guilty on both charges.

She appealed her convictions to the Circuit Court having to post a cash bond. She was still not represented by a lawyer.

Once at the Circuit Court level Boyer filed a motion to continue the case. That was denied. She then tried to disqualify Engelmeyer as the prosecutor. That was also denied. After the trial started on June 25, 2013 she filed a motion for a mistrial and another to disqualify the judge, Dennis Smith. Those were also denied.

Judge Smith found her guilty on each charge. Sentencing was set for August 15, 2013.

On August 15 Boyer requested a continuance and requested a public defender. These were denied. Judge Smith fined Boyer \$500 for the theft for not paying her hotel bill and \$500 for trespassing.

On August 22, Boyer made a motion to be declared a "poor person" and have the \$70 appeal fee waived. That was denied by Smith.

PART 3 COURT OF APPEALS: On September 11, 2013 Boyer found the \$70 and filed the appeal with the Missouri Court of Appeals Eastern District.

On November 12, 2013 Boyer filed a motion requesting additional time for her appeal. She was given until December 16, 2013 by the Court.

On December 16 Boyer filed another motion for the Court to compile with a specific rule and for another continuance.

On December 19 the Court of Appeals denied her one motion but granted her a continuance until February 20, 2014 to obtain a transcript of the earlier trial and order her to prove by January 21, 2014 that she had actually ordered the transcripts.

On January 21, 2014 she showed the court proof she had ordered the transcript.

On February 19, 2014 Boyer asked for another continuance and it was granted until April 30, 2014.

On April 28 Boyer filed a motion to dismiss the case with the Court of Appeals claiming the appeal has created an undue burden on her.

On May 5 the court denied Boyer's motion to dismiss.

On June 5, 2014 the Court of Appeals issued a Show Cause to Boyer to show that her appeal was made in a timely manner and should not be dismissed.

On June 19, 2014 Boyer responds to the Show Cause.

On June 24 the Court of Appeals ruled Boyer's original appeal is vacated as it was filed late, but gives her time to file another appeal.

On September 9, 2014 Boyer had not met the August filing deadline, but now files a motion for extended time to file the new brief. Boyer is now given until November 3, 2014 to file new brief.

On October 30, 2014 Boyer files a sixth request for more time.

On October 31, 2014 Boyer was given until January 6, 2015 with a notation that no further continuances would be granted.

On January 6, 2015 Boyer made another motion to dismiss the cases against her.

On January 9, 2015 the Court of Appeals denied her motion to dismiss the charges against her and then dismissed her appeal for her failing to file it in a timely manner.

On February 4, 2015 the Clerk of the Court of Appeals made a notation that the ruling by court had been mailed to Boyer at the address on file with the court and the mailing was returned undeliverable.

PART 4 BACK STORY: Here is an article written by Post-Dispatch reporter Robert Patrick, who covers the Federal Court. It is about Boyer suing an apartment for trying to evict her because her daughter has a service lap dog. The apartment owners claim they are trying to evict her because of complaints from other tenants and too many pets (3 cats and the lap dog). Here is the article

Renters balk at judge's plan to settle eviction over dog

[Print Email](#)

August 23, 2011 1:45 am • [BY ROBERT PATRICK • rpatrick@post-dispatch.com > 314-621-5154](#)

ST. LOUIS • When a Lake Saint Louis apartment complex sued to evict a disabled woman, her seizure-detecting service dog and her mother, the renters took their fight to federal court here, where a judge tried Monday to broker an agreement.

Laurie and Patricia Susan Boyer claim that the Waterways of Lake Saint Louis apartments want them out because of Laurie Boyer's pint-sized Pomeranian and their repeated complaints about neighbors.

In federal court and in legal filings, the Boyers claim that their upstairs neighbors cooked methamphetamine in the apartment, smoked cigarettes despite prohibitions, urinated off their patio and threw cigarette butts at Laurie Boyer and her dog.

The neighbors, they say, were intentionally loud, stomping their feet, slamming cabinet doors and playing games of "Ring Around the Rosie" just to reach the "all fall down" line.

Randall Reinker, the attorney for the complex owner, Scott Brothers Investment Corp., denied all the Boyers' allegations.

Regarding the neighbors, Reinker said later, "Look, we have had no issues from their folks. They're all very nice."

In court documents, lawyers for the complex cited the meth allegations and said the Boyers had "a history of making unsubstantiated claims."

The Boyers, the dog and their three cats moved in Jan. 3. They had to pay a pet fee for the cats but not the service dog.

In a letter May 27, Waterways terminated the lease, ordering the Boyers out by June 30. It said they were "disturbing the rights, comfort and safety of other residents" and had an unauthorized pet.

An eviction suit followed July 5 in St. Charles County Circuit Court, and the Boyers responded with a federal discrimination suit.

In a hearing Monday, their attorney, Andrew Kuhlmann, claimed discrimination against the disabled, in violation of the Fair Housing Act.

Laurie Boyer testified that she had a scar on her neck from one of the neighbors' cigarettes. She also said some neighbors mocked her disabilities, pointing and laughing, calling her a profane name and miming the use of a cane.

Her mother, a retired nurse, testified that her daughter suffered from post-traumatic stress syndrome, depression, syncope and seizures and thus cannot work and requires full-time care.

Laurie Boyer, 23, has used a wheelchair for several months, and testified from one with the dog on her lap. It is trained to be alert to seizures, fainting or other problems, she said.

Reinker, the complex's attorney, told U.S. District Judge Henry Autrey that all Waterways wanted was a doctor's note for the dog and the matter would have been "over and done with."

The Boyers said they had agreed to provide a note in exchange for a written guarantee that Laurie Boyer's medical information would remain confidential. They never got the guarantee, they said, so they never provided the note.

Reinker claimed the federal suit was an attempt to circumvent the state court case, set to begin Monday.

Under questioning by Reinker, both women acknowledged that they never complained to their neighbors, or in writing to management, nor made any serious effort to find a new home.

Autrey arranged a preliminary arrangement in which the Boyers would provide the note and the complex would drop the eviction. But reached by phone later, Kuhlmann did not seem so agreeable.

"It's not been resolved," he insisted, suggesting the Boyers would go to trial on the eviction case and press the discrimination claim. "We're fully committed," he said. He declined to make the Boyers available for an interview.

Reinker remained open to dropping the case.

"This is very frustrating," he said. "Somehow they're going to try to keep this case alive."

The Federal Court case went in favor of the landlord and against the Boyers. This went on from July of 2011 to March of 2014, because after losing Patricia Boyer made motions to reinstate the Federal court case only to have the motions denied.

Part 5 The Divorce: Then there was the divorce from her husband Stan Lee Boyer that drug on from August 23, 2006 to to August 6, 2010 and featured the arrest of Patricia Boyer for Contempt of Court, the couple's house being awarded to Stan Boyer and Patricia Boyer attempting to appeal a St. Louis County Circuit Court order to the United States Supreme Court in April of 2010, which was denied.

The target of Patricia Boyer's distain, Stan Lee Boyer, a chiropractor who has operated the Wellnessone Clinic in Fenton since 1982.

RETURNING TO CHESTERFIELD! This is a perfect example of a case terribly mishandled at the local level starting with prosecutor Tim Engelmeyer and including Judge Rick Brunk and Assoc. Circuit Judge Dennis Smith.

Boyer, who could not pay her hotel bill, clearly did not have much money for a fine, let along \$1,000 in fines for the unpaid bill and trespassing. If Engelmeyer had the city's best interests in hand, he would have researched the defendant and found the appeals of her divorce case to the U.S. Supreme Court, the pro se lawsuit in Federal Court over her eviction from the Wentzville apartments, plus the Post-Dispatch article. Upon the finding of guilt, regardless how much Boyer had pissed them off ask for a fine of \$5 or \$10 dollars.

What happened is that Engelmeyer made a small fortune representing the city as Boyer appealed her case to the Circuit Court and to the Missouri Court of Appeals. I'm not saying she would not do it, but it is kind of difficult to appeal cases that result in \$10 fines.

Engelmeyer and Brunk that will make ridiculous deals reducing serious violations to "illegal parking" and "littering" charges as long as the defendant could hire a local lawyer. But they refused to handle the case of Patricia Boyer, who could not afford hiring a lawyer with an equal level of creativity. It ended up costing the city quite a bit in legal fees.

Our June DWI AND THIEVES series will continue next week with Part 2.