

U.S. gives \$3.1 million to prevent lengthy trial

■ **OUR OPINION:** Pretrial awards illustrate legal system problems

The U.S. government agreed to pay \$3.1 million to a white separatist and his family last week for the shooting death of his wife and son.

The financial settlement of the now-infamous Ruby Ridge incident preceded hearings set to determine whether federal agents' actions during the Idaho mountain stand-off were negligent. As such, a significant sum of taxpayers' money will now be transferred to a man who just two years ago the government sought to convict in the death of a federal marshal.

Lawyers for the United States have said the settlement prevented a trial and possibly larger award if the government pursued the matter in court and lost. Randall Weaver had sought \$200 million in damages. It is, however, cases such as this that shine a bright light on the dark holes in our legal system.

Weaver, who has been living on social security, and his daughters will now be able to live in comfort for the rest of their lives not because of any proven negligence on the part of federal agents, but because the Federal Bureau of Investigation had more to lose by trying to prove its innocence than by giving in to Weaver's demands.

As the FBI faces more charges because of its actions during the siege on the Branch Davidian compound in Waco, Texas, it would appear that the agency was simply trying to get a rather ugly monkey off its back in preparation for what could be rougher times ahead.

But the financial settlement will not prevent a full inquiry into the actions of

federal agents in the Idaho incident. As such, not only have Americans forfeited millions of dollars to a white separatist, but they will still have to endure weeks, if not months, of hearings before the end of the year.

If federal agents were negligent in the shooting death of Weaver's wife and son, it would be difficult to deny the Weaver family monetary compensation for its loss. That, however, has yet to be proved.

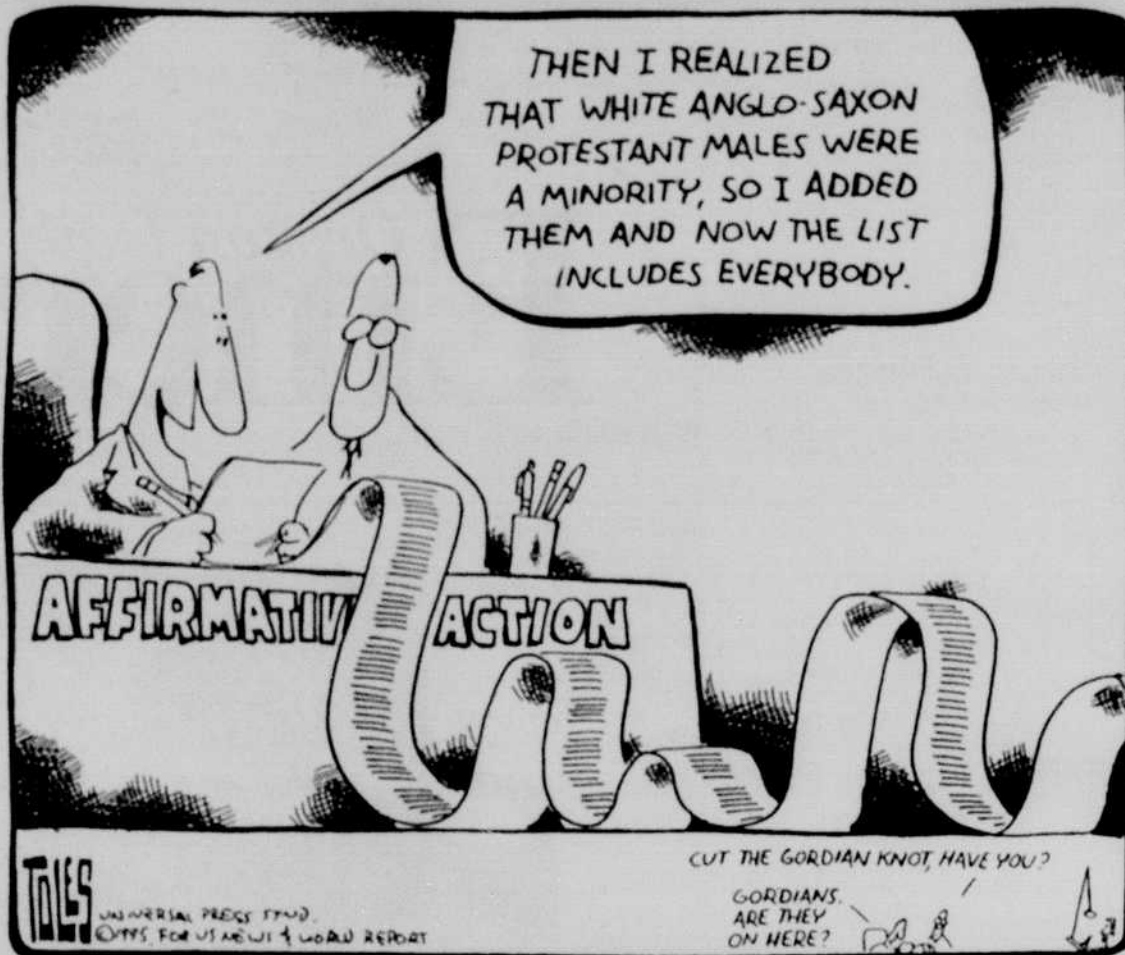
The government has elected to compensate the Weavers for a loss that may, in fact, have been caused by Weaver's actions rather than those of federal agents.

Weaver initiated the stand-off by refusing to leave his home when federal agents arrived to arrest him for illegal weapons sales. While it has yet to be determined who fired the first shots, it is Weaver's criminal activity that initiated federal intervention.

Americans have just paid \$3.1 million to a convicted criminal because it was cheaper than forcing him to prove his case.

If we continue to dole out money to plaintiffs for no other reason than to prevent the expense of a trial or a potential loss, Americans will continue to slide into the depths of a sue-happy culture. If we still hold to the tenets of innocent until proven guilty, plaintiffs should not be awarded damages until they have proved the guilt of the defendant.

Without that foundation, defendants, whether individuals or federal agencies, become victims of legal blackmail. We will live within a system of "justice" that rewards plaintiffs for the inconvenience they cause would-be defendants — rather than for their ability to prove guilt beyond a reasonable doubt.



OPINION

Behold a new world: laptops and legalese

Law school. Two simple words that mean so many different things to different people. To some, it means a training ground for unethical dirtbags who live to suck the lifeblood of true humans. To others, it symbolizes what makes our country great: the notion that we are a nation of laws, not of men, and that all people are created equal, blah, blah, blah.

But to law students, it is something else. It is a way of life. For most, it's the beginning of a career. For all, it's the beginning of a new, unique way of approaching life. For me, it was the beginning of an enormous mountain of debt. I remember two years ago, that first day of registration, feeling, not so much like a bug, but more like a speck of dust on a bug. I couldn't help but wonder, was I the admission committee's mistake?

I remember looking at the third-year students in silent awe, and I swore I saw a halo of light surrounding them. Now of course I know better. The halo was simply excess beer fumes wafting out of their bodies.

Two years ago I was told that I would learn to think differently, learn to write more clearly and concisely. Actually, I've learned that common sense has no place in the law. The clear, obviously fair and equitable answer is typically wrong, unless someone has first written a 1,000-word chapter in the Oregon Revised Statutes to make sure that, if you do the right thing, you don't get carried away and do too much of it.

Law school has obliterated my communications skills. See, e.g., this column. A few years back I was an award-winning editorial writer and columnist for the *Emerald*. Today I couldn't write my way out of a cardboard box. I used

to be able to show my wife drafts of my columns and get some useful feedback. Today, I show her drafts of research memos that might as well be written in Russian. Imagine trying to decipher writing where every other sentence reads "O.R.S. 254.043(b)(i) (1993). See also State v. Dumb Guy, 287 Or. 845, 849, 130 P.2d 452, 456 (1994) (Johnson, J. dissenting) (holding dumb people can't be held to a reasonable person standard)." Sometimes I think I am now capable of having more meaningful conversations with my 3-week-old daughter than with adults.

One of the great experiences in law school is discovering that there is someone in your class who has had more experiences in one lifetime than any other person on the planet. Invariably, a class discussion will get sidetracked by the person who had a similar incident happen to their cousin, occasionally leading to an impromptu version of *Oprah*. At first, I thought it was annoying, considering how much I was paying to sit there. Did I care that a contractor had once put a lien on someone's toilets, or that a train/auto accident couldn't have happened the way it was described by the court because someone had seen similar accidents on *Rescue 911*, and, well, they just don't happen that way?

Eventually, I began to appreciate the entertainment factor. But somehow I don't think my professor had prepared his discussion around the question of how to avoid execution of a lien against one's toilets.

Fortunately, just when I'm

near being overwhelmed by the enormity of it all, I'm brought back to reality by the following conversation — Person: "So, what do you do?" Me: "I'm in law school." Person: "Oh. That's great. What do you think about the O.J. Simpson trial?" Me: "I preferred Marcia Clark's old hairstyle." Person: "I see."

Perhaps the greatest sanity-saving device I've had in law school is my PowerBook. Sure, it's great for taking notes and all. But when the lecture gets too far off base (see Liens, Toilets, supra), I can fall back on my games. At any given moment, you can stand in back of a law class and watch myriad computer games being played, proving that technology can be a curse as well as a blessing.

This year's entering law students are required to purchase a laptop computer for use in class. I can't fathom what it will be like to sit in a room of 80-plus people clacking away at their keyboards and listening to the various dings and dongs reverberating from the computers of people who haven't figured out how to turn the sound off yet.

Today, I'll watch as new law students enter their classes for the first time and learn that college is over. In law school, we have seating charts and attendance. Apparently, the idea that students might pass a class without actually attending frightens some people. Sure, I used to find the mandatory attendance ritual annoying. But after two years, I've come to appreciate what it's done for me. As I begin my third year of law school, I can fold my head high, look people straight in the eye and be confident that I could probably beat them at solitaire.

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