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FRIDAY'S FORECAST

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In wake of tragedy, Miller family pulls together to keep century-old business afloat

Donavon Miller's plans for life after the military changed the instant his father, Rick, died in a motorcycle accident last October. The Gunnison native has returned home and is now managing the long-held family business, Miller Furniture.

TRADITION LIVES

Chris Dickey
Times Publisher

Though the circumstances are sorrowful, something uplifting is happening at Miller Furniture Store in Gunnison. One of the deepest family traditions in the history of this state is marching on.

In the wake of his father's tragic death from a motorcycle accident last October, Donavon Miller has returned home to run the family business.

Rick Miller was a pillar of Gunnison. He was raised in both of the long-held family businesses — the furniture store and the funeral home that was sold in 2000. He was a fixture in town politics — twice serving on city council, once as its mayor. He played drums in a rock and roll band and was one of the strongest advocates for small businesses in the community.

Thirty-one-year-old Donavon seems inspired, not intimidated, by the footsteps he is following.

"I'm trying to pick up where dad left off," he said recently, while sitting in the sprawling store, built in 1948, that occupies the bulk of a city block on Gunnison's Main Street.

The Millers trace back to the earliest days of the Gunnison Valley, in the 1880s. Donavon represents the sixth generation working in the family business, although he didn't have plans to. At least, not yet.

He was months away from finishing four years of active duty in the U.S. Marine Corps — with tentative plans to either move to Louisiana to be closer to two of his three kids from a prior marriage, or possibly check out Hawaii, where he has acquaintances — when the accident occurred. In an instant, everything changed.

"It was like one switch went off and another went on when this happened," explained CJ Miller, Donavon's grandfather.

Donavon indicated he'd like to come back to Gunnison and, with the help of Tracey Miller, Rick's

Miller ▸ A8

WSCU's spring enrollment jumps

Retention among factors cited

Western State Colorado University (WSCU) saw an increase in the number of students attending class this spring compared to last year's spring numbers. The positive enrollment numbers come after WSCU also saw an increase in students for the fall 2012 semester.

WSCU's enrollment at the beginning of the spring 2013 semester is up by 119 students over spring 2012. One of the reasons for the growth is that a higher percentage of students were retained from fall to the spring semester.

"This is the best retention we've seen in years," said WSCU President Dr. Jay Helman. "We have been working hard to develop an effective strategy for keeping students engaged, and I believe programs like our First Year Experience are working."

The First Year Experience program was launched as a way to build connections between new students and their community while giving

Enrollment ▸ A6

MUELLERMURDERTRIAL

Mueller's fate now in jury's hands

Jury charged with finding guilt "beyond a reasonable doubt"

Laura Anderson
Times Staff Writer

Prosecution and defense attorneys presented closing statements to a packed court room in the trial of Texas businessman Frederick Mueller yesterday, exactly a year to the day after he was arrested on the charge of first degree murder in the death of his wife, Dr. Leslie Mueller.

Leslie Mueller was found drowned in Cottonwood Creek near Lake City, where the couple owned a home, on May 3, 2008.

District Attorney Dan Hotsenpiller presented statements for the prosecution, while the three defense

Mueller ▸ A9

Groups mounting fight of sage grouse proposal

Taking unified approach to sway federal officials

Times Staff Report

Local entities are beginning to circle the wagons concerning a proposed "endangered" listing of the Gunnison Sage-grouse — and that's likely to mean a unified attempt to sway federal regulators from enacting their proposal.

> **"It appears we have no other recourse than to fight."**
> **Ken Coleman**
> *Gunnison City Manager*

Last month, the U.S. Fish and Wildlife Service (FWS) announced a long-awaited plan to designate the bird with a status that affords the highest protection under the Endangered Species Act (ESA), in an attempt to avoid extinction. That's despite years of efforts locally to avoid such an action.

In accordance with the proposal, FWS officials journeyed to Gunnison for a public meeting Jan. 23, and the visit also included discussions with county and other local leaders.

Rancher Lee Spann expressed his disappointment in the public meeting to the Gunnison Sage-grouse Strategic Committee on Tuesday, despite

Sage grouse ▸ A9

Sage grouse

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good community attendance.

"I thought the Fish and Wildlife Service was lacking in what they presented to the community," he said. "People were disenthused."

"I share that," added Sue Navy, representative for High Country Citizens' Alliance (HCCA). "There was an opportunity, and it was missed, to really alleviate people's concern, explain what people are feeling, and put them in a rational context instead of having fear."

March 12 marks the end of a 60-day comment period over the proposal. A final determination on the listing is scheduled to be issued by Sept. 30.

Alongside the listing plan, FWS has also proposed the designation of what's termed "critical habitat." It's those lands in the Gunnison Basin that local leaders fear could be most impacted, should the grouse become listed.

The Upper Gunnison River Water Conservancy District (UGRWCD) is eying at least five small water projects in the Gunnison Basin — all of which are in critical habitat areas and would be adversely affected by FWS' proposed rules.

"I certainly don't want anyone to get the idea that the livestock implication is the only thing here," said UGRWCD board member Ken Spann during a meeting of the district's Projects Committee Jan. 25. He was referring to the potential water projects and other impacts as a result of listing.

For that reason, the UGRWCD's Project Committee recommended to the group's larger board that the district work closely with leaders from Gunnison County, the City of Gunnison, the Gunnison County Stockgrowers Association and other stakeholders, concerning responses to FWS during the 60-day comment period.

Gunnison County Wildlife Conservation Coordinator Jim Cochran told the Projects Committee that county leaders are considering the expertise of outside consultants as a means of countering FWS' proposal. He said that an updated Population Viability Assessment (PVA) may show that the bird isn't likely to become extinct in the foreseeable future.

The City of Gunnison's Community Development Director Steve Westbay told UGRWCD leaders that the city also is planning to piggy-back on Gunnison County's comments. City Council in recent weeks has directed Westbay and City Manager Ken Coleman to take the lead with respect to the city's direction.

Coleman said last week that city leaders have received mixed messages about what the possible listing could mean within municipal boundaries, but most recently indications from federal regulators have not been inspiring.

"We've been told by (FWS) staff that undeveloped areas within municipal boundaries would be impacted by this listing," he said. "It appears we have no other recourse than to fight."

To this point, however, not all local groups have opposed a federal listing of the grouse.

HCCA Water Director Jennifer Bock told UGRWCD leaders Jan. 25 that while the local environmental group has supported an ESA designation of the bird, they also support the agricultural community and would be opposed to outside intervention by other environmental organizations.

Fish and Wildlife Service's Grand Junction office Supervisor Patty Gelatt, left, speaks with Frank Kugel at the public meeting the federal agency hosted in Gunnison Jan. 23.

Photo by Will Shoemaker

If those organizations are "making it tough for folks, we'd oppose that," she said.

The strategic committee addressed their strategy for submitting comments at their Tuesday meeting. Agency officials expressed the need to limit comments based on each entity's specific area of expertise in an attempt to avoid duplicative comments. They also discussed the importance of providing accurate facts and clarifying information that may have been misinterpreted by FWS and to provide any new information that may be relevant.

Westbay urged the committee not to succumb to political pressures and remain united. "I see the wedge being driven," he observed. "I see the need to compartmentalize, but I'm disturbed by that fragmentation."

Mueller

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attorneys tag-teamed their arguments.

Hotsenpiller was only about a sentence into his closing statements before an objection was called by the defense and attorneys had a sidebar conversation with the judge — an event that has been very characteristic of this trial.

When he resumed, Hotsenpiller recalled one of the prosecution's most important testimonies — that of Andrea Zafares, an expert in aquatic accidents and fatalities, who said that a human being would have had to have physically placed Leslie Mueller's body in the position she was found under the log.

When she was found, Hotsenpiller pointed out, Leslie Mueller's clothing was intact, her unzipped jacket still in place and the vomit, which was a result of her drowning, was still in her hair. He recalled demonstrations done with a mannequin, dressed and weighted similarly to Leslie Mueller, which at no point — without being physically coaxed — washed down the three waterfalls and successive streams between where the victim fell into the water and where the body was recovered.

"Dr. Mueller was drowned in the area of the downed log," Hotsenpiller concluded. "This is where she was murdered."

Defense attorney Roger Sagal rebutted her testimony, saying that Zafares was "spoon fed" information by the Colorado Bureau of Investigations and the prosecution, and that she didn't even visit the site of the alleged murder until December 2012.

"She (Zafares) came to the conclusions that she came to without doing a single stitch of independent investigation," said Sagal.

He also attempted to cast doubt on the testimony and memory of Justin Sparks, who made the 911 call after Frederick Mueller appeared on his front porch saying that his wife had died.

"Suspicion started when Jennifer Sparks turned to her husband and said, 'Don't trust this man.' That planted a seed in Justin Sparks that never stopped. Doubt was transferred to Sparks, to CBI, to the prosecution," Sagal said. "That accident, and it was an accident, changed both of their (Fred and Leslie Mueller's) lives forever. In Fred's case, it put him in that defendant's chair, fighting for his life."

Sparks said during his testimony that he began to doubt Mueller's story when Mueller took him to a different location than where he claimed his wife was. Hotsenpiller pointed out that Mueller claimed to not know where his wife was when he took Sparks to Cottonwood Creek, yet he led first responder Michael Golob right to the site of where her body was recovered.

The defense claimed Mueller made a mistake because he was unfamiliar with the area and distraught at the death of his wife.

"Fred's not exactly clear what happened, we know that," admitted defense attorney Andres Sanchez.

The defense also claimed that Mueller only saw part of his wife's fall — her going off the cliff and her entering the water — and that his mind "filled in the blanks" of what happened between those two moments.

"What he has in his head is a swan dive, and the only time he would have seen her was at the top and when she was in the water," said defense attorney Mike DeGeurin.

Yet the prosecution saw the discrepancies in Mueller's story differently.

"Why does he report that she fell on her head? Where's her head? Jammed under a log. If there's going to be injuries, where would they be? On her head," said Hotsenpiller.

Defense attorney Roger Sagal disputed the prosecution's claims.

"It's not a search for truth, it's an effort to confirm suspicion," Sagal said about the prosecution's case. "There's not a single piece of credible evidence that Fred Mueller was ever at that log."

Sanchez asked jurors to recall the testimony of Allen Nelson, whose dog Georgia followed the scents of both Leslie and Frederick Mueller.

"What did the dog tell you? They tracked Leslie's scent. Hers went to the last photo area, then disappeared, ended at the cliff. Fred's went to the last photo area and continued down the road," he said.

Hotsenpiller addressed Mueller's possible motive. During testimony, prosecution witnesses recalled that Frederick Mueller had contemplated divorce but didn't want to put his kids through a divorce and didn't want a woman dictating when he could see his children.

"What was said after that last photo? What was said by Leslie, by the defendant?" posited Hotsenpiller. "Was it about divorce? I don't know, but something triggered the events that led to murder."

"The defense wants you to have this view of people, that they're either all good, or all bad. ... Common sense and life experience tell you people are more complicated than that," he continued. "Sometimes people kill someone they like. We know people are capable of doing things that they never imagined they could do."

Prosecutors took four years to build their case. Mueller was arrested on the charge at his home in San Angelo, Texas, on Feb. 6, 2012. He's been in the Gunnison County Jail ever since and has remained in custody over the course of the five-week trial.

The defendant's family joined him in the court room — his three children, his parents, his late wife's parents and his current wife, Wendee Walker-Mueller.

gct ONLINE EXTRA

For more up-to-date coverage of the Mueller trial, including information on the verdict when it is announced, visit **gunnisontimes.com.**

The defense rested Monday morning. Each side called a number of rebuttal witnesses in the day-and-a-half that followed, including a hydrologist, an orthopedic surgeon and CBI Agent Jack Haynes, who investigated the case.

The case, based solely on demonstrative and circumstantial evidence, was given to the jury early Wednesday afternoon. They were instructed by Judge J. Steven Patrick that there were three outcomes for the case: guilty of first-degree murder, guilty of a lesser charge of second-degree murder, or not guilty. As of press time Wednesday, the jury had not reached a verdict.

For day-to-day coverage of the trial, visit www.gunnisontimes.com, and read in-depth stories in coming issues of the *Times*.

(Laura Anderson can be reached at 970.641.1414 or laura@gunnisontimes.com)

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