

MINUTES
Pro Bono and Legal Aid Committee
September 9, 2010
WSBA Conference Center 12:00 - 1:30 p.m.

Present: Chair Dan Young, Andy Guy, Gail Smith, Sharlene Steele, Randy Winn

By phone: Francis Adewale, Joanna Plichta Boisen, Michael Cressey, Diana Singleton, Dina Yunker

Guests: Andrea Axel, Aline Carton, Steve Larsen, Nell McNamara

August 12 Meeting Minutes

Approved as written.

Meeting Schedule for 2011 Committee

The committee reviewed the proposed meeting dates below, which are the 2nd Tuesday of each month, except October and January.

****October 11	(Includes pre-meeting orientation for new members)
November 11	May 12
December 9	June 9
January 6, 2011	July 14
February 10	August 11
March 10	September 8
April 14	

November 11 is Veterans Day. Sharlene will check the availability of meeting rooms and get back to the committee with an alternate date for the November meeting.

There was consensus that an evening meeting in October dedicated to discussing goals and initiatives for the coming year would be helpful. Sharlene will send a meeting scheduler to the committee and get back to members once a date has been selected. The meeting will be scheduled from 4:30 p.m. – 7:30 p.m. in the WSBA offices.

Subcommittee Reports

RPC 6.1 Review/Evaluation (Dina Yunker, Chair)

The workgroup reconvened after a few months and reviewed the recommendations of the WSBA Program Review Committee. PBLAC was asked to re-evaluate the goals and effectiveness of the rule. The original intent of the rule is to raise awareness of attorneys' professional responsibility to provide pro bono public services and to recognize those who provide a significant number of hours in an effort to increase pro bono participation by WSBA's membership. Discussions that began last September focused on philosophical aspects of considering the effectiveness of voluntary reporting (including the challenges of utilizing unreliable data), defining pro bono, looking at the recognition process. [Since that time the WSBA made the decision to replace the certificates awarded to attorneys who provided more than 50 hours of pro bono with letters signed by the WSBA president.]

The subcommittee looked at what other states are doing, citing Florida as an excellent model which encourages attorneys to commit to a pro bono culture. They considered the possibility of recommending amendments to the rule, such as adding an option to donate funds instead of providing pro bono services and talked about ways to encourage more pro bono work in a more efficient way. They also considered whether the rule should be amended to encourage/emphasize RPC 6.1(a) over RPC 6.1(b). The subcommittee also

considered alternative ways of collecting reliable data, such as targeted membership surveys conducted by social science experts.

PBLAC members discussed various ways to incentivize attorneys to do more pro bono. The issue about usefulness of the data - even under mandatory reporting – remains unclear.

Dina is drafting a summary report of the sub-committee's work, comments and observations. PBLAC will need to pick up this issue next year and should be prepared to make recommendations to the WSBA Board of Governors. This issue is not yet on a BOG meeting agenda, but should be scheduled as soon as the recommendations from PBLAC are final.

Pro Bono Initiative (formerly known as “2011: Year of Pro Bono”)

Work group: Andrea Axel, Jim Bamberger, Steve Larsen, Dan Young

Following up on the idea to communicate/collaborate with the ATJ Board Systems Delivery Committee (DSCo), Andrea, reported that DSCo identified five priorities, one being pro bono. The goal of the pro bono workgroup is to assess and prioritize approaches to improving pro bono service delivery. Andrea is on that workgroup, which will look at client needs and the existing structure of the pro bono programs. That process, which may involve surveys, will take quite a while. They will be looking at the State Plan recommendation for a statewide pro bono support center which could include training and leadership development, taking the burden off the pro bono programs. The DSCo pro bono workgroup is in a good position to feed information to PBLAC, to make sure we are collaborating, coordinating and communicating. DSCo is particularly interested in coordinating with PBLAC to identify pro bono attorneys to do priority work for the pro bono programs. A suggestion was made to collapse this PBLAC subcommittee, and rely on feedback from DSCo as to when/how PBLAC could be helpful.

Focus on New Lawyers (Mark Britton, Chair)

Nell McNamara, Equal Justice Coalition Director and staff liaison to the ATJ Board Communication Committee (ComCom), told PBLAC that ComCom's goal is to submit an article focused on pro bono issues to *Bar News* at least quarterly. ComCom is interested in collaborating with PBLAC on publications to avoid redundancy and timing issues. ComCom is considering submitting articles to profile volunteers, staff or clients. Steve reminded PBLAC that the revised WSBA website will be up in January, providing another venue for newsy, current content, front and center for features. *Bar News* editor Mike Heatherly has suggested putting together an entire edition devoted to pro bono issues. The challenge is to coordinate topics, authors, theme, timeline. Diana, Randy and Steve agreed to look into the feasibility of coordinating the special edition. ComCom is meeting next week. Nell will suggest a joint meeting to discuss collaborating on the project. The pro bono programs have a list serve, which could be useful in generating ideas, client stories, volunteer opportunities, pro bono program needs, etc. After a suggestion for a “pull-out directory for volunteer opportunities”, Steve updated PBLAC on the plan in place to update the Pro Bono Guide on the Advocate Resource Center website, and the plan to eventually move the guide to the WSBA website.

Diana commented that the Focus on New Lawyers subcommittee is interested in submitting articles in *Bar News* as well as *DeNovo*. Mark Britton has been working to get people signed up to write articles for *De Novo*. The recent issue featured an article about the benefits of providing pro bono services, written by PBLAC member Brian Flock. The subcommittee is now looking for an author to write about pro se issues. They have been in touch with the ATJ Board Justice Without Barriers Committee since that committee focuses on pro se.

Supreme Court Pro Bono Honor Roll (Gail Smith, Chair)

Gail reported the subcommittee is still working on edits to the Proposal for Washington State Supreme Court Pro Bono Honor Roll. The subcommittee will be meeting next week to address Justice Fairhurst's concerns. Gail asked PBLAC members to review the draft document and give it further scrutiny.

Steve commented that there are no funds in the current WSBA budget to pay for costs associated with this initiative, and wondered if we had considered asking the Supreme Court to fund it. Gail recalled budget figures estimated a couple of years ago were about \$3,000, although specific funding has not yet been requested.

GR 34 Update

Dan reported on decisions made at the September 2 special GR 34/PBLAC meeting. An excerpt from the meeting minutes follows:

1) Accept proposed changes to GR 34 as have been presented here today, 2) those proposed changes are to be forwarded to the Supreme Court if they can go forward in joint agreement with the court clerks, as appropriate language for the rule, reserving the court clerks' right to assert other arguments, and 3) commit the Pro Bono and Legal Aid Committee to working with the Washington Court Clerks Association on Courthouse Facilitator funding issues.

After a thorough discussion, PBLAC took the following action:

1. Made very minor, non-substantive changes to the working draft revision to GR 34. This includes revising the second sentence of the comment to read: "This rule applies to filing fees and surcharges, the payment of which is a condition precedent to a litigant's ability to access and secure judicial relief." It also includes removing the phrase "by rule or practice" in the last sentence. The Committee agreed that removing this language avoids unnecessary confusion and ambiguity.
2. Approved a motion to forward the draft revised version of GR 34 to the Board of Governors of the Washington State Bar Association (WSBA) with the recommendation that the Board of Governors conditionally agree to submit the same to the Supreme Court for approval at its November en banc administrative meeting. The condition is that the Washington State Association of County Clerks (WSACC) join with the WSBA in recommending the changes outlined in the draft revision. The Board of Governors will consider this matter at its September 23-24, 2010 meeting, and will surely want to know whether the WSACC will join with the WSBA in offering the revisions to the Court. PBLAC understands that the WSACC has taken the position that it is beyond the Supreme Court's authority to adopt this rule and that the Association may choose to assert such a position in any communication to the Court accompanying the proposed revisions. If the WSBA and the WSACC are unable to agree to forward a joint recommendation, the PBLAC will encourage the Court to take affirmative action on the rule that is pending before it.

Additionally, there was consensus that PBLAC commit to working with Kevin Stock, President, WSACC, to support efforts to identify adequate and appropriate funding sources to underwrite the operations of courthouse facilitator programs throughout the state.

Jim Bamberger drafted a letter to Kevin Stock (enclosed in meeting materials). He will also make the suggested revisions to GR 34 (draft enclosed in meeting materials). The issue is on the WSBA Board of Governors September 23 agenda. Dan will attend the BOG meeting to address questions and concerns.

WSBA Moderate Means Program

Due to time constraints a full presentation/update did not occur. Aline Carton suggested that PBLAC include a discussion about the moderate means program on an agenda in the near future. She is looking forward to providing an update and will demonstrate the nexus between the Home Foreclosure Legal Aid Project, the WSBA Moderate Means Program and PBLAC.

Tabled for Next Meeting

WSBA Pro Bono Interest & Skills Survey (Andy Guy, lead)

Follow up: Outreach to corporate attorneys (Michael Cressey)

Edits to delete respondent names from narrative responses (Sharlene)

Next steps: format responses to identify trends that need particular focus (intern or SU student)

Respectfully submitted,

Sharlene Steele