

## COURTING CONTROVERSY

Kootenai County **judge's** job,  
fantasy game hobby blur together

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Clark Allen Peterson is more than just a devoted fan of tabletop role-playing fantasy games. He has been an entrepreneur and publisher who mentors game designers, heralds product releases from a company he founded, **judges** design competitions and posts online comments about the intricacies of this make-believe world of monsters, mythical creatures, magic and good vs. evil.

Many know him as the demon prince Orcus, Lord of the Undead.

Others know him as the Honorable Clark A. Peterson, a state magistrate **judge** in Coeur d'Alene. The 46-year-old Peterson has posted hundreds of online comments about the fantasy games while at work at the county justice building in his four years as a member of the state's judiciary. He is paid \$109,300 a year to hear probate matters, divorce proceedings, misdemeanor offenses and other cases in Idaho's First Judicial District, where magistrates juggle heavy caseloads. While the past two years have been tumultuous in his personal life - a divorce, bankruptcy filings and thousands of dollars in overdue income taxes - Peterson has remained caught up in the world of role-playing games.

Peterson has been a prolific contributor on the message boards at Paizo.com, a Redmond, Wash.-based publisher of game aids and adventures for Dungeons & Dragons and the spinoff game Pathfinder.

"I've been practicing my goblin voice in anticipation of tonight's game and I have to admit I suck. It's like a bad combo of Dr. Doofenschmirtz from Phineas and Ferb meets Yoda." - Tuesday, Aug. 16, 2011, 3:08 p.m.

Parties in two civil cases that went before Peterson believe that his hobby, coupled with his financial and marital problems, distracted the **judge** from his duties, drew out their cases and cost them far more in legal bills than necessary. They also contend that the amount of time the **judge** spends on message boards and the content of some of his posts - from playful digressions to sexually suggestive banter - fall short of the high standards of conduct expected of **judges**.

"This activity shows a level of immaturity," said Michael Tyner, a Loon Lake resident who saw his mother's probate case stretch out over 13 months in Peterson's courtroom.

Tina Stevens, a Coeur d'Alene music school administrator who went through a bruising dispute with her ex-husband, said she found Peterson to be inattentive.

"This was an absolute circus," Stevens said.

Tyner and Stevens both said they are preparing to file complaints against Peterson with the Idaho Judicial Council, which investigates allegations of misconduct by **judges**.

In an interview, Peterson defended his interest in role-playing games as "an appropriate and creative endeavor." But he also said he would modify his posting practices.

"I regret if anyone viewed my postings regarding one of my hobbies as not being up to the standards of the Idaho Judiciary," Peterson said in a follow-up email to The Spokesman-Review. "I continue to believe that my hobby activity does not violate any of the canons of judicial conduct, but the perception of the public and the litigants who appear before me is of paramount importance to me."

**Peterson** is a hard-working **judge** who keeps a sharp focus on the cases before him, said Administrative District **Judge** Lansing Haynes, who also said he sees no problem with **Peterson** participating in the role-playing game message boards, even during breaks in the workday.

'BIG DADDY ORCUS ...'

One of six magistrates in Kootenai County, **Peterson** is a Loyola Law School-Los Angeles graduate, former deputy district attorney in Las Vegas and former defense attorney with Amendola Doty & Brumley PLLC in Coeur d'Alene.

He has posted game-related messages under his own name thousands of times, accompanied by a depiction of Orcus, a character described as a bloated, 15-foot-tall demon with ram-like horns, bat wings and a long tail with a poisonous tip.

**Peterson** chats casually with other game enthusiasts, punctuating many posts with smiley emoticons. He offers lengthy advice on game rules and design elements, and he has plugged products from Seattle-based Legendary Games, a publishing venture he founded.

He posts well past midnight - he once wrote about sleeping only five hours a night - and logs in during all hours of his workweek. On one day that state records show him at work, **Peterson** posted 11 times between 1 p.m. and 4 p.m., including one message in which he imagined being transformed into a Smurf, the fictional blue creatures that inhabit mushrooms:

"Oh man, my spell resistance was overcome, I've been turned into a smurf. But at least I'm papa smurf. That's right, big daddy Orcus is now big daddy Smurf." - Tuesday, Aug. 16, 2011, 1:03 p.m.

In a 968-word message posted at 11:19 a.m. on Monday, Oct. 22, 2012, **Peterson** explained his expertise in the open game license, a public copyright license used by developers of tabletop role-playing games.

In the recent interview, **Peterson** said a broad view of his message board activity shows him to be supportive of a creative endeavor and someone who encourages young writers and designers.

"I set an example of open gaming and (content) sharing. I set an example of leadership and encouragement. ... Because I certainly got a lot of encouragement when I was a young person to write and to be creative," he said.

Some litigants who have read through the posts believe **Peterson's** creativity has strayed into tasteless territory at times, including a few conversations inflamed with sexual innuendo.

"Perhaps you should be more worried about what I am busy about while you're not looking my sweet Big Daddy Orcus," posted Dark\_Mistress, a self-described dominatrix, in a message board exchange with **Peterson** on Tuesday, Sept. 3, 2013, at 11:09 p.m. The **judge** replied, "That's why you are my favorite. Always giving me good reasons to punish you. :)"

On May 7 and 8, 2011, **Peterson** joined in this flirtatious late-night exchange involving Dark\_Mistress:

**Peterson**: "I let the cat out of the bag. I guess that means I get 40 lashes from DM. DM, you in? ;)"

Joela: "I really don't see Orcus and Dark\_Mistress at a sleepover discussing the latest in eye-lashes ;)"

**Peterson**: "True, true. But a good demon lord doesn't whip and tell...."

Dark\_Mistress: "40? I think my tongue would be tired before 40 tongue lashes were done... :)"

The Idaho Code of Judicial Conduct states that a **judge** "shall avoid impropriety and the appearance of impropriety in activities." That means **judges** "should conduct themselves at all times in a manner that does not detract from public confidence in the integrity and impartiality of

the judiciary," the canon states.

Asked if he thinks posts such as those may violate rules of conduct, **Peterson** replied, "I'm not going to endorse that view of it and no I really don't. You would have to go well out of your way to even find these types of message boards and to see (those) comments."

Haynes, the administrative **judge**, said he does not "endorse or support any inappropriate content that may be part of the (online) discussions."

#### ABOUT 370 POSTS DURING WORK HOURS ON THE BENCH

Long before he was a **judge**, **Peterson** was immersed in role-playing games. His got hooked on fantasy games at age 10, he revealed in a 2011 post, and as an adult made a name for himself writing and selling game products. **Peterson** rubbed shoulders with industry VIPs at GenCon, a large convention for tabletop gamers.

In some posts he has reminisced about the social scene at these get-togethers.

"I am a vet of GenCon. I always, every year, got the private pass to the late night White Wolf vampire parties. ... I sure remember all the vampire girls in latex...." - Sunday, June 5, 2011, 9:10 p.m.

He co-founded publishing venture Necromancer Games in 2000, then launched Legendary Games about a year after he took the oath of office as magistrate in March 2010. Legendary sells titles such as "Mutant Manifesto!" and "Mythic Monsters: Molds, Slimes, and Fungi." He is listed as author of the venture's website, which also refers to him as an "industry veteran" and expert on the "open game license."

His message board activity also offers a glimpse of the time he devotes to fantasy games.

**Peterson** has posted more than 2,860 times on Paizo's forum over the past nine years. Since he joined the bench, about 370 of his Paizo comments were posted between 9 a.m. and 5 p.m. on days that state records show him at work.

**Peterson** said he has found time to hit the message boards on breaks and between hearings, using his state-supplied computer and Internet connection.

Judicial branch employees may use state-owned computers and email and Internet services for personal use on their personal time, according to department policy. But that personal use may not include political or commercial purposes, the policy states.

**Peterson** posted 18 messages on Monday, Aug. 15, 2011 - another day he was at work - including nine times between 9 a.m. and 5 p.m. At 11:25 a.m. that day, he notified potential customers that a new game product, "Treasury of the Macabre," was available online. The \$4.99 item has everything from ghosts and mad scientists to werewolves, vampires and witches.

Wednesday, Oct. 19, 2011, was a busy morning of posting for **Peterson** - 10 messages between 9 a.m. and noon. He chatted about encounters with half-orcs and skeletons, and counseled players on a game dispute.

Midday on Thursday, June 30, 2011 - another workday for **Peterson** - he plugged the upcoming release of his "Tome of Horrors Complete" product and urged potential buyers not to wait to preorder it.

**Peterson** described comments such as those as "generalized excitement about a product they're creating," not a form of marketing on behalf of a company he founded.

Although he is listed as co-designer of 17 game products listed for sale on the Legendary website, he said he has no business interest in the company and does not give it legal advice.

**Peterson** did say he receives some insignificant income from Necromancer Games, which is run by his former business partner.

In his current Chapter 13 bankruptcy filing, **Peterson** lists his gross income as \$9,117 a month, or \$109,404 a year.

Creditors claim he owes \$203,123, including \$89,915 in student loans, \$15,674 on his 2013 Dodge Durango lease, and \$83,513 in a second mortgage on the 3,500-square-foot house he and his ex-wife shared at the Prairie Falls Golf Club in Post Falls. The case also lists \$13,662 owed to the IRS and \$356 owed to the Idaho State Tax Commission.

It's **Peterson's** second bankruptcy filing in as many years. In 2012, he had filed jointly with Donna **Peterson**, his wife at the time, but then filed for divorce while that case was in progress. Their bankruptcy petition was dismissed, and another **judge** ordered their divorce records sealed from public view.

#### APPEAL RAISED ISSUE OF **JUDGE'S** PERSONAL BUSINESS

Two litigants who spent a lot of time in **Peterson's** courtroom said their experiences left them financially hobbled, disillusioned with the judicial system and disturbed by how involved **Peterson** has been with role-playing games and related activities while serving as a **judge**.

Michael Tyner said he believes **Peterson** was distracted by personal issues and his fondness for role-playing games while handling his probate challenge.

"Had this **judge** been doing his job instead of playing games, his mind somewhere else, he would probably have done the right thing along the line," Tyner said.

After his mother died in 2010, Tyner contested the will. He claimed that his mother, who suffered from dementia, changed her will and left most of her money to Tyner's sister as a result of undue influence by the sister, who served as their mother's caregiver.

The parties went to trial at the end of November 2011, and **Peterson** ruled in favor of Tyner's sister on July 16, 2012. Tyner asked for a new trial, arguing in part that **Peterson** took too long to render a decision. His attorney, John Whelan, of Coeur d'Alene, noted that **Peterson** filed for bankruptcy, filed for divorce and engaged in a child custody battle while Tyner's case was under submission.

"It is a fundamental denial of due process of law" for the court to rule 7 1/2 months after trial, Whelan argued in his motion for a new trial. "Justice delayed is justice denied."

**Peterson** denied the motion, writing that the delay was "primarily attributable" to the actions of Tyner's lawyer, including improper correspondence with the **judge**.

In an appeal filed last month, Whelan again raised the issue of **Peterson's** personal business and how long it took to conclude the case.

After **Peterson's** oral ruling, it took another six months to get the **judge's** certified decision in the case, and Tyner said his legal bills have surpassed \$60,000 so far.

Tyner is preparing a judicial complaint against **Peterson**, arguing that his rights to due process and a fair trial were hindered. **Peterson's** message board posts consumed a lot of time and affected his ability to carry out his duties as a **judge**, Tyner alleges.

On Feb. 22, 2013, the Tyners spent a full day in **Peterson's** courtroom, and later they discovered that the **judge** had posted twice on the Paizo message boards around 1:30 p.m., during a lunch break, including this:

"...Today is my birthday and it's all about me! :) So if you have any love at all (and some of you won't) for a certain someone, bring it on!"

"We don't know if he's demon lord in the courtroom or if he's **Judge Peterson** in the courtroom," Tyner said. "We don't know because he's blending the two. He's on blogging and then he comes into the courtroom."

Tina Stevens said she had a similar experience in **Peterson's** courtroom. She recalled waiting with her lawyer more than an hour for **Peterson** to show up for a Feb. 12, 2012, hearing to appoint a new parenting coordinator in the case. Scheduled for 9 a.m., the hearing finally began at 10:07 a.m. The Paizo message boards show that **Peterson** posted about a game-design contest at 8:55 that morning.

"Here I'm sitting at \$250 an hour with my attorney, and **Peterson** is costing me money by the minute because he's showing up late," Stevens said. "I just remember thinking, wow, why are we waiting so long to see the **judge**? And why should he be blogging from his office?"

She said she is frustrated with how **Peterson** handled her case, a five-year dispute with her ex-husband that includes their divorce, control of their rural residence east of Coeur d'Alene and custody of their two sons.

"I think with his gaming and his divorce and all the things in his life, that he's not doing his homework. He's not paying attention," Stevens said.

Stevens, who owns and operates Northwest Music Center in Coeur d'Alene, said she lost her house and custody of her children, and she and her new husband, Chad Stevens, now live in an RV. If she appeals, it first goes to **Peterson** for review, and Stevens said she has little faith - or money - left to pursue it.

"I've spent \$65,000 on the case," Stevens said. "I ran out of money to even live in a home. ... This shouldn't have to be."

#### **JUDGE SAYS HE'LL CHANGE HIS PRACTICES**

**Peterson** is prohibited from discussing active cases, including those that are or may be under appeal.

**Judge** Haynes said **Peterson** is "extraordinarily engaged in his work."

"Rather than being distracted, I find him to be an extraordinarily focused **judge** on the cases that are before him," Haynes said.

**Peterson** also is among the first to offer to pick up work assigned to other **judges** when time opens in his schedule, he said.

"He's a real agile thinker and just a great resource to other **judges** as well," Haynes said.

**Peterson** said he believes his message board activity overall has been appropriate and no different than other extrajudicial activities.

"It's classic good-versus-evil fantasy, no different than 'Star Wars' and 'Lord of the Rings,'" he said.

He also said he does not believe his passion for role-playing games has distracted him from his responsibilities as a **judge**.

"I can honestly say it has never impacted my time," **Peterson** said. "... I don't find it to be a distraction. And I've certainly not ever delayed a hearing or not done work as a result of that, that's for sure."

But in a follow-up email several days after the interview, **Peterson** spelled out changes he decided to make in light of the concerns litigants had shared with The Spokesman-Review.

"Here, it seems a slight modification to my current practices could substantially address many of the concerns and it would be little more than stubbornness on my part not to make such changes, which would be unreasonable, even though I believe I am entitled to continue to do them," he wrote.

**Peterson** changed his avatar, dumping the image of Orcus. **Peterson** also said he intends to "not post during business hours as a general practice" and "give additional caution to making any

comments about products."

Also, **Peterson** recently announced on Paizo.com that he would step back from his role as a main **judge** for Paizo's RPG Superstar game design competition, a task that has absorbed many hours of his time in recent years.

In a 2012 post about how much he devotes to judging Superstar submissions, **Peterson** wrote, "My day job ... is quite demanding," and added, "Sleep is sacrificed."

Voters are asked every four years if they wish to keep magistrates in office, and almost always they do. **Peterson** was retained with 81 percent of the vote in the November 2012 general election. His current term expires in 2016.

"Without a doubt, my judicial duties are my priority. I'm a single dad; that is my priority," he said in an interview. "These other activities are additional that I wouldn't undertake if I didn't have the time to do them. I mean, you can't be a single dad and a **judge** and have things interfering. It just wouldn't work."