

**WASHINGTON STATE**  
**B A R A S S O C I A T I O N**

**Board of Governors Special Meeting**  
**Public Session Materials**

**December 17, 2018**  
**WSBA Conference Center**  
**Seattle, Washington**



**Board of Governors Special Meeting**  
**WSBA Conference Center**  
**December 17, 2018**  
**12:00 pm – 2:00 pm**

*WSBA Mission: To serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.*

**Public Session Conference Call Information:**

**Dial 1.866.577.9294**

**Code 52810 (followed by #)**

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## AGENDA

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**12:00 P.M. – PUBLIC SESSION**

1. Consideration of proposed process for litigation matters **(action)**..... 2

**FOLLOWED BY EXECUTIVE SESSION**

1. Litigation Update ..... E-2

**2:00 P.M. - ADJOURN**

# WASHINGTON STATE BAR ASSOCIATION

**TO:** WSBA Board of Governors  
**FROM:** Margaret Shane  
**DATE:** December 12, 2018  
**RE:** Proposed Process for Litigation Matters

**ACTION:** Adopt proposed process for litigation matters.

Notice was received by President Pickett and Executive Director Littlewood on Monday, December 10, 2018, that a Board of Governors Special Meeting had been called by Governors Cherry, Grabicki, Higginson, Hunter, Knight, Swegle, and Tollefson, to be held on Monday, December 17, 2018, at noon.

The agenda put forth for Public Session was to discuss and adopt the process for addressing pending and potential litigation matters. The process proposed by the above-listed Governors is set forth below.

## **ADOPTION OF PROCESS FOR ADDRESSING PENDING LITIGATION AND POTENTIAL LITIGATION MATTERS**

- (a) Clarify that the Board directs the handling of all matters and makes all decisions related to pending and threatened litigation except as delegated below.
- (b) When a demand or claim is received or service of process is made against the WSBA, General Counsel will promptly provide a copy of all documents received and accompanying communications to each governor by password protected email.
- (c) The Board will select a committee composed of one to three governors ("designated governor(s)") to be the sole point(s) of contact for the WSBA. Their duties shall be to work with the insurance company to select defense counsel, and to work with the defense counsel and the insurance company claims representative. No other persons will communicate with either defense counsel or the insurance company without authorization of the Board.
- (d) The Board will be kept apprised of the status of the claim or case by the designated governor(s) on a regular basis, at least monthly, by password protected email, and at regularly scheduled Board meetings or if necessary, special meetings after checking with governors on their availability for the proposed date and time. Emergency meetings will not be called to provide reports or other information except as provided herein.
- (e) An initial meeting will be scheduled by the designated governor(s) with the claims representative to go over the pros and cons of possible early dispute resolution. If mediation is deemed appropriate by defense counsel and/or claims representative and the designated governor(s), the designated governor(s) will select a proposed mediator and present to the Board for discussion and action the request for mediation, the proposed timing and length of mediation, the cost split of the mediator's fee, and the name of the proposed mediator.

- (f) Regular litigation reports, at least monthly, will be provided by defense counsel to the designated governor(s) to circulate in turn to the remaining governors for review and action as appropriate.
- (g) The Board shall make decisions with respect to litigation strategy, case management, and responses to the press, after consultation with the designated governor(s) and after consultation with any public relations firm hired by the Board to assist with responses to the press. The designated governor(s) shall then convey these decisions to defense counsel and, for responses to the press, the public relations firm, to act in accordance therewith.
- (h) The designated governor(s) shall attend mediations and report to the Board on the mediation.
- (i) The designated governors(s) shall attend the trial and are authorized to work with defense counsel on matters that arise during trial that require a decision of the client, other than responding to or tendering settlement offers. Responding to or tendering settlement offers during a trial shall require the decision of the Board at an emergency meeting.
- (j) The decision of whether to initiate settlement negotiations rests with the Board after consultation with defense counsel. The decision on how to respond to a settlement offer rests with the Board after consultation with defense counsel.