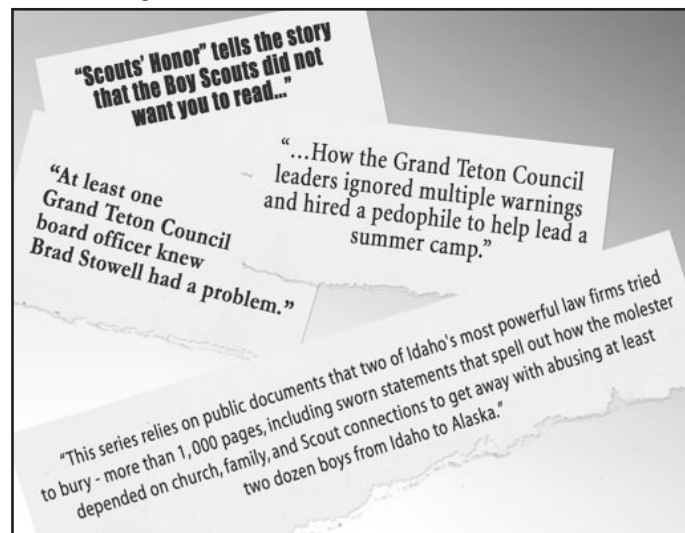


THE COMMUNITY PAGE

On Shaky Ground

A careful review of the *Post Register's* series "Scouts' honor" reveals the methodology of how the *Post Register* proceeded to lead the reader to specific conclusions without presenting the facts to support those conclusions. The technique was to repeatedly tell the reader day after day what the reader should expect to learn from the six day "series." Each day the reader was told through headlines what the reader should have already learned or at least what the reader would learn after reading the articles.

The following headlines appeared for six consecutive days in the *Post Register*:



After reading the above headlines day after day, a normal person could reasonably believe there must have been at least some truth to these headlines and that somehow, somewhere there must have been at least a few facts that supported those conclusions.

The truth is that after scouring the court documents and interviewing witnesses, a staff of attorneys from the reputable law firm of Thomsen Stephens could not find any evidence that supports the above headlines as presented in the *Post Register*. To the contrary, the evidence presents the following facts:

1. An incident (no one knew exactly what) happened in 1988 between 16-year-old Brad Stowell, and a 6-year-old boy.
2. The police were called (evidently by the boy's parents).
3. The police evidently did not find it serious enough to file charges.
4. Either Brad Stowell or his mother reported it to Stowell's LDS Bishop.
5. Brad Stowell testified in his deposition that he was not forthright with his LDS Bishop but that he was "vague" when he told both his mother and his Bishop about the incident.
6. Even though the police had evidently not found the "incident" serious enough to file charges against Stowell, the LDS Bishop sent Stowell to 6 months of professional counseling.

After the Scouts hired Brad Stowell, Richard Scarborough repeatedly "warned" the Scouts that Brad Stowell was a pedophile. Scarborough complained and wrote several letters to the Boy Scouts, local and national leaders of the LDS church, and even Ezra Taft Benson, president of the LDS church, stating that Brad Stowell was a pedophile.

The record shows that Scarborough's accusations were taken seriously by both Scout and church leaders. The *Post Register* fails to mention the hours of interviews, discussions and investigations that were held in a repeated effort to get to the bottom of the accusations. There just wasn't enough evidence at that time to support Scarborough's claim.

Brad Stowell had assured everyone, including the Bishop, his mother, and his Scout leaders that the "incident" was "an isolated incident" and nothing had happened before or since. He was a straight "A" student and all who knew him thought him to be an exceptionally fine young man.

Therefore the inference by the *Post Register* that the Scouts, the church leaders, and Brad Stowell's mother all knew he "had a problem" is very misleading. Armed only with heresay, it seems reasonable that Scout leaders did not fire Stowell. No fair-minded executive would fire an employee because of rumor or heresay. The truth is that they tried diligently to get to the bottom of Scarborough's accusations and kept hitting the same dead end. The facts as discovered and presented in the two resulting cases appear to support the conclusion that no one except Brad Stowell and his victims knew he was molesting or even had ever molested anyone.

The *Post Register* names over a dozen Scout volunteers and Scout leaders, LDS church volunteers and church leaders, and even Brad Stowell's mother as if they are all dangerous people who worked together to help the child molester. Without any foundation whatsoever, this baseless accusation smacks of Dan Ratherism.

Looking back, we now know that Brad Stowell has molested several children (perhaps more than 24) in his life. But for the *Post Register* to state or even infer that people knew he was molesting children and just chose to look the other way or, even worse, that they knew what he was doing and somehow continued to protect him, is inexcusable and totally without foundation.

Many, undoubtedly, are growing weary of the debate surrounding the issue of Brad Stowell and the horrible child molesting activities for which he has been found guilty. The issue has been reported on at length in the Idaho Falls *Post Register* in a manner that many feel unnecessarily attacked innocent individuals and credible organizations. Some have questioned why I, or anyone, should get involved in challenging the *Post Register's* story. In answering that question, I am reminded of when, several years ago, the entire nation was shocked to learn of the story of Kitty Genovese who was brutally stabbed to death outside her New York City apartment while dozens watched.

The attacker had stabbed her, retreated, and returned two additional times, stabbing her again and again until she died. Many times during the attacks which spanned more than 30 minutes, the woman screamed for help. At least 38 individuals in the apartment building later admitted to witnessing at least one of the three attacks. But no one came to her rescue or even called the police.



This phenomenon is now known as the "Genovese Syndrome." In recent years the question of why some people are willing to stand by while innocent people are attacked has become a topic of discussion and analysis by psychologists and in college psychology classrooms around the country. It is natural for

anyone hearing about this story or participating in classroom discussions to criticize those 38 people who stood by and did nothing, but we really do not know what we would do until we, ourselves, are confronted with a similar situation.

The situation presented by the series of articles by the *Post Register* entitled "Scouts' honor" has some similarities to the "Genovese Syndrome." Innocent people were being attacked again and again by the powerful *Post Register*. It is a tremendous temptation for anyone to stand by and not get involved. There are potentially serious consequences for challenging the *Post Register*. Experience proves you can easily become a target yourself. It's no fun to get involved. It complicates life. It's unpopular to do.

Some would say it's foolish or even dangerous. The only benefit is the comforting knowledge that you were not one who stood by and did nothing—and that is reason enough.

Frank Z. VanderSloot

Judge Anderson's Conclusions

Our law firm, Thomsen Stephens Law Offices, was asked by Frank VanderSloot to perform an independent and objective investigation and evaluation of the evidence cited by the *Post Register* in support of the conclusions it draws in its editorial series entitled "Scouts' honor." There is no question that Brad Stowell preyed upon the innocent, destroyed lives, and misused his position in the Boy Scouts to accomplish his depravity. His actions are inexcusable, and he should be punished to the fullest extent of the law. However, what we found was that the *Post Register's* series contained a combination of factual omissions, mischaracterizations, unfair accusations and unfounded conclusions in order to support its theory of conspiracy and collusion of innocent parties.

When confronted with these problems with their story, *Post Register's* publisher, Roger Plathow, responded that their sweeping conclusions of conspiracy and cover-up in the "Scouts' honor" editorial series, are ultimately vindicated by statements from a November 2004 written decision of Judge Woodland, who presided over the 2003 civil lawsuit filed by one of Brad Stowell's victims. The *Post Register* quoted extensively from Judge Woodland's decision in its March 13, 2005, editorial and relies upon it heavily. Not surprisingly, in response to Mr. VanderSloot, Mary Haley, from its Readers Advisory Board, also uses Judge Woodland's decision to refute Mr. VanderSloot. However, the *Post Register* removed Judge Woodland's statements from the legal context in which the decision was made, unfairly misleading its readers into believing that Judge Woodland had made a conclusive finding that, in fact, the conduct of the Grand Teton Council was oppressive and outrageous and constituted fraudulent concealment.

In legal proceedings, the significance of statements or rulings by a judge can only be understood in the specific context in which they were made. For example, if it had been Judge Woodland's responsibility to decide the facts and render a final verdict after a full evidentiary trial or hearing, then the *Post Register* could have rightly relied upon statements in his decision. However, Judge Woodland in this case did not decide the facts, that is, he did not decide that the Grand Teton Council's conduct was actually oppressive, outrageous or fraudulent, as the *Post Register* has led its readers to believe. Instead, Judge Woodland, based solely upon documents filed with the court, merely concluded that a jury was needed to decide whether the plaintiff's or defendant's version of the facts were most accurate. In making this decision, Judge Woodland was required by law to give all benefits of the doubt to the plaintiffs, generally disregarding evidence presented by the Grand Teton Council. In effect what Judge Woodland said was, "If you believe the evidence presented by the plaintiffs, and disbelieve the evidence presented by the Grand Teton Council, then a jury could find in favor of the plaintiff; therefore a jury trial is necessary." But he in no way made a decision on the merits in favor of either party.

The *Post Register* failed to mention in its March 13 editorial, and in the *Post Register's* guest writer's talk back, that Judge Woodland's decision is contradicted by a more thorough opinion written by Judge Anderson in an earlier case brought by a different Stowell victim against the Boy Scouts, based upon virtually the same evidence. Instead the *Post Register* "cherry picked" the language from Judge Woodland's decision, apparently because Judge Anderson's decision did not fit with the *Post Register's* purposes. In his decision, Judge Anderson, unlike Judge Woodland, cited specific items of plaintiff's evidence and analyzed it at length to determine whether it was sufficient to present the issue of punitive damages to the jury. Judge Anderson ruled as a matter of law, that the evidence was insufficient to establish the kind of "harmful state of mind" required to support an award of punitive damages. On balance, a comparison of the preliminary rulings by the two judges in the two cases cut

decidedly in favor of the Boy Scouts. Here are some quotes from Judge Anderson's decision that the *Post Register* apparently did not want its readers to know:

"Although Stowell's conduct was inappropriate in each of these three situations [in giving one scout a piggy-back ride, in giving one scout a back rub, and in driving alone with one scout home and back to camp], [plaintiff] is unlikely to be able to prove at trial that Clark, Fawcett and Lopez [leaders at the Little Lemhi Scout Camp in different years from 1995 to 1997] knew or should have known Stowell was secretly engaging in acts of child abuse and that they were unreasonable in how they handled the situations.

"Considering all of the circumstances as a whole, including the fact that all of [plaintiff's] allegations relate to one incident that occurred in 1988, the evidence in the record does not show that GTC [Grant Teton Council] acted in a manner constituting a 'bad state of mind.'

"Two to three years had passed from the time of the [1988] incident until Scarborough first put the local council on notice of the incident, and seven years had passed by 1995 when GTC was again contacted regarding the 1988 incident.

"Additionally, there was not one person in either organization with a comprehensive understanding of the circumstances. It is unlikely [plaintiff] would be able to prove at trial that GTC acted in a manner that was an extreme deviation from reasonable standards of conduct and that the investigation was performed by Allen [of the GTC] with an understanding of or disregard for the likely consequences of failing to follow BSA's published procedures."

Based upon our own research and review of the same evidence, we came independently to the same conclusion as Judge Anderson. The reader can review Judge Anderson's decision, and compare its quality with that of Judge Woodland's decision at www.communitypagenews.com.

The *Post Register* was clearly aware of Judge Anderson's much more thorough analysis, and that this decision was based upon "almost identical information" as was presented to Judge Woodland. Peter Zuckerman conceded as much in his March 11, 2005, editorialized article. But Judge Anderson's ruling in favor of the BSA apparently did not fit the *Post Register's* preconceived conspiracy theory. As a result, any reference to it was conveniently omitted from the March 13 editorial, leaving the reader free to believe that the *Post Register's* is the only rational conclusion to be drawn from the evidence. This is the very kind of "cherry picking" for which the *Post Register* gave the Boy Scouts' attorney, Gary Dance, a "jeers" and called him a hypocrite, in the March 11, 2005, *Post Register*. Apparently it is okay for the *Post Register* to selectively present the facts in order to lead its readers to a certain conclusion, while simultaneously castigating a well-respected attorney for performing his role as an advocate for his client. A trial attorney is by the nature of his job biased in his client's favor. On the other hand, the media is supposed to be objective.

By its own standards the *Post Register* may be rightly criticized for its own "cherry-picking" of Judge Woodland's statements and wrongly presenting them as a decisive judgment of the facts. This false premise seems to be the foundation upon which the newspaper built its house of cards entitled "Scouts' honor."

T. Jason Wood
Brian B. Boyle

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