

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

Board of Governors Meeting
Public Session Materials

March 7, 2019
Hotel RL
Olympia, Washington

WASHINGTON STATE BAR ASSOCIATION

WSBA MISSION	
<p>The Washington State Bar Association’s mission is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.</p>	
WSBA GUIDING PRINCIPLES	
<p>The WSBA will operate a well-managed association that supports its members and advances and promotes:</p> <ul style="list-style-type: none"> • Access to the justice system. <i>Focus: Provide training and leverage community partnerships in order to enhance a culture of service for legal professionals to give back to their communities, with a particular focus on services to underserved low and moderate income people.</i> • Diversity, equality, and cultural understanding throughout the legal community. <i>Focus: Work to understand the lay of the land of our legal community and provide tools to members and employers in order to enhance the retention of minority legal professionals in our community.</i> • The public’s understanding of the rule of law and its confidence in the legal system. <i>Focus: Educate youth and adult audiences about the importance of the three branches of government and how they work together.</i> • A fair and impartial judiciary. • The ethics, civility, professionalism, and competence of the Bar. 	
MISSION FOCUS AREAS	PROGRAM CRITERIA
<p>Ensuring Competent and Qualified Legal Professionals</p> <ul style="list-style-type: none"> • Cradle to Grave • Regulation and Assistance <p>Promoting the Role of Legal Professionals in Society</p> <ul style="list-style-type: none"> • Service • Professionalism 	<ul style="list-style-type: none"> • Does the Program further either or both of WSBA’s mission-focus areas? • Does WSBA have the competency to operate the Program? • As the mandatory bar, how is WSBA uniquely positioned to successfully operate the Program? • Is statewide leadership required in order to achieve the mission of the Program? • Does the Program’s design optimize the expenditure of WSBA resources devoted to the Program, including the balance between volunteer and staff involvement, the number of people served, the cost per person, etc?
2016 – 2018 STRATEGIC GOALS	
<ul style="list-style-type: none"> • Equip members with skills for the changing profession • Promote equitable conditions for members from historically marginalized or underrepresented backgrounds to enter, stay and thrive in the profession • Explore and pursue regulatory innovation and advocate to enhance the public’s access to legal services 	

GR 12
REGULATION OF THE PRACTICE OF LAW

The Washington Supreme Court has inherent and plenary authority to regulate the practice of law in Washington. The legal profession serves clients, courts, and the public, and has special responsibilities for the quality of justice administered in our legal system. The Court ensures the integrity of the legal profession and protects the public by adopting rules for the regulation of the practice of law and actively supervising persons and entities acting under the Supreme Court's authority.

[Adopted effective September 1, 2017.]

GR 12.1
REGULATORY OBJECTIVES

Legal services providers must be regulated in the public interest. In regulating the practice of law in Washington, the Washington Supreme Court's objectives include: protection of the public; advancement of the administration of justice and the rule of law; meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems;

- (a) transparency regarding the nature and scope of legal services To be provided, the credentials of those who provide them, and the availability of regulatory protections;
- (b) delivery of affordable and accessible legal services;
- (c) efficient, competent, and ethical delivery of legal services;
- (d) protection of privileged and confidential information;
- (e) independence of professional judgment;
- (f) Accessible civil remedies for negligence and breach of other duties owed, disciplinary sanctions for misconduct, and advancement of appropriate preventive or wellness programs;
- (g) Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

[Adopted effective September 1, 2017.]

GR 12.2
**WASHINGTON STATE BAR ASSOCIATION: PURPOSES, AUTHORIZED
ACTIVITIES, AND PROHIBITED ACTIVITIES**

In the exercise of its inherent and plenary authority to regulate the practice of law in Washington, the Supreme Court authorizes and supervises the Washington State Bar Association's activities. The Washington State Bar Association carries out the administrative responsibilities and functions expressly delegated to it by this rule and other Supreme Court rules and orders enacted or adopted to regulate the practice of law, including the purposes and authorized activities set forth below.

- (a) Purposes: In General. In general, the Washington State Bar Association strives to:

- (1) Promote independence of the judiciary and the legal profession.
- (2) Promote an effective legal system, accessible to all.
- (3) Provide services to its members and the public.
- (4) Foster and maintain high standards of competence, professionalism, and ethics among its members.
- (5) Foster collegiality among its members and goodwill between the legal profession and the public.
- (6) Promote diversity and equality in the courts and the legal profession.
- (7) Administer admission, regulation, and discipline of its members in a manner that protects the public and respects the rights of the applicant or member.
- (8) Administer programs of legal education.
- (9) Promote understanding of and respect for our legal system and the law.
- (10) Operate a well-managed and financially sound association, with a positive work environment for its employees.
- (11) Serve as a statewide voice to the public and to the branches of government on matters relating to these purposes and the activities of the association and the legal profession.

(b) Specific Activities Authorized. In pursuit of these purposes, the Washington State Bar Association may:

- (1) Sponsor and maintain committees and sections, whose activities further these purposes;
- (2) Support the judiciary in maintaining the integrity and fiscal stability of an independent and effective judicial system;
- (3) Provide periodic reviews and recommendations concerning court rules and procedures;
- (4) Administer examinations and review applicants' character and fitness to practice law;
- (5) Inform and advise its members regarding their ethical obligations;
- (6) Administer an effective system of discipline of its members, including receiving and investigating complaints of misconduct by legal professionals, taking and recommending appropriate punitive and remedial measures, and diverting less serious misconduct to alternatives outside the formal discipline system;
- (7) Maintain a program, pursuant to court rule, requiring members to submit fee disputes to arbitration;
- (8) Maintain a program for mediation of disputes between members and others;
- (9) Maintain a program for legal professional practice assistance;
- (10) Sponsor, conduct, and assist in producing programs and products of continuing legal education;

- (11) Maintain a system for accrediting programs of continuing legal education;
 - (12) Conduct examinations of legal professionals' trust accounts;
 - (13) Maintain a fund for client protection in accordance with the Admission and Practice Rules;
 - (14) Maintain a program for the aid and rehabilitation of impaired members;
 - (15) Disseminate information about the organization's activities, interests, and positions;
 - (16) Monitor, report on, and advise public officials about matters of interest to the organization and the legal profession;
 - (17) Maintain a legislative presence to inform members of new and proposed laws and to inform public officials about the organization's positions and concerns;
 - (18) Encourage public service by members and support programs providing legal services to those in need;
 - (19) Maintain and foster programs of public information and education about the law and the legal system;
 - (20) Provide, sponsor, and participate in services to its members;
 - (21) Hire and retain employees to facilitate and support its mission, purposes, and activities, including in the organization's discretion, authorizing collective bargaining;
 - (22) Establish the amount of all license, application, investigation, and other related fees, as well as charges for services provided by the Washington State Bar Association, and collect, allocate, invest, and disburse funds so that its mission, purposes, and activities may be effectively and efficiently discharged. The amount of any license fee is subject to review by the Supreme Court for reasonableness and may be modified by order of the Court if the Court determines that it is not reasonable;
 - (23) Administer Supreme-Court-created boards in accordance with General Rule 12.3.
- (c) Activities Not Authorized. The Washington State Bar Association will not:
- (1) Take positions on issues concerning the politics or social positions of foreign nations;
 - (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or
 - (3) Support or oppose, in an election, candidates for public office.

[Adopted effective July 17, 1987; amended effective December 10, 1993; September 1, 1997; September 1, 2007; September 1, 2013; September 1, 2017.]

GR 12.3
WASHINGTON STATE BAR ASSOCIATION ADMINISTRATION
OF SUPREME COURT-CREATED BOARDS AND COMMITTEES

The Supreme Court has delegated to the Washington State Bar Association the authority and responsibility to administer certain boards and committees established by court rule or order. This delegation of authority includes providing and managing staff, overseeing the boards and committees to monitor their compliance with the rules and orders that authorize and regulate them, paying expenses reasonably and necessarily incurred pursuant to a budget approved by the Board of Governors, performing other functions and taking other actions as provided in court rule or order or delegated by the Supreme Court, or taking other actions as are necessary and proper to enable the board or committee to carry out its duties or functions.

[Adopted effective September 1, 2007; amended effective September 1, 2017.]

GR 12.4
WASHINGTON STATE BAR ASSOCIATION ACCESS TO
RECORDS

(a) Policy and Purpose. It is the policy of the Washington State Bar Association to facilitate access to Bar records. A presumption of public access exists for Bar records, but public access to Bar records is not absolute and shall be consistent with reasonable expectations of personal privacy, restrictions in statutes, restrictions in court rules, or as provided in court orders or protective orders issued under court rules. Access shall not unduly burden the business of the Bar.

(b) Scope. This rule governs the right of public access to Bar records. This rule applies to the Washington State Bar Association and its subgroups operated by the Bar including the Board of Governors, committees, task forces, commissions, boards, offices, councils, divisions, sections, and departments. This rule also applies to boards and committees under GR 12.3 administered by the Bar. A person or entity entrusted by the Bar with the storage and maintenance of Bar records is not subject to this rule and may not respond to a request for access to Bar records, absent express written authority from the Bar or separate authority in rule or statute to grant access to the documents.

(c) Definitions.

(1) "Access" means the ability to view or obtain a copy of a Bar record.

(2) "Bar record" means any writing containing information relating to the conduct of any Bar function prepared, owned, used, or retained by the Bar regardless of physical form or characteristics. Bar records include only those records in the possession of the Bar and its staff or stored under Bar ownership and control in facilities or servers. Records solely in the possession of hearing officers, non-Bar staff members of boards, committees, task forces, commissions, sections, councils, or divisions that were prepared by the hearing officers or the members and in their sole possession, including private notes and working papers, are not Bar records and are not subject to public access under this rule. Nothing in this rule requires the Bar to create a record that is not currently in possession of the Bar at the time of the request.

(3) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation in paper, digital, or other format.

(d) Bar Records--Right of Access.

(1) The Bar shall make available for inspection and copying all Bar records, unless the record falls within the specific exemptions of this rule, or any other state statute (including the Public Records Act, chapter 42.56 RCW) or federal statute or rule as they would be applied to a public agency, or is made confidential by the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules and associated regulations, the Rules for Enforcement of Limited Practice Officer Conduct, General Rule 25, court orders or protective orders issued under those rules, or any other state or federal statute or rule. To the extent required to prevent an unreasonable invasion of personal privacy interests or threat to safety or by the above-referenced rules, statutes, or orders, the Bar shall delete identifying details in a manner consistent with those rules, statutes, or orders when it makes available or publishes any Bar record; however, in each case, the justification for the deletion shall be explained in writing.

(2) In addition to exemptions referenced above, the following categories of Bar records are exempt from public access except as may expressly be made public by court rule:

(A) Records of the personnel committee, and personal information in Bar records for employees, appointees, members, or volunteers of the Bar to the extent that disclosure would violate their right to privacy, including home contact information (unless such information is their address of record), Social Security numbers, driver's license numbers, identification or security photographs held in Bar records, and personal data including ethnicity, race, disability status, gender, and sexual orientation. Membership class and status, bar number, dates of admission or licensing, addresses of record, and business telephone numbers, facsimile numbers, and electronic mail addresses (unless there has been a request that electronic mail addresses not be made public) shall not be exempt, provided that any such information shall be exempt if the Executive Director approves the confidentiality of that information for reasons of personal security or other compelling reason, which approval must be reviewed annually.

(B) Specific information and records regarding

(i) internal policies, guidelines, procedures, or techniques, the disclosure of which would reasonably be expected to compromise the conduct of disciplinary or regulatory functions, investigations, or examinations;

(ii) application, investigation, and hearing or proceeding records relating to lawyer, Limited Practice Officer, or Limited License Legal Technician admissions, licensing, or discipline, or that relate to the work of ELC 2.5 hearing officers, the Board of Bar Examiners, the Character and Fitness Board, the Law Clerk

Board, the Limited Practice Board, the MCLE Board, the Limited License Legal Technician Board, the Practice of Law Board, or the Disciplinary Board in conducting investigations, hearings or proceedings; and

(iii) the work of the Judicial Recommendation Committee and the Hearing Officer selection panel, unless such records are expressly categorized as public information by court rule.

(C) Valuable formulae, designs, drawings, computer source code or object code, and research data created or obtained by the Bar.

(D) Information regarding the infrastructure, integrity, and security of computer and telecommunication networks, databases, and systems.

(E) Applications for licensure by the Bar and annual licensing forms and related records, including applications for license fee hardship waivers and any decision or determinations on the hardship waiver applications.

(F) Requests by members for ethics opinions to the extent that they contain information identifying the member or a party to the inquiry.

Information covered by exemptions will be redacted from the specific records sought. Statistical information not descriptive of any readily identifiable person or persons may be disclosed.

(3) Persons Who Are Subjects of Records.

(A) Unless otherwise required or prohibited by law, the Bar has the option to give notice of any records request to any member or third party whose records would be included in the Bar's response.

(B) Any person who is named in a record, or to whom a record specifically pertains, may present information opposing the disclosure to the applicable decision maker.

(C) If the Bar decides to allow access to a requested record, a person who is named in that record, or to whom the records specifically pertains, has a right to initiate review or to participate as a party to any review initiated by a requester. The deadlines that apply to a requester apply as well to a person who is a subject of a record.

(e) Bar Records--Procedures for Access.

(1) General Procedures. The Bar Executive Director shall appoint a Bar staff member to serve as the public records officer to whom all records requests shall be submitted. Records requests must be in writing and delivered to the Bar public records officer, who shall respond to such requests within 30 days of receipt. The Washington State Bar Association must implement this rule and adopt and publish on its website the public records officer's work mailing address, telephone number, fax number, and e-mail address, and the procedures and fee schedules for accepting and responding to records requests by the effective date of this rule. The Bar shall acknowledge receipt of the request within 14 days of receipt, and shall communicate with the requester as necessary to clarify any ambiguities as to the records being requested. Records requests shall not be directed to other Bar staff or to volunteers serving on boards, committees, task forces, commissions, sections, councils, or divisions.

(2) Charging of Fees.

(A) A fee may not be charged to view Bar records.

(B) A fee may be charged for the photocopying or scanning of Bar records according to the fee schedule established by the Bar and published on its web site.

(C) A fee not to exceed \$30 per hour may be charged for research services required to fulfill a request taking longer than one hour. The fee shall be assessed from the second hour onward.

(f) Extraordinary Requests Limited by Resource Constraints. If a particular request is of a magnitude or burden on resources that the Bar cannot fully comply within 30 days due to constraints on time, resources, and personnel, the Bar shall communicate this information to the requester along with a good faith estimate of the time needed to complete the Bar's response. The Bar must attempt to reach

agreement with the requester as to narrowing the request to a more manageable scope and as to a timeframe for the Bar's response, which may include a schedule of installment responses. If the Bar and requester are unable to reach agreement, the Bar shall respond to the extent practicable, clarify how and why the response differs from the request, and inform the requester that it has completed its response.

(g) Denials. Denials must be in writing and shall identify the applicable exemptions or other bases for denial as well as a written summary of the procedures under which the requesting party may seek further review.

(h) Review of Records Decisions.

(1) Internal Review. A person who objects to a record decision or other action by the Bar's public records officer may request review by the Bar's Executive Director.

(A) A record requester's petition for internal review must be submitted within 90 days of the Bar's public records officer's decision, on such form as the Bar shall designate and make available.

(B) The review proceeding is informal, summary, and on the record.

(C) The review proceeding shall be held within five working days. If that is not reasonably possible, then within five working days the review shall be scheduled for the earliest practical date.

(2) External Review. A person who objects to a records review decision by the Bar's Executive Director may request review by the Records Request Appeals Officer (RRAO) for the Bar.

(A) The requesting party's request for review of the Executive Director's decision must be deposited in the mail and postmarked or delivered to the Bar not later than 30 days after the issuance of the decision, and must be on such form as the Bar shall designate and make available.

(B)) The review will be informal and summary, but in the sole discretion of the RRAO may include the submission of briefs no more than 20 pages long and of oral arguments no more than 15 minutes long.

(C) Decisions of the RRAO are final unless, within 30 days of the issuance of the decision, a request for discretionary review of the decision is filed with the Supreme Court. If review is granted, review is conducted by the Chief Justice of the Washington Supreme Court or his or her designee in accordance with procedures established by the Supreme Court. A designee of the Chief Justice shall be a current or former elected judge. The review proceeding shall be on the record, without additional briefing or argument unless such is ordered by the Chief Justice or his or her designee.

(D) The RRAO shall be appointed by the Board of Governors. The Bar may reimburse the RRAO for all necessary and reasonable expenses incurred in the completion of these duties, and may provide compensation for the time necessary for these reviews at a level established by the Board of Governors.

(i) Monetary Awards Not Allowed. Attorney fees, costs, civil penalties, or fines may not be awarded under this rule.

(j) Effective Date of Rule.

(1) This rule goes into effect on July 1, 2014, and applies to records that are created on or after that date.

(2) Public access to records that are created before that date are to be analyzed according to other court rules, applicable statutes, and the common law balancing test; the Public Records Act, chapter 42.56 RCW, does not apply to such Bar records, but it may be used for nonbinding guidance.

[Adopted effective July 1, 2014; amended effective September 1, 2017.]

**GR 12.5
IMMUNITY**

All boards, committees, or other entities, and their members and personnel, and all personnel and employees of the Washington State Bar Association, acting on behalf of the Supreme Court under the Admission and Practice Rules, the Rules for Enforcement of Lawyer Conduct, or the disciplinary rules for limited practice officers and limited license legal technicians, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.

[Adopted effective January 2, 2008; amended effective September 1, 2017.]

2018-2019
WSBA BOARD OF GOVERNORS MEETING SCHEDULE

MEETING DATE	LOCATION	POTENTIAL ISSUES / SOCIAL FUNCTION	AGENDA DUE	BOARD BOOK MATERIAL DEADLINE*	EXECUTIVE COMMITTEE 2:00 pm–4:00 pm*
November 16, 2018	WSBA Conference Center Seattle, WA	BOG Meeting	October 25, 2018	October 31, 2018	October 24, 2018 9:00 am – 11:00 am
January 17-18, 2019	WSBA Conference Center Seattle, WA	BOG Meeting	December 20, 2018	January 2, 2019	December 20, 2018
March 7, 2019 March 8, 2019	Hotel RL Olympia, WA Temple of Justice	BOG Meeting BOG Meeting with Supreme Court	February 14, 2019	February 20, 2019	February 14, 2019
May 16-17, 2019	Hilton Garden Inn Yakima, WA	BOG Meeting	April 25, 2019	May 1, 2019	April 25, 2019
July 25, 2019 July 26-27, 2019	Courtyard by Marriott Richland, WA	BOG Retreat BOG Meeting	June 27, 2019	July 10, 2019	June 27, 2019
September 26-27, 2019 September 26, 2019	WSBA Conference Center Seattle, WA Sheraton	BOG Meeting WSBA APEX Awards Banquet	September 5, 2019	September 11, 2019	September 5, 2019

*The Board Book Material Deadline is the final due date for submission of materials for the respective Board meeting. However, you should notify the Executive Director's office in advance of possible meeting agenda item(s).

This information can be found online at: www.wsba.org/About-WSBA/Governance/Board-Meeting-Schedule-Materials

*Unless otherwise noted.



WSBA Board of Governors CONGRESSIONAL DISTRICT MAP



Bill Pickett
President



Rajeev Majumdar
President-Elect



Open Position
Immediate Past President



Paula Littlewood, Exec. Dir.
Secretary

2018-2019



BASIC CHARACTERISTICS OF MOTIONS

*From: The Complete Idiot's Guide to Robert's Rules
The Guerilla Guide to Robert's Rules*

MOTION	PURPOSE	INTERRUPT SPEAKER?	SECOND NEEDED?	DEBATABLE?	AMENDABLE?	VOTE NEEDED
1. Fix the time to which to adjourn	Sets the time for a continued meeting	No	Yes	No ¹	Yes	Majority
2. Adjourn	Closes the meeting	No	Yes	No	No	Majority
3. Recess	Establishes a brief break	No	Yes	No ²	Yes	Majority
4. Raise a Question of Privilege	Asks urgent question regarding to rights	Yes	No	No	No	Rules by Chair
5. Call for orders of the day	Requires that the meeting follow the agenda	Yes	No	No	No	One member
6. Lay on the table	Puts the motion aside for later consideration	No	Yes	No	No	Majority
7. Previous question	Ends debate and moves directly to the vote	No	Yes	No	No	Two-thirds
8. Limit or extend limits of debate	Changes the debate limits	No	Yes	No	Yes	Two-thirds
9. Postpone to a certain time	Puts off the motion to a specific time	No	Yes	Yes	Yes	Majority ³
10. Commit or refer	Refers the motion to a committee	No	Yes	Yes	Yes	Majority
11. Amend an amendment (secondary amendment)	Proposes a change to an amendments	No	Yes	Yes ⁴	No	Majority
12. Amend a motion or resolution (primary amendment)	Proposes a change to a main motion	No	Yes	Yes ⁴	Yes	Majority
13. Postpone indefinitely	Kills the motion	No	Yes	Yes	No	Majority
14. Main motion	Brings business before the assembly	No	Yes	Yes	Yes	Majority

1 Is debatable when another meeting is scheduled for the same or next day, or if the motion is made while no question is pending

2 Unless no question is pending

3 Majority, unless it makes question a special order

4 If the motion it is being applied to is debatable



Discussion Protocols Board of Governors Meetings

Philosophical Statement:

"We take serious our representational responsibilities and will try to inform ourselves on the subject matter before us by contact with constituents, stakeholders, WSBA staff and committees when possible and appropriate. In all deliberations and actions we will be courageous and keep in mind the need to represent and lead our membership and safeguard the public. In our actions, we will be mindful of both the call to action and the constraints placed upon the WSBA by GR 12 and other standards."

Governor's Commitments:

1. Tackle the problems presented; don't make up new ones.
2. Keep perspective on long-term goals.
3. Actively listen to understand the issues and perspective of others before making the final decision or lobbying for an absolute.
4. Respect the speaker, the input and the Board's decision.
5. Collect your thoughts and speak to the point – sparingly!
6. Foster interpersonal relationships between Board members outside Board events.
7. Listen and be courteous to speakers.
8. Speak only if you can shed light on the subject, don't be repetitive.
9. Consider, respect and trust committee work but exercise the Board's obligation to establish policy and insure that the committee work is consistent with that policy and the Board's responsibility to the WSBA's mission.
10. Seek the best decision through quality discussion and ample time (listen, don't make assumptions, avoid sidebars, speak frankly, allow time before and during meetings to discuss important matters).
11. Don't repeat points already made.
12. Everyone should have a chance to weigh in on discussion topics before persons are given a second opportunity.
13. No governor should commit the board to actions, opinions, or projects without consultation with the whole Board.
14. Use caution with e-mail: it can be a useful tool for debating, but e-mail is not confidential and does not easily involve all interests.
15. Maintain the strict confidentiality of executive session discussions and matters.



BOARD OF GOVERNORS

WSBA VALUES

Through a collaborative process, the WSBA Board of Governors and Staff have identified these core values that shall be considered by the Board, Staff, and WSBA volunteers (collectively, the “WSBA Community”) in all that we do.

To serve the public and our members and to promote justice, the WSBA Community values the following:

- Trust and respect between and among Board, Staff, Volunteers, Members, and the public
- Open and effective communication
- Individual responsibility, initiative, and creativity
- Teamwork and cooperation
- Ethical and moral principles
- Quality customer-service, with member and public focus
- Confidentiality, where required
- Diversity and inclusion
- Organizational history, knowledge, and context
- Open exchanges of information



BOARD OF GOVERNORS

GUIDING COMMUNICATION PRINCIPLES

In each communication, I will assume the good intent of my fellow colleagues; earnestly and actively listen; encourage the expression of and seek to affirm the value of their differing perspectives, even where I may disagree; share my ideas and thoughts with compassion, clarity, and where appropriate confidentiality; and commit myself to the unwavering recognition, appreciation, and celebration of the humanity, skills, and talents that each of my fellow colleagues bring in the spirit and effort to work for the mission of the WSBA. Therefore, I commit myself to operating with the following norms:

- ◆ I will treat each person with courtesy and respect, valuing each individual.
- ◆ I will strive to be nonjudgmental, open-minded, and receptive to the ideas of others.
- ◆ I will assume the good intent of others.
- ◆ I will speak in ways that encourage others to speak.
- ◆ I will respect others' time, workload, and priorities.
- ◆ I will aspire to be honest and open in all communications.
- ◆ I will aim for clarity; be complete, yet concise.
- ◆ I will practice "active" listening and ask questions if I don't understand.
- ◆ I will use the appropriate communication method (face-to-face, email, phone, voicemail) for the message and situation.
- ◆ When dealing with material of a sensitive or confidential nature, I will seek and confirm that there is mutual agreement to the ground rules of confidentiality at the outset of the communication.
- ◆ I will avoid triangulation and go directly to the person with whom I need to communicate. (If there is a problem, I will go to the source for resolution rather than discussing it with or complaining to others.)
- ◆ I will focus on reaching understanding and finding solutions to problems.
- ◆ I will be mindful of information that affects, or might be of interest or value to, others, and pass it along; err on the side of over-communication.
- ◆ I will maintain a sense of perspective and respectful humor.



BOARD OF GOVERNORS

Anthony David Gipe
President

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November 2014

BEST PRACTICES AND EXPECTATIONS

❖ Attributes of the Board

- Competence
- Respect
- Trust
- Commitment
- Humor

❖ Accountability by Individual Governors

- Assume Good Intent
- Participation/Preparation
- Communication
- Relevancy and Reporting

❖ Team of Professionals

- Foster an atmosphere of teamwork
 - Between Board Members
 - The Board with the Officers
 - The Board and Officers with the Staff
 - The Board, Officers, and Staff with the Volunteers

- We all have common loyalty to the success of WSBA

❖ Work Hard and Have Fun Doing It

Working Together to Champion Justice

999 Third Avenue, Suite 3000 / Seattle, WA 98104 / fax: 206.340.8856



Board of Governors Meeting
Hotel RL
Olympia, WA
March 7, 2019

UPDATED

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

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

THURSDAY, March 7, 2019

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8:00 A.M.

2. EXECUTIVE SESSION

- a. Recommendations re Client Protection Fund Gifts – Julie Shankland **(action)** E-2
- b. Appeal from Law Clerk Board Decision – Jean McElroy **(action)**..... E-5
- c. President’s and Executive Director’s Reports
- d. Litigation Report – Julie Shankland..... E-87

10:30 A.M. – PUBLIC SESSION

- Welcome
- Report on Executive Session
- President’s Report and Executive Director’s Report
- Consideration of Consent Calendar*

MEMBER AND PUBLIC COMMENTS

This time period is for guests to raise issues of interest.

OPERATIONAL

3. FIRST READING/ACTION CALENDAR

- a. Approve Recommendations from Mandatory Malpractice Insurance Task Force – Hugh Spitzer, Chair, and Doug Ende, Chief Disciplinary Counsel **(first reading)**..... 22
- New**-Discuss and Consider Resolution of the Status of the Office of Treasurer**late materials**
- b. Suggested Amendments to Mandatory Arbitration Rules (MARs) per Washington Supreme Court Request – Stephanie Dikeakos, MARs Subcommittee Chair, and Nicole Gustine, Assistant General Counsel **(action)** 110
- c. Request for BOG Support of Diversity Committee Statement of Solidarity – Governor Alec Stephens, and KJ Williams, Diversity Programs Manager **(action)** 189

* See Consent Calendar. Any items pulled from the Consent Calendar will be scheduled at the President’s discretion. The WSBA is committed to full access and participation by persons with disabilities to Board of Governors meetings. If you require accommodation for these meetings, please contact Kara Ralph at karar@wsba.org or 206.239.2125.

12:15 P.M. – LUNCH WITH LIAISONS AND GUESTS

2:00 P.M.

- d. Input on WSBA Board of Governors No Retaliation Policy – WSBA Staff..... 205
- e. Approve Resolution in Recognition of Chief Justice Mary E. Fairhurst – Governor Dan Clark (**action**) 209
- f. Legislative Update – Governor Kyle Sciuchetti, Chair of BOG Legislative Committee, and Sanjay Walvekar, Outreach and Legislative Affairs Manager 211
 - 1. Substitute House Bill 1788 214
- g. Update from BOG Committee re Recommendations from Civil Litigation Rules Drafting Task Force – Governor Dan Bridges

GOVERNOR ROUNDTABLE

This time period is for Board members to raise new business and issues of interest.

OPERATIONAL (continued)

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2018-2019 Board of Governors Meeting Issues

NOVEMBER (Seattle)

Standing Agenda Items:

- Access to Justice Board Annual Report (Information)
- Financials
- FY2018 Fourth Quarter Management Report
- 2018-2019 Legislative Priorities
- 2018-2019 Legislative Review Committee Recommendations
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- Outside Appointments (if any)
- Washington Leadership Institute (WLI) Fellows Report
- WSBA Practice Sections Annual Reports (ED Report Information)
- WSBF Annual Report

JANUARY (Seattle)

Standing Agenda Items:

- ABA Midyear Meeting Sneak Preview
- Client Protection Fund (CPF) Annual Report
- Financials
- FY2018 Audited Financial Statements
- FY2019 First Quarter Management Report
- Legislative Session Report
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- Outside Appointments (if any)

MARCH (Olympia)

Standing Agenda Items:

- ABA Mid-Year Meeting Report
- Financials
- Legislative Report
- Outside Appointments (if any)
- Supreme Court Meeting

March 2018 Agenda Items:

- BOG Civil Litigation Rules Committee Report
- Mandatory Malpractice Insurance Final Report

May (Yakima)

Standing Agenda Items:

- BOG Election Interview Time Limits (Executive Session)
- Financials
- FY2019 Second Quarter Management Report
- Interview/Selection of WSBA At-Large Governor
- Interview/Selection of the WSBA President-elect
- Legislative Report/Wrap-up
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- Outside Appointments (if any)
- WSBA APEX Awards Committee Recommendations (Executive Session)

JULY (Richland)

Standing Agenda Items:

- ATJ Board Report
- BOG Retreat
- Court Rules and Procedures Committee Report and Recommendations
- Financials
- Draft WSBA FY2020 Budget
- FY2018 Third Quarter Management Report
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- WSBA Committee and Board Chair Appointments
- WSBA Mission Performance and Review (MPR) Committee Update
- WSBA Treasurer Election

SEPTEMBER (Seattle)

Standing Agenda Items:

- 2020 Keller Deduction Schedule
- ABA Annual Meeting Report
- Chief Hearing Officer Annual Report
- Professionalism Annual Report
- Report on Executive Director Evaluation (Executive Session)
- Financials
- Final FY2020 Budget
- Legal Foundation of Washington and LAW Fund Report
- Washington Law School Deans
- WSBA Annual Awards Dinner
- WSBF Annual Meeting and Trustee Election

Board of Governors – Action Timeline

Description of Matter/Issue	First Reading	Scheduled for Board Action
Request for BOG Support of Diversity Committee Statement of Solidarity	Jan 17-18, 2019	March 7, 2019
Recommendations from Mandatory Malpractice Insurance Task Force	March 7, 2019	May 16-17, 2019

WASHINGTON STATE
BAR ASSOCIATION
Mandatory Malpractice Insurance Task Force

MEMO

To: WSBA Board of Governors
From: Hugh Spitzer, Chair of Mandatory Malpractice Insurance Task Force
Douglas J. Ende, WSBA Chief Disciplinary Counsel, Staff Liaison
Date: February 25, 2019
Re: Report of the Mandatory Malpractice Insurance Task Force

First Reading: Recommendations from Mandatory Malpractice Insurance Task Force.

Attached is the Mandatory Malpractice Insurance Task Force's Report to the Board of Governors, which is the culmination of a year-long effort to investigate the nature and the consequences of uninsured lawyers, to examine current mandatory malpractice insurance systems, and to gather information and comments from WSBA members and other interested parties regarding the concept of mandatory malpractice insurance. The Report includes the Task Force's recommendations and a draft of proposed amendments to Admission and Practice Rule 26. Also enclosed is a cover letter preceding the Report from Task Force Chair Hugh Spitzer.

Enclosures

**WASHINGTON STATE
BAR ASSOCIATION**

Mandatory Malpractice Insurance Task Force

Hugh D. Spitzer
Chair
insurancetaskforce@wsba.org

February 25, 2019

William D. Pickett, President
Washington State Bar Association
1325 4th Ave, Ste. 600
Seattle, WA 98101

Dear President Pickett and Governors:

I am pleased to transmit to you the attached report and recommendations from the Mandatory Malpractice Insurance Task Force. We commenced our work over a year ago with widely divergent ideas about whether malpractice insurance should be required for lawyers. We gathered information, deliberated thoughtfully, listened to the many comments we received, and reached consensus.

In the attached report, we recommend that you ask the Washington Supreme Court to require that a modest level of professional liability insurance be maintained by each actively licensed lawyer in private practice. We also recommend various exemptions, and provide you with a proposed rule that would implement these recommendations.

As detailed in the report, we have concluded that this is fundamentally an access-to-justice issue for clients, and a matter of fiduciary responsibility for lawyers.

On behalf of the Task Force, I urge you to read this carefully documented report in its entirety. It is certainly one of the most comprehensive reports of its kind.

I look forward to the opportunity to review this report with you at your March 7 meeting and to respond to questions and ideas that you might have.

Sincerely,



Hugh D. Spitzer
Chair





Mandatory Malpractice
Insurance Task Force

**REPORT TO
WSBA BOARD
OF GOVERNORS**

FEBRUARY 2019



WASHINGTON STATE BAR ASSOCIATION
1325 4th Avenue | Suite 600
Seattle, WA 98101-2539
www.wsba.org

Task Force recommends malpractice insurance as a condition of licensing, with exemptions.

BACKGROUND

In September 2017, the WSBA Board of Governors created a task force to evaluate the nature and consequences of uninsured lawyers in the state. The 17-member task force included legal professionals from a range of practice areas and firm sizes as well as an insurance broker and public member. The task force gathered information throughout 2018—including more than 580 comments from members and the public—and found:

- 14 percent of Washington lawyers in private practice do not carry insurance, and determined that this lack of protection poses a distinct risk to clients.
- Uninsured lawyers create an access-to-justice problem: their clients are typically unable to pursue legitimate malpractice claims against them because plaintiffs' lawyers cannot afford to bring actions against uninsured practitioners.

CONCLUSION AND REPORT

The task force concluded that lawyers' fiduciary duties to their clients supports an obligation to obtain and maintain malpractice insurance. The report, therefore, recommends that the WSBA Board of Governors propose a mandatory malpractice insurance rule for consideration by the Washington Supreme Court. Specifics of the proposed rule:

- All Washington lawyers in private practice would be responsible for maintaining malpractice insurance in the minimum amount of \$250,000 per occurrence/\$500,000 total per year.
- Lawyers would obtain coverage through the private, competitive insurance market and would report their coverage status through the annual licensing process. Failure to comply would lead to an administrative suspension of the lawyer's license.
- Several categories of lawyers would be exempt, including: in-house government and private entity lawyers; certain nonprofit legal aid or public defense lawyers; judges, mediators and arbitrators; lawyers providing pro bono services through organizations that provide insurance; and retired lawyers who continue to maintain their licenses.

The task force also recommended that WSBA work closely with volunteer-lawyer programs to increase the availability of malpractice insurance for lawyers whose private practice is limited solely to *pro bono representations*.



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MANDATORY MALPRACTICE INSURANCE TASK FORCE REPORT

FEBRUARY 2019

I. SUMMARY

On September 28, 2017, the Board of Governors established the Mandatory Malpractice Insurance Task Force and adopted a Charter to guide the

Task Force's work. The Charter is attached as [Appendix A](#). The Charter asked the Task Force to focus on the nature and the consequences of uninsured lawyers, to examine current mandatory malpractice insurance systems, and to gather information and comments from WSBA members and other interested parties. The Charter also charged the Task Force with determining whether to recommend mandatory malpractice insurance in Washington, developing a model that might work best in this state, and then drafting rules to implement that model.

The Task Force has 17 members including lawyers from a variety of practice areas and law firm sizes, a federal judge, an LLLT, industry professionals, and members of the public. The list of members is attached as [Appendix B](#). The Task Force was asked to provide an interim report in the summer, 2018, which it provided on July 10. That interim report included a number of tentative recommendations. The Task Force was charged with completing its information gathering and finalizing its recommendations by January, 2019. At its November 2018 meeting, the Board of Governors extended the Task Force's reporting deadline to March 2019. Since January 2018, the Task Force has conducted monthly meetings.¹ In addition to gathering information and data from a variety of sources described in this

¹ The Task Force was unable to conduct its December 19, 2018, meeting due to lack of a quorum.

report, the Task Force made a substantial effort to hear from WSBA members. As of December 1, 2018, the Task Force had received more than 580 written comments, both solicited and unsolicited. The Task Force sponsored informational articles and progress reports in *NW Lawyer* and through other forms of direct communication with members. On October 16, 2018, the Task Force held an open forum for lawyers with an interest in the topic, and heard from 18 people, testifying both in person and through telephonic testimony.

Through the autumn of 2018, the Task Force continued to gather information about the impact of uninsured lawyers on clients, the character of the apparent problem, and the best approach to dealing with that issue. The Task Force spent considerable time discussing which categories of lawyers should be excluded from any malpractice insurance requirement. The Task Force members reached consensus on its recommendations, and then worked on drafting and editing a report to the Board of Governors. At its January 30, 2019, meeting, the Task Force voted unanimously to approve this Report and its recommendations for submission to the WSBA Board of Governors.²

Members of the Task Force started with widely divergent ideas about mandating malpractice insurance, but the group deliberated carefully over its potential recommendations, listened thoughtfully to each other and to the comments it received, and reached consensus. Task Force members also concluded that they should move boldly and not shy away from difficult proposals.

Task Force participants were consistent in their view, reflected in General Rule (GR) 12.1, that the Washington Supreme Court and the WSBA have a duty to protect the public and maintain the integrity of the profession. Consequently, the Task Force has focused on the risk of injury to clients and the public that arises from uninsured lawyers engaged in the private practice of law, a group that constitutes a small but significant percentage of lawyers in Washington State. Further, every lawyer is a fiduciary with ethical and legal duties to protect a client's interests.³ The Task Force concludes that the fundamental obligation of a lawyer to protect clients includes the obligation to obtain and maintain malpractice insurance.

² One Task Force member was absent from the January 30, 2019, meeting, so that Task Force member did not participate in the vote.

³ See, e.g., 1 Restatement (Third) of the Law Governing Lawyers § 16 & Comment (2000) ("A lawyer is a fiduciary, that is, a person to whom another person's affairs are entrusted in circumstances that often make it difficult or undesirable for that other person to supervise closely the performance of the fiduciary. Assurances of the lawyer's competence, diligence, and loyalty are therefore vital. . . . Special safeguards are therefore necessary."). The Rules of Professional Conduct (RPC) impose a number of specific ethics obligations on lawyers to protect a client's interests. These specific obligations include, but are not limited to, providing competent representation to a client (RPC 1.1); protecting client confidences (RPC 1.6); avoiding conflicts of interest to the detriment of a client (RPC 1.7); and protecting client funds and property (RPC 1.15A).

A license to practice law is a privilege, and no lawyer is immune from mistakes. The members emphasized that a key goal of this Task Force is to recommend effective ways to assure that clients are compensated when lawyers make mistakes. Because 14% of Washington lawyers in private practice do not carry malpractice

Lawyers in private practice who do not carry malpractice insurance pose a significant risk to their clients.

insurance, the Task Force members determined that those lawyers pose a significant risk to their clients. Further, when lawyers lack insurance that means that from a practical standpoint, their clients do not have access to the legal system to seek compensation. These clients are often unable to seek compensation because plaintiffs' lawyers are generally unwilling to pursue cases when the defendant lawyer is uninsured and may therefore be effectively "judgment

Lack of malpractice insurance is, fundamentally, an access-to-justice issue, and the Task Force has concluded that it is more than appropriate for lawyers to ensure their own financial accountability.

proof." Lack of malpractice insurance is, fundamentally, an access-to-justice issue, and the Task Force has concluded that it is more than appropriate for lawyers to ensure their own financial accountability.

Specifically, this Report concludes that:

- The Board of Governors should recommend, and the Washington Supreme Court should adopt, a rule mandating continuous, uninterrupted malpractice insurance for actively-licensed lawyers engaged in the private practice of law, with specified exemptions. Lawyers would be required to obtain minimum levels of malpractice insurance in the private marketplace. For the purposes of this Report, the "private practice of law" means the provision of legal services to clients other than a lawyer's employing organization and that organization's representatives and employees in their organizational capacities.
- The required minimum coverage should be \$250,000 per occurrence/\$500,000 total per year ("\$250K/\$500K").

Several categories of lawyers should be exempt.

- Several categories of lawyers should be exempt because they are not engaged in the private practice of law or are otherwise insured by the organization through which they provide legal services:
 - ▶ Government lawyers;
 - ▶ Judges;
 - ▶ Employees of a corporation or business entity, including nonprofits;
 - ▶ Employees of or independent contractors for nonprofit legal aid or public defense offices that provide insurance to their employees or independent contractors;
 - ▶ Mediators or arbitrators;
 - ▶ Lawyers providing volunteer pro bono services for qualified legal services providers (QLSPs) as defined in APR 1(e)(8) that provide insurance to their volunteers;
 - ▶ Other lawyers either not “actively licensed” or not “engaged in the private practice of law,” including, for example, retired attorneys maintaining their licenses, judicial law clerks, and Rule 9 interns.

The recommended exemptions are described in this report.

- Licensed lawyers should report their type of practice and malpractice insurance coverage status through the annual licensing process. Failure to comply with the requirement would lead to an administrative suspension of the lawyer’s license.
- The WSBA should partner with volunteer lawyer programs (VLPs) in Washington to increase the availability of no- or low-cost malpractice insurance for lawyers whose private practice is limited solely to *pro bono* representations. It is important to make sure that implementation of an insurance mandate does not have a material adverse effect on access to justice.

In shaping its recommendations, the Task Force focused on basic requirements that would be simple and straightforward, avoid multiple requirements, and allow for insurance policy flexibility.

In developing its recommendations, the Task Force listened to the many suggestions from WSBA members, particularly in the area of appropriate exemptions. Those suggestions reshaped the Task Force’s proposals. The Task Force recognizes that notwithstanding the adjustments the Task Force made to its approach, a number of WSBA members have continued to voice ardent opposition to the concept of requiring that lawyers carry insurance. However, this is an important issue of fairness and access-to-justice. While it is important to respect the concerns of those who oppose an insurance requirement, the Task Force believes that these recommendations meet many of those concerns. Ultimately, the Task Force has

.....
The Task Force focused
on basic requirements
that would be simple
and straightforward,
avoid multiple
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.....

FEBRUARY 2019

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...when one weighs the apprehensions of those
who resist malpractice insurance against the large
number of clients who are exposed to harm by
uninsured lawyers, the balance tips in favor of
client protection.
.....

concluded that when one weighs the apprehensions of those who resist malpractice insurance against the large number of clients who are exposed to harm by uninsured lawyers, the balance tips in favor of client protection.

Protection of the public is the overriding *public* duty of lawyers, the WSBA, and the Washington Supreme Court. The WSBA's mission statement lists four core missions: to serve the public, to serve the members of the Bar, to ensure the integrity of the legal profession, and to champion justice. Three out of those four goals emphasize the *public* mission of the organized bar. Equally if not more important is the language of the Washington Supreme Court's GR 12. GR 12.1 begins: "Legal services providers must be regulated in the public interest." GR 12.1 then lists ten specific objectives, leading off with "protection of the public" and proceeds to list nine other regulatory objectives, all of which are oriented toward the protection of clients and access to justice. The Board of Governor's decision whether to recommend action on uninsured lawyers, and the Court's ultimate decision on this matter, must be approached overwhelmingly from the perspective of what is good for the public and what is good for clients—not what might be convenient or desirable for lawyers themselves.

The Task Force's detailed meeting minutes and meeting materials are available at <https://www.wsba.org/insurance-task-force>.

MANDATORY
MALPRACTICE
INSURANCE
TASK FORCE
REPORT

FEBRUARY 2019

II. TASK FORCE REPORT

A. TASK FORCE APPROACH TO INFORMATION-GATHERING

Since its first meeting in January 2018, the WSBA Mandatory Malpractice Insurance Task Force has focused on gathering the information necessary

to make a considered recommendation on whether malpractice insurance should be required in some form for Washington lawyers. During this information-gathering phase, the Task Force obtained information from the following sources, among others:

- WSBA data on Washington lawyers, their practice areas, how they practice (e.g., solo/small firm/large firm/in-house), malpractice insurance levels, WSBA public disciplinary information, and information about the Client Protection Fund.
- Jurisdictions with mandatory malpractice insurance programs in place or under consideration (Oregon and Idaho mandate malpractice insurance; California and Georgia are considering doing so; in 2018, the State Bar of Nevada proposed a mandatory malpractice insurance rule, which was not adopted by the Supreme Court of Nevada; and, in 2017, New Jersey Supreme Court Ad Hoc Committee on Attorney Malpractice recommended a direct disclosure requirement, which has not been implemented by the Court and was opposed by the New Jersey State Bar Association).

- A jurisdiction (Illinois) that implemented a proactive management-based regulation (PMBR) model. A law professor regarding empirical research on lawyers who go uninsured, other academic studies of the subject, including Herbert M. Kritzer's and Neil Vidmar's *When Lawyers Screw Up: Improving Access to Justice for Legal Malpractice Victims*, and an ABA study of malpractice insurance (*2015 ABA Profile on Legal Malpractice Claims*).
- Experienced insurance industry professionals, including insurance brokers and underwriters.
- A legal malpractice plaintiff's lawyer.
- WSBA members through comments submitted to the Task Force.

The Task Force also received useful technical assistance from ALPS,⁴ as well as from mandatory program administrators in Oregon and Idaho.

As a volunteer-driven and WSBA-funded project, the Task Force was charged with developing a recommendation and report with limited resources, so it focused much of its research and analysis on available sources and studies, the experience of other jurisdictions, and the perspective of industry professionals. Given the fiscal limitations and its reporting deadline, the Task Force did not perform the types of research and analysis that would have required the services of independent consultants and data analysts. However, through targeted outreach, the Task Force received a great deal of information, including comments from WSBA members, that filled in some of these gaps and informed the Task Force's thinking on many key decision points.

As noted above, the Task Force received more than 580 written comments from lawyers throughout the state of Washington. All of those comments were shared with members of the Task Force, and the Task Force received monthly updates on the concerns voiced by WSBA members. On October 16, 2018, the Task Force held an open forum, during which 18 people testified either in person and through video and telephonic testimony. Informational articles and progress reports appeared several times over the course of the year in *NWLawyer* and through other forms of direct communication with members. Each of those communications generated additional member comments and suggestions. All information has been made available to members and the public via the Task Force web page of the WSBA website.

The Task Force received more than 580 written comments from lawyers throughout the state of Washington.

⁴ ALPS is the WSBA's endorsed professional liability insurance provider.

In 2017, 19,813 of actively licensed lawyers were engaged in the private practice of law.

B. KEY FINDINGS

What follows is the data and other relevant information acquired by the Task Force regarding problems associated with lawyers who go uninsured, characteristics of malpractice insurance, and other relevant information.

1. WSBA Membership Data and Financial Responsibility Requirements

The legal profession in Washington has seen significant and consistent growth over the last decade, with 38,540 licensed lawyers in Washington in 2017.⁵ Of those lawyers, 32,189 were actively licensed to practice law.⁶ In 2017, 19,813 of actively licensed lawyers were engaged in the private practice of law.⁷ See [Appendix C](#) for current information on lawyer demographics.

Washington lawyers are not required to establish proof of financial responsibility to maintain their licenses. Washington lawyers are, however, as part of the annual licensing process, required to disclose to the Bar whether they are in private practice and whether they maintain malpractice insurance.⁸ The information is made available to the public through the legal directory on the WSBA website. Washington is one of 25 states that require disclosure of malpractice insurance either to the licensing organization or directly to the client.⁹

As of February 1, 2019, there are 811 actively licensed limited practice officers (LPOs) and 36 actively licensed limited license legal technicians (LLLTs).¹⁰ Under Admission and Practice Rules (APR) 12(f)(2) and 28(I)(2) respectively, LPOs and LLLTs are required to show proof of financial responsibility on an annual basis to maintain their licenses. That financial responsibility ordinarily is established by certification of the existence of professional liability insurance.¹¹ Specifically, LPOs may choose to submit an insurance policy in the amount of \$100,000 or an audited financial statement in the amount of \$200,000.¹² LLLTs must submit proof of insurance coverage in the amount of at least \$100,000 per claim and a \$300,000 annual

⁵ WSBA Staff, *WSBA Membership Demographics*, PowerPoint Presentation, at 2 (Mar. 28, 2018).

⁶ *Id.*

⁷ Based on data compiled by WSBA staff from APR 26 reporting records.

⁸ APR 26 (adopted effective July 1, 2007).

⁹ *State Implementation of ABA Model Court Rule on Insurance Disclosure*, ABA Standing Comm. on Client Protection (A.B.A., Feb. 10, 2016), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/chart_implementation_of_mcrd.authcheckdam.pdf.

¹⁰ *WSBA Member Licensing Counts*, February 1, 2019 (member licensing counts are published monthly on the WSBA website).

¹¹ APR 12(f)(2); APR 28(I)(2)(a).

¹² APR 12(f)(2).

aggregate.¹³ Failure to comply with this licensing obligation results in administrative suspension.¹⁴

2. Who Is Uninsured and What We Know About Them

What follows is a discussion regarding those lawyers who choose to go uninsured and what the research shows about who they are and why they are uninsured.

a) Trends Relating to Uninsured Lawyers

On March 28, 2018, Leslie C. Levin, Professor at University of Connecticut School of Law, presented to the Task Force her research on uninsured lawyers, who they are, and why they go uninsured.¹⁵ She found that small firm lawyers are more likely to go uninsured;¹⁶ however, a limited amount is known about these lawyers and why they choose to go uninsured, because these lawyers often fly “under the radar.”¹⁷

Small firm lawyers
are more likely to
go uninsured.

As part of her research, Professor Levin reviewed surveys of more than 200 lawyers in Connecticut (a state with no malpractice insurance disclosure requirements), New Mexico (a state with direct disclosure requirements), and Arizona (a state with indirect disclosure requirements).¹⁸ Her survey concluded that approximately 15% of private practitioners in New Mexico and 19.6% of private practitioners in Arizona go uninsured.¹⁹ She further found that most uninsured lawyers are small firm practitioners or solo attorneys, who are more likely to work at home without any support staff.²⁰ According to those surveyed, the most common reason for not carrying insurance was cost; in all three surveyed states,

Surveys in Connecticut, New Mexico, and Arizona reveal reasons for going uninsured include cost, philosophical opposition, dislike of insurance companies and belief of no risk of liability because of practice area.

¹³ APR 28(l)(2)(a)

¹⁴ APR 17(a)(2)(D).

¹⁵ Leslie C. Levin, *Lawyers Going Bare and Clients Going Blind*, 68 Fla. L. Rev. 1281 (2016).

¹⁶ Levin, *supra* note 15, at 1282-83; see also Herbert M. Kritzer & Neil Vidmar, *When Lawyers Screw Up: Improving Access to Justice for Legal Malpractice Victims* 40-41 (University Press of Kansas) (2018).

¹⁷ Levin, *supra* note 15, at 1282-83.

¹⁸ Leslie C. Levin, *Lawyers Going Bare*, PowerPoint Presentation, at 3 (Mar. 28, 2018). “Direct disclosure” requires uninsured lawyers to disclose directly to clients that they do not carry malpractice insurance. “Indirect disclosure” requires uninsured lawyers to disclose whether they carry insurance on annual licensing forms, which is then posted to state bar or judicial websites in ten of the states that require it. Levin, *supra* note 15, at 1286.

¹⁹ Levin, *Lawyers Going Bare*, at 3.

²⁰ *Id.* at 8.

insurance premiums averaged \$3,000 per lawyer.²¹ Other reasons included philosophical opposition to mandatory insurance, a dislike of insurance companies, and a belief of no risk of liability because of practice area.²² A recent article by Texas A&M University School of Law Professor Susan Saab Fortney adds: "A perplexing explanation

.....

Many apparently do not believe that they have a professional obligation to maintain insurance or assets to be available in the event of a claim.

**Law Professor
Susan Saab Fortney**

.....

for lawyers 'going bare' is that many apparently do not believe that they have a professional obligation to maintain insurance or assets to be available in the event of a claim."²³

The State Bar of Nevada, as part of its initiative to investigate whether to require malpractice insurance of its lawyers, conducted a survey of uninsured lawyers in Nevada.²⁴ The survey revealed that 79.8% of its uninsured lawyers were in private practice, with 73% of the uninsured lawyers indicating they were solos and 15.25% indicating they were in firms of 2-4 attorneys.²⁵ The survey showed the highest concentration of uninsured lawyers in the practice areas of plaintiff's general civil practice (29.15%), criminal defense (25.56%), corporate/business organization and transactions (24.22%), plaintiff's personal injury (22.87%), and family law (22.87%).²⁶ Survey respondents listed the following as their primary reasons for going uninsured: cost, confidence in their practice, and a belief that their practice area did not necessitate coverage.²⁷

²¹ Levin, *supra* note 15, at 1290.

²² *Id.* at 1293-95.

²³ Susan Saab Fortney, *A Tort in Search of a Remedy: Prying Open the Courthouse Doors for Legal Malpractice Victims*, 85 Fordham L. Rev. 2033, 2052 (2017).

²⁴ In the Matter of Amendments to Supreme Court Rule 79 Regarding Professional Liability Insurance for Attorneys Engaged in Private Practice, AKDT 534, at 22 (June 29, 2018), <http://bit.ly/2DHS1BF>.

²⁵ *Id.* at 24.

²⁶ *Id.* at 25 (respondents were permitted to select one or more practice areas in responding to this survey question).

²⁷ *Id.* at 26.

14% of
Washington
lawyers in private
practice have
consistently reported
being uninsured.

b) Washington Trends Relating to Uninsured Lawyers

As annually reported by Washington lawyers pursuant to APR 26, from 2015 to 2017, 85% of Washington lawyers in private practice reported carrying insurance.²⁸ 14% of Washington lawyers in private practice have consistently reported being uninsured.²⁹ Specifically, in 2017, of the 19,813 lawyers in private practice, 2,752 lawyers reported that they were uninsured.³⁰

On average, Washington lawyers are practicing longer, and once lawyers reach the age of 71, the number in private practice who carry malpractice insurance drops. With respect to those lawyers in private practice who reported being uninsured, the data suggest that as lawyers age, they are more likely to report not having malpractice insurance: with 86.6% of those lawyers aged 51-60, 83.5% aged 61-70, and 75.6% aged 71-80 reporting they are insured compared to 90% of lawyers aged 30-40 and 89.4% of lawyers aged 41-50.³¹

According to voluntary demographic information collected in 2017, the practice areas where Washington lawyers in private practice were most likely to report being uninsured included business-commercial law, civil litigation, contract law, estate planning and probate, criminal law, family law, general practice, and personal injury.³²

In Washington State, lawyers in private practice who practice in solo or small firms are most likely to be uninsured. According to 2017 voluntary demographic information reported by Washington lawyers as part of the annual licensing process, approximately 28% of solo practitioners reported being uninsured.³³

While the correlation between public disciplinary information and APR 26 insurance disclosure information might not accurately reflect whether the population of uninsured lawyers is more likely to make errors or become subject to malpractice claims, most attorney misconduct grievances and disciplinary actions also involve solo and small firm practitioners. Of the 211 lawyers disciplined between 2014 and 2017, 101 reported maintaining a solo private practice as of the last time they reported voluntary demographic information to the Bar during the annual licensing process.³⁴ Of the 101, 55 reported

²⁸ Based on data compiled by WSBA staff from APR 26 reporting records.

²⁹ Based on data compiled by WSBA staff from APR 26 reporting records.

³⁰ Based on data compiled by WSBA staff from APR 26 reporting records.

³¹ WSBA Staff, *WSBA Membership Demographics*, at 8; *Mar. 28, 2018 Task Force Meeting Minutes* at 5, [https://www.wsba.org/docs/default-source/legal-community/committees/mandatory-malpractice-insurance-task-force/march-28-2018-minutes\(00409376\).pdf?sfvrsn=76ae07f1_4](https://www.wsba.org/docs/default-source/legal-community/committees/mandatory-malpractice-insurance-task-force/march-28-2018-minutes(00409376).pdf?sfvrsn=76ae07f1_4).

³² WSBA Staff, *WSBA Membership Demographics*, at 12.

³³ Based on data compiled by WSBA staff from APR 26 reporting data.

³⁴ Based on data compiled by WSBA staff from APR 26 reporting data and discipline data.

Reasons why Washington lawyers may go uninsured: cost, retirement, a limited practice that may include providing legal services only to family members, friends or on a pro bono basis, and perceptions of uninsurability based on practice area.

that they did not carry malpractice insurance.³⁵ As of October 2018, only 62 of the total number of lawyers disciplined during that period had an active license to practice law and were in private practice, and 22 of those individuals reported being uninsured.³⁶ Eighteen of those uninsured actively licensed lawyers reported maintaining a solo private practice.³⁷ (It is important to note that these are simply correlations, and the fact that an individual lawyer does or does not obtain insurance will not necessarily affect the likelihood that the lawyer might violate the Rules of Professional Conduct.)

With respect to the reasons why Washington lawyers choose not to carry insurance, written comments to the Task Force suggest that cost is a common reason, along with retirement, a limited practice that may include providing legal services only to family members, friends or on a pro bono basis, and perceptions of uninsurability based on practice area.³⁸

3. The Malpractice Insurance Market, Generally

Virtually all malpractice coverage is claims-made coverage, which covers a claim when the claim is filed during the policy period.³⁹ Claims-made coverage will only cover claims after the policy period expires if the insured purchases “tail” coverage.⁴⁰ Tail coverage protects from claims based on lawyer errors or omissions that occur during the policy period that are not filed until the policy period has expired.⁴¹

³⁵ Based on data compiled by WSBA staff from APR 26 reporting data and discipline data.

³⁶ Based on data compiled by WSBA staff from APR 26 reporting data and discipline data.

³⁷ Based on data compiled by WSBA staff from APR 26 reporting data and discipline data.

³⁸ *Comments Submitted to the Task Force*, https://www.wsba.org/docs/default-source/legal-community/committees/mandatory-malpractice-insurance-task-force/comments-received-by-the-task-force26b365f2f6d9654cb471ff1f00003f4f.pdf?sfvrsn=296a00f1_2.

³⁹ Mark Bassingthwaighe, *A Young Lawyer’s Guide to Purchasing Lawyer’s Professional Liability Insurance*, ALPS Corp., at 4, <http://www.cobar.org/Portals/COBAR/Repository/Cbrief/Young%20Lawyers%20Guide%20To%20Purchasing%20Lawyers%20Malpractice%20Insurance.pdf?ver=2017-03-16-075338-557>; Judy Graf, Area Vice President and Account Executive at Arthur J. Gallagher Risk Management Services, *Mandatory Malpractice Insurance – Task Force*, PowerPoint Presentation, at 8-9 (Apr. 25, 2018); *Apr. 25, 2018 Task Force Meeting Minutes* at 2, https://www.wsba.org/docs/default-source/legal-community/committees/mandatory-malpractice-insurance-task-force/april-25-2018-minutes.pdf?sfvrsn=c60507f1_2.

⁴⁰ Mark Bassingthwaighe, *The Ins and Outs of “Tail” Coverage*, ALPS Blog (Mar. 2, 2012), <https://blog.alpsnet.com/the-ins-and-outs-of-tail-coverage>; *Apr. 25, 2018 Task Force Meeting Minutes* at 2.

⁴¹ Mark Bassingthwaighe, *The Ins and Outs of “Tail” Coverage*; *Apr. 25, 2018, Task Force Meeting Minutes*, at 2.

There is significant variation among insurance providers regarding what is and is not covered, and regarding many other policy details. Typical malpractice insurance agreements might include coverage for:

- services as an attorney;
- services as a notary public,
- services as a title agent;
- an attorney who causes personal injury;
- services as a trustee or executor; and
- pre- or post-judgment interest, appeal, bonds, and related costs.⁴²

Multiple variables apply when underwriting lawyer malpractice insurance. Specifically, some areas of practice present higher risks than others.⁴³ Insurers also consider the number of attorneys in a firm, the years of coverage, the professional experience of the lawyer, limits of liability and deductibles, any claims or disciplinary history, premium payment history, and other factors.⁴⁴

Typical exclusions to malpractice insurance policies include dishonest, fraudulent, criminal, or malicious acts by the insured.⁴⁵ Additional exclusions include, among others, prior acts (committed before the policy period) when the insured knew of or should have foreseen the claim, discrimination and sexual harassment, vicarious liability, and punitive damages.⁴⁶ Again, the exclusions vary noticeably from carrier to carrier.

Both admitted and non-admitted carriers operate in Washington State.⁴⁷ See [Appendix D](#) ABA List of Admitted and Non-admitted Carriers (as of February 6, 2019). Admitted carriers are licensed by the Washington State Office of the Insurance Commissioner (OIC) and must abide by specific regulations governing admitted carriers.⁴⁸ The ABA reports that in Washington there are 21 admitted

⁴² *Understanding Your Insurance Coverage*, ABA Standing Comm. on Law. Prof. Liability, at 2-3 (A.B.A.), https://www.americanbar.org/content/dam/aba/administrative/lawyers_professional_liability/downloads/understandingcoverage.pdf.

⁴³ Graf, *Mandatory Malpractice Insurance – Task Force*, at 10; David Weisenberger, Vice President, Healthcare and Professional Liability, James River Insurance Company, *Mandatory Malpractice Insurance Task Force*, PowerPoint Presentation, at 4 (Apr. 25, 2018).

⁴⁴ Graf, *Mandatory Malpractice Insurance – Task Force*, at 10; Weisenberger, *Mandatory Malpractice Insurance Task Force*, at 4.

⁴⁵ *Understanding Your Insurance Coverage*, ABA Standing Comm. on Law. Prof. Liability, at 3.

⁴⁶ *Id.* at 3-4.

⁴⁷ Graf, *Mandatory Malpractice Insurance – Task Force*, at 3.

⁴⁸ Graf, *Mandatory Malpractice Insurance – Task Force*, at 11; *Apr. 25, 2018, Task Force Meeting Minutes*, at 1

Some areas of practice that are higher risk and receive greater underwriting scrutiny include entertainment and sports law, patent law, securities law, and mergers and acquisitions work.

carriers that write lawyer malpractice policies.⁴⁹ The OIC issues to each admitted carrier a certificate of authority to do business in the state and requires the carrier to file its rates and coverage forms annually.⁵⁰ Because they are subject to strict government oversight, admitted carriers have less flexibility in setting rates and deviating from their filings.⁵¹ If an admitted carrier becomes insolvent, a state fund operates to protect consumers by paying out claims (up to statutory maximums) and refunding premiums.⁵²

In contrast, non-admitted carriers are not governed by state insurance departments and are not required to file their rates with the state.⁵³ They provide what is known as “surplus line” coverage.⁵⁴ With less regulation, non-admitted carriers are free to set their own rates and underwrite higher risk insurance packages.⁵⁵ Some areas of practice that are higher risk and receive greater underwriting scrutiny from admitted carriers such as ALPS include entertainment and sports law, patent law, securities law, and mergers and acquisitions work.⁵⁶ Practitioners in these higher risk areas may need to seek insurance from non-admitted carriers rather than through admitted carriers.⁵⁷ Non-admitted carriers can further accommodate certain complex risks for which the traditional insurance marketplace does not provide adequate coverage.⁵⁸ No state fund protects consumers from non-admitted carrier insolvency.⁵⁹ The ABA reports that in Washington there are six non-admitted carriers that write lawyer malpractice policies.⁶⁰

⁴⁹ *LPL Insurance Directory – Washington*, ABA Standing Comm. on Law. Prof. Liability (A.B.A.), https://www.americanbar.org/groups/lawyers_professional_liability/resources/lpl-insurance-directory/washington/.

⁵⁰ RCW 48.05.110; RCW 48.05.400; *Apr. 25, 2018, Task Force Meeting Minutes*, at 1.

⁵¹ Graf, *Mandatory Malpractice Insurance – Task Force*, at 11; *Apr. 25, 2018, Task Force Meeting Minutes*, at 1.

⁵² *What’s a Guaranty Association and How Does It Work?*, Wash. St. Office of the Insurance Commissioner (OIC), <https://www.insurance.wa.gov/whats-guaranty-association-and-how-does-it-work>.

⁵³ *Surplus Line Insurance*, Wash. St. OIC, <https://www.insurance.wa.gov/surplus-line-insurance>; Graf, *Mandatory Malpractice Insurance – Task Force*, at 11; *Apr. 25, 2018, Task Force Meeting Minutes*, at 2.

⁵⁴ *Surplus Line Insurance*, Wash. St. OIC; *Apr. 25, 2018, Task Force Meeting Minutes*, at 2.

⁵⁵ *Surplus Line Insurance*, Wash. St. OIC; *Apr. 25, 2018, Task Force Meeting Minutes*, at 2.

⁵⁶ Email, Chris Newbold to Task Force Member Todd Startzel, Dec. 14, 2018, on file with WSBA.

⁵⁷ *Id.*

⁵⁸ *Surplus Line Insurance*, Wash. St. OIC; *Apr. 25, 2018, Task Force Meeting Minutes*, at 2.

⁵⁹ *Surplus Line Insurance*, Wash. St. OIC.

⁶⁰ *LPL Insurance Directory – Washington*, ABA Standing Comm. on Law. Prof. Liability.

4. Current Malpractice Insurance Market Statistics

The *ABA Profile of Legal Malpractice Claims (2012-2015)* (“*ABA Profile*”) is issued periodically by the ABA Standing Committee on Lawyers’ Professional Liability and reflects malpractice insurer statistics.⁶¹ The *ABA Profile* is based on self-reporting by insurers, so it does not present a comprehensive review of the legal malpractice insurance market.⁶² Data collected include claims by area of law, size of firm, disposition, types of alleged errors, expenses paid, indemnity dollars paid, and file processing times.⁶³ Much, but not all, of the information in this section of the Report is drawn from the results of the *ABA Profile*.

a) Firm Size and Malpractice Claims

Solo and small firm practitioners represent a disproportionate share of the malpractice claims. During the period of 2012-2015, the firms nationwide with the highest percentage of claims had between one and five attorneys, with 34% of claims against solo practitioners and 32% of claims against firms with two to five attorneys.⁶⁴ In other words, over 65% of claims arose from firms with five or fewer attorneys. In Oregon, the state’s Professional Liability Fund in 2015 paid out \$6.52 million in claims against solo practitioners, only \$1.64 million in claims against lawyers in small firms (2-5 lawyers), and \$1.71 million in claims against attorneys in large firms (15 or more).⁶⁵ It is unclear to what the higher incidence of malpractice claims among solo and small firm lawyers is attributable, but, according to available national statistics, small firm practitioners constitute the majority of private practitioners with solo practitioners constituting between 45% to 49% of private practitioners, and lawyers in firms of two to five lawyers constituting 14% to 15% of private practitioners.⁶⁶ Further, larger firms may have more robust practice management systems⁶⁷ and the clients of such firms may use means other than the filing of malpractice claims to resolve situations involving lawyer error.

Even though solo practitioners represent the greatest number of claims, as a whole the evidence suggests they are underrepresented as a source of malpractice claims⁶⁸; in other words, the potential claims against solo practitioners might be even greater than the statistics suggest. The underrepresentation of solo practitioners

The potential claims against solo practitioners might be even greater than the statistics suggest.

⁶¹ ABA Standing Comm. on Law. Prof. Liability, *Profile of Legal Malpractice Claims 2012-2015*, at 7 (A.B.A.) (Sept. 2016).

⁶² *Id.* at 2.

⁶³ *Id.* at 9.

⁶⁴ *Id.* at 14.

⁶⁵ Carol J. Bernick, Oregon Professional Liability Fund Chief Executive Officer, *PLF: History, How It Works, Why It Works*, PowerPoint Presentation, at 17 (Feb. 21, 2018).

⁶⁶ Kritzer & Vidmar, *supra* note 16, at 78.

⁶⁷ *Id.* at 5.

⁶⁸ *Id.* at 79.

Highest claims areas include plaintiff's personal injury; real estate law; family law; estates, trusts, and probate; collection and bankruptcy; and commercial/corporate law.

Lawyers with more than ten years of practice produce a disproportionate share of claims.

may be due to the fact that many do not carry insurance and thus would not appear in reports by insurers.⁶⁹

b) Percentage of Claims by Practice Area

Nationwide, the areas of practice with the highest incidences of malpractice claims include plaintiff's personal injury at 18.24%; real estate law at 14.89%; family law at 13.51%; estates, trusts, and probate at 12.05%; collection and bankruptcy at 10.59%; and commercial/corporate law at 9.74%.⁷⁰ These statistics tend to mirror those practice areas with the highest reported number of uninsured lawyers in Washington.⁷¹ Specifically, among the practice areas where Washington lawyers in private practice were most likely to report being uninsured included business-commercial law, estate planning and probate, family law, and personal injury.⁷²

c) Years in Practice and Claim Rates

Evidence nationally suggests that lawyers with more than ten years of practice produce a disproportionate share of claims.⁷³ For example, a 2015 report from the Missouri Department of Insurance, Financial Institutions, and Professional Regulation showed that over a ten-year period, 87.5% of claims were against lawyers with ten years or more of practice experience.⁷⁴ Further, the Wisconsin Lawyers Mutual Insurance Company reported that, between 1983 and 2013, 29% of claims filed were against lawyers with eleven to twenty years of practice experience, and 75% were against lawyers with more than ten years of experience.⁷⁵ Further, in 2013, Minnesota Lawyers Mutual Insurance Company reported that 39% of its policyholders who reported claims had eleven to twenty years of experience, and 72% of claims were against lawyers with more than ten years of experience.⁷⁶ Why this group is overrepresented among claims is unclear; however, it may be attributable to the fact that lawyers in that stage of their careers are more likely to experience burnout, which may be reflected in the quality of their work.⁷⁷

⁶⁹ Levin, *Lawyers Going Bare*, at 5.

⁷⁰ *Profile of Legal Malpractice Claims 2012-2015*, *supra* note 61, at 12.

⁷¹ WSBA Staff, *WSBA Membership Demographics*, at 12.

⁷² *Id.*

⁷³ Kritzer & Vidmar, *supra* note 16, at 81-82.

⁷⁴ *Id.* at 67-68, 81.

⁷⁵ *Id.* at 81-82.

⁷⁶ *Id.* at 82.

⁷⁷ *Id.* at 83.

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Nationally, 89.1% of malpractice claims are resolved for less than \$100,000.

d) Percentage of Indemnity Dollars and Expenses Paid

Nationally, 89.1% of malpractice claims are resolved for less than \$100,000 (including claims payments and expenses).⁷⁸ 95.2% of malpractice claims are resolved for less than \$250,000.⁷⁹ ALPS reports that based on its experience, over the past ten years, about half of all its claims were resolved without payment, and 97% of its closed claims were resolved for less than \$250,000, including defense costs.⁸⁰ According to ALPS, in Washington, for all claims, its average loss payment was \$60,548 and average loss expense to defend those claims was \$20,406.⁸¹ Where payments were made by ALPS, its average loss payment was \$119,856, and average loss expenses were about \$40,454.⁸²

e) Frequency Rate of Claims

National frequency rates of claims, meaning the percentage of lawyers per 100 lawyers against whom claims are filed, appears to be less than six percent annually for all lawyers.⁸³ Some evidence suggests that where insurance is mandated, claim rates rise. In Oregon, where insurance is mandated, the annual rate is 12.4% per 100 lawyers.⁸⁴ Also, in Canada, where lawyers must be insured, Ontario has a claims rate of 10.3%; British Columbia has a rate of 12.3%; and Alberta has a rate of 11.8%.⁸⁵ Given that the market is claims made, claim rate percentages include matters lawyers report to their insurers as possible claims.⁸⁶

Civil legal aid providers and most organized volunteer lawyer programs provide malpractice insurance for participating lawyers.

5. Insurance Options for Lawyers Providing Primarily Pro Bono Services

Civil legal aid providers and most organized volunteer lawyer programs (typically provided through nonprofit organizations) provide malpractice insurance for participating lawyers. According to the *ABA Report on the Pro Bono Work of Washington's Lawyers* issued in July 2017, approximately 56% of lawyers in Washington are connected to their pro bono clients through referrals from legal aid providers, non-profit organizations, or bar association or

⁷⁸ *Profile of Legal Malpractice Claims 2012-2015*, *supra* note 61, at 22.

⁷⁹ *Id.*

⁸⁰ Chris Newbold, Executive Vice President of ALPS, "Open Market" Mandatory Malpractice Model, PowerPoint Presentation, at 11 (June 27, 2018).

⁸¹ *Id.*

⁸² *Id.*

⁸³ Levin, *supra* note 15, at 1309-10.

⁸⁴ Levin, *Lawyers Going Bare*, at 13.

⁸⁵ *Id.* at 14

⁸⁶ Levin, *supra* note 15, at 1310.

other independent pro bono programs,⁸⁷ many of which are likely QLSPs. QLSPs, as defined in APR 1(e)(8), are nonprofit legal service organizations whose primary purpose is to provide legal services to low income individuals. QLSPs are required either to provide malpractice insurance for their volunteers or have a policy in place to require that all volunteers carry their own malpractice insurance.⁸⁸ Washington has over 50 Bar-approved QLSPs.⁸⁹

Qualified legal services providers (QLSPs) are required either to provide malpractice insurance for their volunteers or have a policy in place to require that all volunteers carry their own malpractice insurance.

The Legal Foundation of Washington (LFW) provides grants to many nonprofit legal aid providers in Washington State, many of which are QLSPs and provide legal services through VLPs.⁹⁰ VLPs are legal assistance programs that recruit volunteer lawyers to provide free legal aid in civil matters to primarily low-income individuals.⁹¹ Approximately five to eight years ago, LFW launched its own group insurance program for all of its grantees that are VLPs.⁹² The LFW plan offers coverage up to \$500,000.⁹³ Many grantees choose to buy additional coverage. This includes, for example, the King County Bar Association (KCBA) Pro Bono Services Program and the Eastside Legal Assistance Program (ELAP).⁹⁴

Both KCBA and ELAP's plan includes the cost of legal fees for defending a claim, providing total coverage of \$1 million for claims/\$2 million aggregate.⁹⁵ For lawyers to be covered under the plan, the lawyers must be providing services through one of the VLP's pro bono programs for no fee.⁹⁶ With respect to tail coverage, the coverage extends past the time of volunteering.⁹⁷ The lawyer would thus be covered if a client files a claim arising from services provided through KCBA or ELAP's pro bono program long after the

⁸⁷ ABA Standing Comm. on Pro Bono and Public Service, *Supporting Justice in Washington: A Report on the Pro Bono Work of Washington's Lawyers*, at 5-6 (A.B.A.) (July 2017).

⁸⁸ *Public Service Opportunities*, WSBA, <https://www.wsba.org/connect-serve/volunteer-opportunities/psp>.

⁸⁹ *Id.*

⁹⁰ WSBA Staff, *Report re Qualified Legal Service Providers and Malpractice Insurance*, at 2 (Oct. 18, 2018).

⁹¹ *Volunteer Lawyers Program*, Spokane County Bar Association, <http://www.spokanebar.org/volunteer-lawyers-program/>; *About Us*, Clark County Volunteer Lawyers Program, <https://ccvlp.org/about/>.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.* at 3-4.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

There are some gaps in volunteer lawyer programs (VLPs) across the state with only 20 of 39 Washington counties served.

lawyer has ceased volunteering.⁹⁸ QLSPs that provide legal services primarily through staff attorneys, such as Columbia Legal Services and Northwest Justice Project, obtain their own insurance plans.⁹⁹ Columbia Legal Services and Northwest Justice Project have pro bono riders for volunteer lawyers that work with them.¹⁰⁰

With respect to the geographic reach of VLPs, there are some gaps in VLPs across the state with only 20 of 39 Washington counties served by VLPs.¹⁰¹ It is thus likely that not every lawyer would connect with a VLP to provide pro bono services.¹⁰² Ferry County, for example, has no VLP, so an uninsured lawyer wishing to volunteer to represent a Ferry County resident would have to purchase insurance or arrange to perform the work through an out-of-county low-income legal services provider.

6. The Client Protection Fund and Applications Alleging Malpractice

The Washington Supreme Court's Client Protection Fund (CPF), administered by the Bar, is funded by a mandatory assessment on lawyers and provides gifts to clients who are victims of licensed legal professional dishonest conduct or the practitioner's failure to account for money or property entrusted to the practitioner. The CPF receives its mandate from APR 15. Under APR 15(b)(4), the CPF provides gifts to clients only for lawyer theft or dishonest activities—not for negligent mistakes or incidents of malpractice that result in harm.

Applications are investigated only when there is a chance the fund could pay the victim, meaning that there is evidence of malfeasance.¹⁰³

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Client Protection Fund applications regarding malpractice cannot be considered and, thus, are not investigated.

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Applications regarding malpractice cannot be considered and, thus, are not investigated.¹⁰⁴ Consequently, the CPF has no evidence of whether the applicants' malpractice claims were meritorious.¹⁰⁵ Over the last five years, CPF application statistics indicate that 11%

⁹⁸ *Id.*

⁹⁹ *Id.* at 4-5

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 6.

¹⁰² *Id.*

¹⁰³ *Apr. 25, 2018, Task Force Meeting Minutes*, at 4, https://www.wsba.org/docs/default-source/legal-community/committees/mandatory-malpractice-insurance-task-force/april-25-2018-minutes.pdf?sfvrsn=c60507f1_2

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

of applications were denied because they described instances of malpractice rather than theft or dishonest conduct.¹⁰⁶ Specifically, from 2013-2017, 598 applications were considered.¹⁰⁷ Of those considered, 129 (22%) were denied because the application was regarding a fee dispute, 29 (5%) were denied because the application alleged malpractice and/or negligence, and 37 (6%) were denied because the application was regarding both a fee dispute and alleged malpractice.¹⁰⁸

7. Public Perceptions About and Impact on Clients of Uninsured Lawyers

Many members of the public believe that all lawyers already carry insurance, and data shows that decisions about whether to hire a lawyer would likely be impacted by whether the lawyer is insured.¹⁰⁹ Of note, on December 13, 2018, the non-partisan and objective research organization, NORC at the University of Chicago, issued a survey of California members of the public regarding legal malpractice insurance and public perceptions regarding whether lawyers should carry malpractice insurance.¹¹⁰ The survey revealed that almost one in four members of the public (23%) believe that lawyers are currently required to carry malpractice insurance, with only 10% believing they are not required to do so and 65% unsure.¹¹¹

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In one survey of the public, 78% of respondents believed that legal malpractice insurance should be required in order to practice law.

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Of those surveyed, 78% believed that legal malpractice insurance should be required in order to practice law.¹¹² Of those who believed that lawyers should be required to carry malpractice insurance, 86% agreed that lawyers should be required to do so even if that means that lawyers might charge higher fees to cover the cost of premiums.¹¹³

¹⁰⁶ WSBA Staff, *Client Protection Fund Statistics*, PowerPoint Presentation, at 3 (Apr. 25, 2018).

¹⁰⁷ *Id.* at 2.

¹⁰⁸ *Id.* at 2-3.

¹⁰⁹ Levin, *supra* note 15, at 1325-1327.

¹¹⁰ *State Bar of California Legal Malpractice 2018*, NORC, U. of Chicago (Dec. 18, 2018) (commissioned by the State Bar of California); see also *PLI Disclosure Survey of the Public*, St. B. Tex. (Nov. 2009), <http://www.texasbar.com/pliflashdrive/material/PublicSurvey.pdf> (a public opinion survey in Texas revealed that 52.6% of the public believes that lawyers should be required to carry malpractice insurance).

¹¹¹ *Id.* at 5.

¹¹² *Id.*

¹¹³ *Id.*

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When lawyers without insurance make mistakes that injure their clients, there is a very low likelihood that those clients will be able to file a claim and a smaller likelihood of recovery.

With respect to the impact on clients of uninsured lawyers, when lawyers without insurance make mistakes that injure their clients, there is a very low likelihood that those clients will be able to file a claim and a smaller likelihood of recovery.¹¹⁴ Plaintiffs' lawyers rarely agree to pursue professional negligence cases when the potential defendant is an uninsured lawyer,¹¹⁵ in part because even a successful lawsuit ultimately may result in the defendant filing for bankruptcy or taking other actions that make recovery difficult or impossible.¹¹⁶ Attorney malpractice cases are complicated and difficult to bring and to prove,¹¹⁷ and for malpractice plaintiff's lawyers, economic

¹¹⁴ See, e.g., *Cleveland B. Ass'n v. Smith*, 102 Ohio St. 3d 10, 2004-Ohio-1582, 806 N.E.2d 495 (2004) (six-month suspension imposed for an uninsured lawyer, who among other misconduct, failed to file her client's case before the statute of limitations had run and then negotiated a \$50,000 settlement with her client related to the error. After several bounced checks and paying only \$14,000 of the amount owed, the lawyer filed for bankruptcy. Though the bankruptcy did not discharge her debt, the lawyer's debt to her client remained unpaid as of the time of the imposition of discipline); *Parker v. Marcus*, 281 N.J. Super. 589, 685 A.2d 1326 (1995) (motion to reinstate plaintiff's dismissed complaint in a personal injury action granted where dismissal was due to plaintiff's lawyer's failure to appear at an arbitration proceeding. The Court granted the motion despite the option to sue for malpractice given that "any claim against [the plaintiff's] disbarred and uninsured attorney would undoubtedly be futile. Thus, plaintiff ... would be left without any viable remedy"). See also, Andrew Wolfson, *Malpractice Award Still Unpaid 18 Years Later*, *The Courier-Journal*, June 17, 2014, at A7 (judgment of \$390,000 plus interest still unsatisfied for client who, due to his uninsured lawyer's negligence, was convicted of murder and arson and spent two years in prison before he was later acquitted); Jay Stapleton, *Hard-to-Collect Verdict Raises New Questions; Attorneys Mixed on Need to Mandate Legal Malpractice Policies*, 39 Conn. L. Trib. No. 20, 1, May 20, 2013 (judgment in excess of \$530,000 unrecoverable against uninsured and judgment-proof lawyer who failed to name the proper party to a personal injury suit, which led to dismissal of the case).

Additionally, Task Force Member Mark Johnson, a plaintiff's malpractice lawyer, recounted a past case in which he represented a client who sued a lawyer for real estate developers for breach of contract, breach of fiduciary duty, and negligence related to a real estate investment deal. The defendant lawyer improperly drafted a deed of trust conveying significantly less of a security interest in a development property than agreed upon to the plaintiff, leaving the plaintiff's loan essentially unsecured. The venture later failed. The suit resulted in a jury verdict against the lawyer and in favor of the plaintiff investor. Mr. Johnson noted that the uninsured defendant lawyer subsequently filed for bankruptcy and the plaintiff recovered nothing. Email, Task Force Member Mark Johnson to Task Force Staff, Feb. 5, 2019, on file with the WSBA; see *Stiley v. Block*, 130 Wn.2d 486, 925 P.2d 194 (1996).

¹¹⁵ Kritzer & Vidmar, *supra* note 16, at 92, 148; See also, Bob Egelko, *Lawyers Battle Over State Malpractice Proposal*, *San Francisco Chronicle*, June 18, 2007, at A1; Apr. 25, 2018, Task Force Meeting Minutes, at 3.

¹¹⁶ See *supra* note 114 and accompanying text.

¹¹⁷ Susan Saab Fortney, *A Tort in Search of a Remedy: Prying Open the Courthouse Doors for Legal Malpractice Victims*, 85 *Fordham L. Rev.* 2033, 2034-37 (2017).

viability must be a significant factor in determining whether to take a case.¹¹⁸ When limited avenues exist for recovery, malpractice plaintiff's lawyers must determine whether acceptance of the case makes financial sense both for the client and for the firm.¹¹⁹ Because the bulk of potential malpractice claims are relatively small in size,¹²⁰ the impact of uninsured lawyers on clients with smaller claims is exacerbated because it is already challenging to find a plaintiffs' lawyer who will agree to handle a case involving less than \$100,000 in damages.¹²¹ The problem is heightened by the fact that some lawyers in small firm and solo practices are involved in representations involving smaller amounts of money, but those are the same practitioners who are much more likely to be "going bare" in terms of insurance. As Professors Kritzer and Vidmar point out in their study, they know of no way to estimate how much harm caused by uninsured lawyers goes uncompensated; at the same time, they observe that national statistics on claims paid out for insured solo practitioners suggest that the harm in that context amounts to tens, if not hundreds, of millions of dollars each year.¹²² They further note that clients of lawyers outside the large corporate firm context

face a greater likelihood of a lawyer making a costly error, and they face greater limitations in securing the kind of assistance needed to prosecute a claim against the negligent lawyer. This is an access-to-justice problem as well as a potential image problem for the legal profession.¹²³

Evidence of the effectiveness of required insurance is provided by Oregon's experience. That state reports a higher rate of claims than the other jurisdictions the Task Force reviewed.¹²⁴ In their study, Professors Kritzer and Vidmar found that "[t]he much higher rate of claims per 100 insured in Oregon compared with what we found for other insurers of small to medium-sized practices clearly indicates that the absence of required insurance discourages claims."¹²⁵ The annual frequency of claims rate in Oregon is about 12 per 100 lawyers, higher than in other states, and Canadian provinces with mandatory malpractice insurance report similar rates.¹²⁶ Required malpractice insurance appears to increase the number of claims made and claims paid. While this might be viewed as a disadvantage

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While [an increase in the number of claims made and claims paid] might be viewed as a disadvantage, it should be viewed as promoting the regulatory objective of protecting the public.
.....

¹¹⁸ Robert B. Gould, *Deciding to Take a Plaintiff Legal Malpractice Case*, Law. Liability Rev., 2 (Apr. 1987).

¹¹⁹ *Id.*

¹²⁰ *Profile of Legal Malpractice Claims 2012-2015*, *supra* note 61, at 22; Newbold, "Open Market" Mandatory Malpractice Model, at 11.

¹²¹ Kritzer & Vidmar, *supra* note 16, at 147-48.

¹²² *Id.* at 43.

¹²³ *Id.* at 169-70.

¹²⁴ Levin, *Lawyers Going Bare*, at 13; Kritzer & Vidmar, *supra* note 16, at 70.

¹²⁵ Kritzer & Vidmar, *supra* note 16, at 171.

¹²⁶ *Id.* at 171 n.10.

to lawyers, it should be viewed as promoting the regulatory objective of protecting the public.

8. Various Regulatory Schemes

What follows are descriptions of the regulatory models investigated and considered by the Task Force.

a) Oregon Model, Professional Liability Fund

In Oregon, licensed lawyers with offices in that state must belong to the Oregon State Bar's (OSB) Professional Liability Fund (PLF), paying a flat assessment (premium) of \$3,300 per year.

In Oregon, licensed lawyers with offices in that state must belong to the Oregon State Bar's (OSB) Professional Liability Fund (PLF), paying a flat assessment (premium) of \$3,300 per year. The Oregon program was established in 1977 by legislative mandate¹²⁷ to create a shared risk pool to ease the difficulty in obtaining insurance, which at the time was scarce and expensive.¹²⁸

The PLF is an independently managed subdivision of the OSB governed by a Board of Directors, which is appointed by the OSB Board of Governors.¹²⁹ Under the PLF program, all licensed Oregon lawyers engaged in private practice with a principal office in Oregon who are not otherwise exempt must participate.¹³⁰ Each participating lawyer pays the same flat-rate annual assessment of \$3,300 for coverage of \$300,000 per claim/\$300,000 aggregate, with optional excess coverage and no deductibles.¹³¹ Coverage also includes \$50,000 of expenses (principally costs of representation).¹³² The PLF is a shared risk pool, with no underwriting of the individual participants.¹³³ The program covers lawyers, and not law firms.¹³⁴ The annual assessment is reduced for new lawyers in their first three years of practice.¹³⁵ A major advantage of Oregon's PLF approach is that all lawyers are covered, so no lawyer is in the position of being unable to obtain insurance.

The PLF has high favorability ratings among the OSB membership and is seen as a resource for lawyers facing problems.¹³⁶ The PLF

¹²⁷ *About the PLF*, OSB PLF, <https://www.osbplf.org/about-plf/overview.html>; Or. Rev. Stat. § 9.080.

¹²⁸ *Statement of the Board of Governors Professional Liability Fund*, OSB, at 1 (1977).

¹²⁹ *Id.* at 3.

¹³⁰ Coverage, OSB PLF, <https://www.osbplf.org/coverage/overview.html>; Exemptions, OSB PLF, <https://www.osbplf.org/assessment-exemptions/exemptions.html>.

¹³¹ Coverage, OSB PLF; Excess Coverage, OSB PLF, <https://www.osbplf.org/excess-coverage/overview.html>; Bernick, *PLF: History, How It Works, Why It Works*, at 2.

¹³² Coverage, OSB PLF.

¹³³ Bernick, *PLF: History, How It Works, Why It Works*, at 2-3.

¹³⁴ *Id.* at 2.

¹³⁵ Bernick, *PLF: History, How It Works, Why It Works*, at 8.

¹³⁶ *Id.* at 20-21.

emphasizes loss prevention through legal education, publications, and practice aids, as well as funding of the Oregon Attorney Assistance Program and a practice management advisor program.¹³⁷

b) Idaho Model, Free Market Model

Idaho's malpractice insurance mandate began in 2018, based on a free-market model.¹³⁸ The malpractice insurance requirement was proposed in Idaho without creation of a formal task force or vetting committee.¹³⁹ Rather, the Idaho State Bar's then-president proposed a rule change to implement mandatory malpractice insurance, which was submitted to the Idaho State Bar's membership for a vote in 2016.¹⁴⁰ The measure won by a slim majority of 51% to 49%.¹⁴¹ Following membership approval, the Idaho Supreme Court adopted the proposed rule with an effective date of January 1, 2018.¹⁴²

Under the new requirements, actively licensed lawyers who represent private clients must report coverage annually and provide proof of minimum coverage of \$100,000 per claim/\$300,000 aggregate.¹⁴³ Idaho lawyers may purchase insurance from any provider they wish on the free market.¹⁴⁴ The rule purposely provides for no hardship or other exemptions.¹⁴⁵

No Idaho attorneys reported an inability to obtain the required insurance.¹⁴⁶ Further, although some expressed concern about the cost, the average premium ranged between \$2,000 and \$3,000, and no premium quoted exceeded \$3,500.¹⁴⁷ However, some lawyers indicated that the requirement would affect their decision to retire from practice.¹⁴⁸

Actively licensed lawyers in Idaho who represent private clients must report coverage annually and provide proof of minimum coverage of \$100,000 per claim/\$300,000 aggregate.

¹³⁷ *About the PLF*, OSB PLF; Bernick, *PLF: History, How It Works, Why It Works*, at 20-21.

¹³⁸ Idaho B. Comm'n R. 302(a)(5), https://isb.idaho.gov/wp-content/uploads/ibcr_sec03_licensing.pdf

¹³⁹ *Feb. 21, 2018, Task Force Meeting Minutes*, at 2.

¹⁴⁰ Annette Strauser, *2018 Malpractice Coverage Requirement - General Information*, Idaho St. B. (Aug. 29, 2017), <https://isb.idaho.gov/blog/author/astrouser/>; *Feb. 21, 2018, Task Force Meeting Minutes*, at 2. Under Idaho Bar Commission Rule 906, all changes to Idaho court rules must be submitted to a vote of the membership or the district bar associations. Idaho B. Comm'n R. 906(a).

¹⁴¹ Strauser, *2018 Malpractice Coverage Requirement - General Information*.

¹⁴² Strauser, *2018 Malpractice Coverage Requirement - General Information*; Idaho B. Comm'n R. 302(a)(5).

¹⁴³ Idaho B. Comm'n R. 302(a)(5).

¹⁴⁴ Strauser, *2018 Malpractice Coverage Requirement - General Information*.

¹⁴⁵ *Feb. 21, 2018, Task Force Meeting Minutes*, at 3.

¹⁴⁶ *Feb. 21, 2018, Task Force Meeting Minutes*, at 3; Interview Notes with Diane Minnich, Dec. 11, 2018, on file with WSBA.

¹⁴⁷ *Feb. 21, 2018, Task Force Minutes*, at 3; Interview Notes with Diane Minnich, Dec. 11, 2018, on file with WSBA.

¹⁴⁸ *Feb. 21, 2018, Task Force Minutes* at 3.

c) Illinois' Proactive Management-Based Regulation

In 2017, Illinois became the first state to adopt proactive management-based regulation (PMBR).¹⁴⁹ PMBR is an approach to lawyer regulation that focuses on programs intended to promote the ethical practice of law and hopefully reduce the incidence of grievances and malpractice claims.¹⁵⁰

Prior to adoption of PMBR in Illinois, Illinois studied PMBR models in other jurisdictions including New South Wales, Australia, and Nova Scotia, Canada.¹⁵¹ PMBR models typically include the following features:

1. Measures to complement traditional reactive disciplinary processes, usually through the use of self-assessment tools;
2. Education of lawyer/firm management to develop and employ an ethical infrastructure to prevent misconduct and unsatisfactory performance; and
3. Information sharing and collaboration among the lawyer regulator and lawyer/firm.¹⁵²

Prior to adoption, Illinois investigated whether there was a need to implement PMBR in the state. The research revealed that 41% of solo practitioners in Illinois were uninsured and another 77% had no succession plan, statistics that alarmed regulators and practitioners alike.¹⁵³

With the adoption of PMBR, beginning in 2018, every two years, Illinois lawyers in private practice who do not have malpractice insurance must complete a four-hour self-assessment online, evaluating their law firm management and business practices.¹⁵⁴ The self-assessment is administered by the Attorney Registration and Disciplinary Commission (ARDC), the Illinois Supreme Court agency that regulates Illinois lawyers.¹⁵⁵ Uninsured lawyers who fail to complete the self-assessment cannot register in the following year to renew their license and may be administratively suspended.¹⁵⁶

Every two years, Illinois lawyers in private practice who do not have malpractice insurance must complete a four-hour self-assessment online.

¹⁴⁹ Ill. Sup. Ct. R. 756, http://www.illinoiscourts.gov/SupremeCourt/Rules/Art_VII/artVII.htm#Rule756; Press Release, Sup. Ct. of Ill., *Illinois Becomes First State to Adopt Proactive Management Based Regulation* (Jan. 25, 2017), <http://www.illinoiscourts.gov/Media/PressRel/2017/012417.pdf>.

¹⁵⁰ Press Release, Sup. Ct. of Ill., *supra* note 149.

¹⁵¹ Jerry Larkin, Attorney Register and Disciplinary Commission (ARDC) Administrator, *PMBR - The Illinois Experience*, PowerPoint Presentation, at 10 (Mar. 28, 2018); *Mar. 28, 2018, Task Force Meeting Minutes*, at 3.

¹⁵² Larkin, *PMBR - The Illinois Experience*, at 9.

¹⁵³ Larkin, *PMBR - The Illinois Experience*, at 19-20; *Mar. 28, 2018, Task Force Meeting Minutes*, at 3.

¹⁵⁴ *PMBR Self-Assessment Course FAQs*, ARDC, https://registration.iardc.org/attyreg/Registration/regdept/Rule_756e2_Self-Assessment_FAQ_s.aspx.

¹⁵⁵ Press Release, Sup. Ct. of Ill, *supra* note 149.

¹⁵⁶ *PMBR Self-Assessment Course FAQs*, ARDC.

The self-assessment is confidential, and also provides free CLE credit.¹⁵⁷ The self-assessment covers the following topics: technology; conflicts; fees and billing; client relations; trust accounting; wellness; civility and professionalism; and diversity and inclusion.¹⁵⁸ Of those lawyers who have completed the self-assessment, a large majority have responded positively to the program.¹⁵⁹

d) South Dakota's Direct Disclosure Model

Of the 25 states that require lawyers to make disclosures regarding whether they carry malpractice insurance, at least seven require the disclosure be made directly to clients.¹⁶⁰ Among the most stringent of those seven states is South Dakota, which adopted its rule in 1999.¹⁶¹ For lawyers who do not carry a minimum of \$100,000 in insurance, South Dakota requires the lawyers to disclose the lack of insurance at the formation of the attorney-client relationship.¹⁶² The Rule further requires the lawyer to disclose the information in every written communication with the client on firm letterhead and in all advertising.¹⁶³ Some anecdotal evidence suggests that the purchase of insurance increased around the time of the implementation of the disclosure rule in South Dakota.¹⁶⁴ Currently, in South Dakota, approximately 6% of lawyers in private practice are uninsured, with 8.4% of small firm and solo lawyers in private practice uninsured.¹⁶⁵

South Dakota requires [non-covered] lawyers to disclose the lack of insurance at the formation of the attorney-client relationship.

A vast majority of common law countries outside the U.S. (as well as civil law countries) require some form of malpractice insurance for lawyers in private practice.

e) International Regulatory Schemes

The vast majority of common law countries outside the U.S. (as well as civil law countries) require some form of malpractice insurance for lawyers in private practice.¹⁶⁶ All Australian states, all Canadian provinces and territories, the great majority of countries in the European Union, and several Asian countries require insurance of

¹⁵⁷ *Id.*

¹⁵⁸ *PMBR Modules*, ARDC, <https://www.iardc.org/pmbr.html>.

¹⁵⁹ Matthew Hector, *ARDC Reports Positive Early Reaction to Lawyer Self-Assessment*, 106 Ill. Bar J. N. 10 (Apr. 2018).

¹⁶⁰ Levin, *supra* note 15, at 1297-99; *State Implementation of ABA Model Court Rule on Insurance Disclosure*, ABA Standing Comm. on Client Protection.

¹⁶¹ Susan Saab Fortney, *Law as a Profession: Examining the Role of Accountability*, 40 Fordham Urb. L.J. 177, 194 (2012), <https://ir.lawnet.fordham.edu/ulj/vol40/iss1/4>.

¹⁶² S.D. R. of Prof. Conduct 1.4(c), https://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=16-18-A.

¹⁶³ S.D. R. of Prof. Conduct 1.4(c), 1.4(d), 7.2(I), https://sdlegislature.gov/Statutes/Codified_Laws/DisplayStatute.aspx?Type=Statute&Statute=16-18-A.

¹⁶⁴ Levin, *Lawyers Going Bare*, at 12.

¹⁶⁵ Kritzer & Vidmar, *supra* note 16, at 41.

¹⁶⁶ *Id.* at 38.

their practitioners.¹⁶⁷ The minimum coverage requirements in most Australian states is either AUS\$1.5 million or AUS\$2 million (US\$1.11 million or US\$1.48 million); in British Columbia, the required minimum is CDN\$1 million (US\$760,000); in Singapore, the requirement is S\$1 million (US\$730,000); and for solicitors in England and Wales, the minimum is £2 million (US\$2,628,000).¹⁶⁸

9. Other Recent State Efforts to Explore Mandatory Malpractice Insurance

a) California

At the direction of the state legislature in 2017, the State Bar of California has appointed a Malpractice Insurance Working Group to conduct a review and study of errors and omissions insurance for lawyers licensed in California.¹⁶⁹ The Working Group is considering enhanced disclosure requirements, mandating insurance as a condition of licensure, developing a PMBR program, and promoting voluntary insurance.¹⁷⁰ The Working Group actively sought public comment from both the public and attorneys who provide reduced cost services.¹⁷¹ The period for public comment closed on November 5, 2018.¹⁷²

On January 14, 2019, the Working Group voted against recommending mandatory malpractice insurance.¹⁷³ The Working Group must report its findings to the State Supreme Court, Legislature, and Bar's Board of Trustees by March 31, 2019.¹⁷⁴

¹⁶⁷ *Professional Indemnity Insurance Requirements Around the World*, 9 LAWPRO Magazine "File Retention," no. 4, (Dec. 2010), <https://www.practicepro.ca/wp-content/uploads/2017/06/2010-12-professional-indemnity-around-world.pdf>.

¹⁶⁸ *Id.*

¹⁶⁹ *Malpractice Insurance Working Group Charter*, the St. B. of Cal., <http://www.calbar.ca.gov/Portals/0/documents/cc/Malpractice-Insurance-Working-Group-Charter.pdf>.

¹⁷⁰ *The State Bar Seeks Public Comment on Options Under Consideration in Its Statutorily Mandated Malpractice Insurance Study*, the St. B. of Cal., (Nov. 5, 2018), <http://www.calbar.ca.gov/About-Us/Our-Mission/Protecting-the-Public/Public-Comment/Public-Comment-Archives/2018-Public-Comment/Legal-Malpractice-Insurance> [hereinafter *The State Bar Seeks Public Comment*].

¹⁷¹ *Open Session Agenda: Item 702 September 2018*, Malpractice Insurance Working Group, at 2 (Sept. 14, 2018), <http://www.calbar.ca.gov/Portals/0/documents/702-Malpractice-Insurance-Working-Group.pdf>.

¹⁷² *The State Bar Seeks Public Comment*, the St. B. of Cal.

¹⁷³ Email, Linda Katz, Principle Program Analyst, the St. B. of Cal., to Task Force Staff, Jan. 30, 2019, on file with WSBA.

¹⁷⁴ *Malpractice Insurance Working Group Charter*, the St. B. of Cal.

b) Georgia

In late 2018, the State Bar of Georgia convened a Professional Liability Insurance Committee to study and make recommendations concerning lawyer malpractice insurance coverage.¹⁷⁵ The Committee has met three times since December 13, 2018, and currently is considering two alternative proposed rules: One of the proposed rules would impose a mandatory malpractice insurance requirement and the other would impose an insurance disclosure requirement to the state bar.¹⁷⁶ The Committee intends to submit a proposed rule to the State Bar of Georgia's Board of Governors at its March 2019 meeting.¹⁷⁷

c) Nevada

During 2017 to 2018, a Task Force of the State Bar of Nevada investigated whether to institute a mandatory malpractice insurance program in Nevada.¹⁷⁸ As in Washington, Nevada lawyers must report their insurance coverage status annually.¹⁷⁹ As part of its process, Nevada investigated both the Idaho and Oregon models, reviewed the Illinois PBMR model, and looked at forming its own captive insurance company.¹⁸⁰ It further conducted a public focus group, which revealed that the public is generally uninformed about malpractice insurance requirements, or the lack thereof, among lawyers.¹⁸¹

On June 29, 2018, the State Bar of Nevada submitted a petition to the Supreme Court of Nevada seeking adoption of a free-market malpractice insurance requirement.¹⁸² The proposed rule amendment would have required every lawyer engaged in private practice to attest to having malpractice insurance coverage at a minimum limit of \$250,000 per occurrence/\$250,000 annual aggregate.¹⁸³

¹⁷⁵ *Executive Committee Minutes November 7, 2018*, St. B. of Ga.; https://www.gabar.org/committeesprogramssections/executivecommittee/upload/EC_1118a.pdf; *Committees*, State Bar of Georgia, <https://www.gabar.org/committeesprogramssections/committees/>.

¹⁷⁶ Professional Liability Insurance Committee, *January 7, 2019, Minutes*, St. B. of Ga.

¹⁷⁷ *Id.*

¹⁷⁸ Robert Horne & Jennifer Smith, *Join the Discussion: Whether Malpractice Insurance Should Be Mandatory for Nevada Attorneys*, 25 Nev. Law. 28, at 28 (Dec. 2017), https://www.nvbar.org/wp-content/uploads/NevadaLawyer_Dec2017_Malpractice-Insurance-Discussion2.pdf.

¹⁷⁹ Nev. Sup. Ct. R. 79, <https://www.leg.state.nv.us/CourtRules/SCR.html>.

¹⁸⁰ Horne & Smith, *Join the Discussion: Whether Malpractice Insurance Should Be Mandatory for Nevada Attorneys*, at 28-29.

¹⁸¹ *Mar. 28, 2018, Task Force Meeting Minutes*, at 4.

¹⁸² ADKT 534, *supra* note 24, at 1.

¹⁸³ *Id.* at 15

On October 11, 2018, the Nevada Supreme Court declined to adopt the proposal on grounds that the State Bar's petition had provided inadequate detail and support.¹⁸⁴

d) New Jersey

In February 2014, the New Jersey Supreme Court formed an Ad Hoc Committee on Attorney Malpractice.¹⁸⁵ The Committee was charged with investigating whether to implement an insurance disclosure rule in accordance with the ABA Model Rule on Insurance Disclosure, as well as whether to implement mandatory malpractice insurance.¹⁸⁶ After three years of study, in June 2017, the Committee issued its report recommending against mandatory malpractice insurance but proposing a court rule requiring lawyers to disclose whether they carry malpractice insurance to the Court and to clients.¹⁸⁷ In a letter dated January 15, 2018, in response to a request for comment on the Committee's Report, the New Jersey State Bar Association agreed with the Committee's recommendation not to impose mandatory malpractice insurance, but opposed its recommendation to mandate direct disclosure.¹⁸⁸ As of February 5, 2019, the recommendation of the Ad Hoc Committee was still pending before the New Jersey Supreme Court, which had yet to take action on the recommendation.¹⁸⁹

10. Insurance Costs and Availability

As noted above, malpractice insurance premiums vary significantly based on many factors, including years in practice, area of practice, size and practice mix of a firm, lawyer history with malpractice claims and disciplinary actions, state characteristics, and whether lawyers are practicing full-time or part-time, among other factors.¹⁹⁰

Average premium numbers can vary broadly based on the firm's principal area(s) of practice.¹⁹¹ According to the *ABA Profile*, the

¹⁸⁴ Order Denying Petition for Amendment to Supreme Court Rule 79, ADKT 534 (Oct. 11, 2018), https://nvcourts.gov/Supreme/Decisions/Administrative_Orders/.

¹⁸⁵ N.J. Sup. Ct. Ad Hoc Comm. on Malpractice Ins., *Report of the Supreme Court Ad Hoc Committee on Attorney Malpractice Insurance*, June 2017, at 3, <https://www.njcourts.gov/courts/assets/supreme/reports/2017/atmalpracticeinsurance.pdf>.

¹⁸⁶ *Id.* at 5

¹⁸⁷ *Id.* at 7-9.

¹⁸⁸ Letter from Robert B. Hille, President of the New Jersey State Bar Association to Hon. Glenn A. Grant, Acting Administrative Director of the New Jersey Court, dated Jan. 15, 2018, <https://tcms.njsba.com/personifyebusiness/Portals/0/NJSBA-PDF/Reports%20&%20Comments/malpractice%20insurance%20--%202018.pdf>.

¹⁸⁹ Interview Notes with Carol Johnston, Court Executive for the State of New Jersey, Feb. 5, 2019, on file with WSBA.

¹⁹⁰ Graf, *Mandatory Malpractice Insurance - Task Force*, at 10; Weisenberger, *Mandatory Malpractice Insurance Task Force*, at 4.

¹⁹¹ Newbold, "Open Market" *Mandatory Malpractice Model*, at 9.

practice areas of personal injury (plaintiff), real estate, family law, estate planning, collection/bankruptcy, criminal law, and certain business/corporate law practices have the highest incidences of malpractice claims.¹⁹² Not surprisingly, insurance premiums tend to be higher in many of those practice areas.¹⁹³

Basic malpractice policies with modest coverage levels are available to most practitioners at reasonable cost, including those practicing solo or in small firms.¹⁹⁴ Based on ALPS-specific data, the average premium of Washington lawyers based on current market trends is \$2,500.¹⁹⁵ However, the average premium amount reflects all insured practitioners, some of whom may carry coverage amounts of \$1,000,000 or more.¹⁹⁶ According to ALPS, in Idaho, which launched its mandatory malpractice requirement in 2018, the average premium for ALPS' Basic policy issued to solo practitioners (the primary demographic of uninsured lawyers) without prior acts coverage was approximately \$1,200 for the mandated limit of liability of \$100,000 per occurrence/\$300,000 aggregate.¹⁹⁷ ALPS' average premium per Idaho solo practitioner was \$2,200, an average that included lawyers who had reached "full maturity" and purchased a variety of different limits of liability.¹⁹⁸ According to Diane Minnich, Executive Director of the Idaho State Bar, reported insurance premiums averaged between \$2,000 and \$3,000.¹⁹⁹ From the information available, it does not appear that insurance rates have gone up in Idaho as a result of the malpractice insurance mandate, though Idaho has had only one reporting cycle since the rule's implementation,²⁰⁰ so trends may become more apparent with time. However, consistent with how the market operates, premiums will go up in the next several reporting cycles, especially for first-time insurance purchasers and new lawyers.²⁰¹

¹⁹² *Profile of Legal Malpractice Claims 2012-2015*, *supra* note 61, at 12.

¹⁹³ See Newbold, "Open Market" Mandatory Malpractice Model, at 9.

¹⁹⁴ Newbold, "Open Market" Mandatory Malpractice Model, at 6-7, 9.

¹⁹⁵ Newbold, "Open Market" Mandatory Malpractice Model, at 6.

¹⁹⁶ *June 27, 2018, Task Force Meeting Minutes*, at 2, [https://www.wsba.org/docs/default-source/legal-community/committees/mandatory-malpractice-insurance-task-force/june-27-2018-minutes\(00435102\)7c7a63f2f6d9654cb471ff1f00003f4f.pdf?sfvrsn=7fa306f1_2](https://www.wsba.org/docs/default-source/legal-community/committees/mandatory-malpractice-insurance-task-force/june-27-2018-minutes(00435102)7c7a63f2f6d9654cb471ff1f00003f4f.pdf?sfvrsn=7fa306f1_2).

¹⁹⁷ Email, Newbold to Task Force Member Startzel, Dec. 14, 2018, on file with WSBA.

¹⁹⁸ *Id.*

¹⁹⁹ Interview Notes with Diane Minnich, Dec. 11, 2018, on file with WSBA.

²⁰⁰ Interview Notes with Diane Minnich, Dec. 11, 2018, on file with WSBA; *Nov. 28, 2018, Task Force Meeting Minutes*, https://www.wsba.org/docs/default-source/legal-community/committees/mandatory-malpractice-insurance-task-force/november-28-2018-mmi-task-force-meeting-minutes.pdf?sfvrsn=4aee03f1_0.

²⁰¹ Interview Notes with Diane Minnich, Dec. 11, 2018, on file with WSBA.

.....
New attorneys can expect their premiums to increase gradually by an average of 15% year-over-year for the first five years after they start practice, and then those premiums level off.
.....

New lawyers pay noticeably lower malpractice insurance premiums than more experienced lawyers.²⁰² This is because virtually all malpractice insurance policies are written on a “claims made” basis, meaning that if a claim is filed against an insured lawyer today for an event that occurred two years ago, that lawyer’s current insurer covers the claim, whether or not that insurer provided a policy when the claimed event occurred.²⁰³ Insurers set premiums to provide resources to pay claims on incidents that happened in the past.²⁰⁴ A first-year lawyer was not practicing in the past, and thus represents a lower risk to insurers.²⁰⁵ New attorneys can expect their premiums to increase gradually by an average of 15% year-over-year for the first five years after they start practice, and then those premiums level off.²⁰⁶ A previously uninsured lawyer obtaining insurance for the first time will be in the same premium position as the new lawyer because, on claims made policies, insurers provide coverage beginning from the start date of the policy and exclude prior acts.²⁰⁷ The start date is the retroactive date for the life of the policy, which means that as with new lawyers, the more years a lawyer maintains a policy, the more the premium will increase until the end of the maturity process.²⁰⁸

Some malpractice insurance policies include a free extended reporting period for claims, or “tail” coverage for attorneys who have been with a specific insurance provider for a period of consecutive years (usually five) and retire.²⁰⁹ Tail coverage can be expensive (an unlimited tail can be 300% of the expiring premium) for retiring lawyers who do not qualify for a free extended reporting period endorsement or who do not have a relatively long history with a particular carrier.²¹⁰

²⁰² Newbold, “Open Market” Mandatory Malpractice Model at 7-8.

²⁰³ Keith Fichtner, *Ask an Expert: Why Legal Malpractice Insurance Costs Go Up Every Year*, ALPS Blog (Oct. 24, 2017), <https://blog.alpsnet.com/ask-an-expert-why-legal-malpractice-insurance-rates-go-up-every-year>

²⁰⁴ *Id.*

²⁰⁵ Newbold, “Open Market” Mandatory Malpractice Model at 7.

²⁰⁶ *Id.* at 8.

²⁰⁷ Fichtner, *Ask an Expert: Why Legal Malpractice Insurance Costs Go Up Every Year*.

²⁰⁸ *Id.*

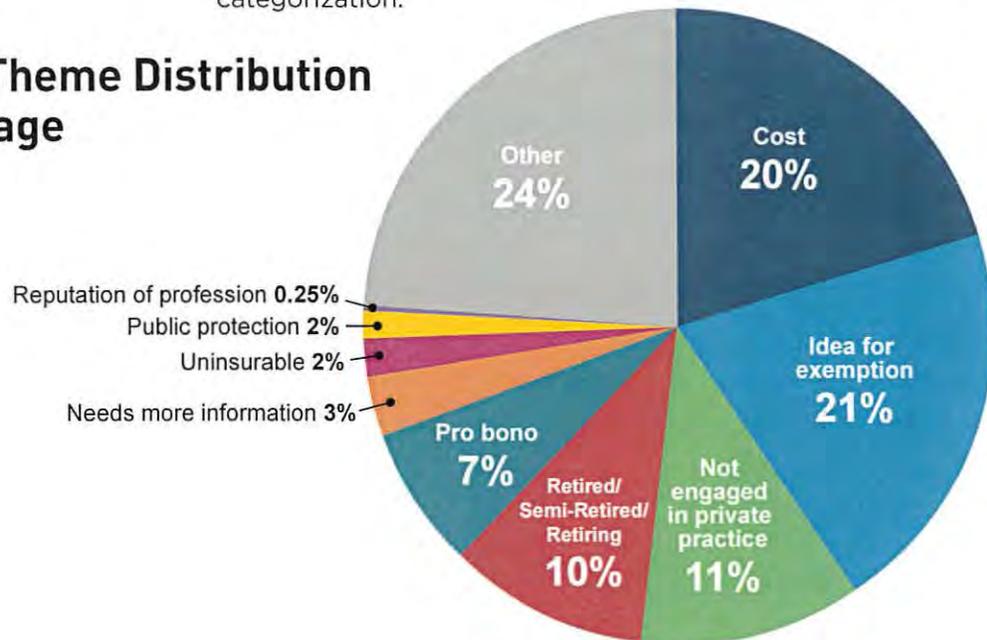
²⁰⁹ Bassingthwaight, *The Ins and Outs of “Tail” Coverage*; Apr. 25, 2018, Task Force Meeting Minutes, at 2.

²¹⁰ Bassingthwaight, *The Ins and Outs of “Tail” Coverage*; Apr. 25, 2018, Task Force Meeting Minutes, at 2.

C. WSBA MEMBER CONCERNS AND TASK FORCE RESPONSES

During a comment period ending December 1, 2018, the Task Force received over 580 written comments from WSBA members raising a variety of different concerns and/or criticisms of a mandatory malpractice insurance requirement.²¹¹ At the request of the Task Force, staff categorized all of the comments received along common themes and prepared a snapshot summarizing the results of that sorting.²¹² The chart below represents the results of that theme categorization.

Comment Theme Distribution by Percentage



The Task Force concluded that it would be helpful to address many of those general concerns directly, providing additional background on why it decided to make a particular recommendation or chose not to follow a suggested approach.

²¹¹ The Task Force accepted and compiled member comments from its inception in January 2018 through its publicized comment deadline of December 1, 2018. The work of the Task Force and its solicitation of member comment was publicized throughout 2018 by means of informational articles and progress reports appearing in *NWL* *Lawyer*, *Take Note*, and through other forms of direct communication with members, such as email communications.

²¹² WSBA Staff, *MMI Task Force Comments Snapshot - Final* (January 2019), https://www.wsba.org/docs/default-source/legal-community/committees/mandatory-malpractice-insurance-task-force/mmi-task-force-comments-snapshot.pdf?sfvrsn=17fe03f1_2 (the Snapshot represented a best effort to categorize comments received, given that the substance of many of the comments was unclear or was subject to interpretation). The full set of comments has been made available to the Board of Governors for its review and is publicly available on the WSBA website at <https://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/mandatory-malpractice-insurance-task-force>.

1. Cost of Malpractice Insurance

The number one concern expressed in written comments from WSBA members—20% of all comments—listed the cost of malpractice insurance as a reason lawyers should not be required to maintain a malpractice insurance policy.

The Task Force has received input from a variety of industry professionals as to the reasons for a wide range in the cost of malpractice insurance. Premiums are based on a variety of factors, including but not limited to: the nature of the lawyer’s practice; whether the lawyer is working full-time or part-time; years in practice; the practice mix of the firm; an individual lawyer’s history with malpractice claims; and disciplinary history. The Task Force, as a group, is sensitive to the economic impact the cost of malpractice insurance may have on an individual lawyer’s business. The Task Force nevertheless concludes that the professional obligation to protect client interests supersedes the potential financial impact on an individual lawyer’s business. That is, the Task Force members uniformly agreed that, from a client protection standpoint, the client’s interests are paramount.

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.....

The Task Force also received information regarding Idaho’s experience with mandatory malpractice coverage. Idaho instituted mandatory coverage of \$100K per occurrence/\$300K aggregate beginning in 2018. From the information available, insurance rates in Idaho do not appear to have risen for the lawyer population as a whole as a result of the mandate; however, given the program’s infancy, more information may be available in the future. The average premium for an ALPS Basic policy for \$100K per occurrence/\$300K aggregate issued to a solo practitioner without prior acts coverage was approximately \$1,200. That amount is expected to increase annually by about 15% as the lawyer’s length of exposure grows, until the lawyer’s premium level matures after six years. All things remaining equal, it is likely that the \$1,200 average for an ALPS Basic policy in Idaho will grow after six years to close to \$2,400 per year.

The Task Force requested that ALPS provide hypothetical examples of Washington malpractice insurance premiums under the recommended minimum of \$250K per occurrence/\$500K aggregate as a means of illustrating the likely range of premiums lawyers in this state could expect. The examples are as follows:

Firm A: Solo practitioner located in Seattle. Purchasing a Retroactive Date (Retro Date)²¹³ Inception policy on the Basic form (no First

²¹³ A ‘retroactive date’ is generally the date from which a law firm holds uninterrupted malpractice insurance coverage. The purpose of the retro date is to exclude claims arising from any work undertaken prior to the date shown on the declaration page of the lawyer’s insurance policy. Email, Newbold to Task Force Member Startzel, Dec. 14, 2018, on file with WSBA. The retroactive date is thus the inception date of the policy. Email, Newbold to Task Force Staff, Jan. 23, 2019, on file with the WSBA.

Dollar Defense (FDD))²¹⁴ with a \$5,000 deductible. All work focused in corporate and business transactions. No claims, bar complaints, or disciplinary history. Firm established date is 1/28/10, operating uninsured.

Premium: \$1,018
Fully matured: \$2,418

Firm B: Solo practitioner located in Kennewick. Purchasing a Retro Date Inception policy on the Basic form (no FDD) with a \$10,000 deductible. Majority government work with small estates exposure. No claims, bar complaints, or disciplinary history. Firm established date is 5/1/09, operating uninsured.

Premium: \$1,082
Fully matured: \$1,250

Firm C: Two-attorney firm located in Spokane. Purchasing a Retro Date Inception policy on the Basic form (no FDD) with a \$5,000 deductible. Generalist firm with areas of practice including defense, personal injury, corporate, estate, and real estate work. No claims, bar complaints, or disciplinary history. Firm established date is 1/1/1961, operating uninsured.

Premium: \$3,117 (or \$1,500 per lawyer)
Fully matured: \$6,235

If the Task Force recommendation for a minimum \$250K per occurrence/\$500K aggregate policy is adopted in Washington, the average premiums will be higher than the 2018 experience in Idaho, as the above illustrations demonstrate. The Task Force cannot guarantee specific premium levels, and there will be variations based upon different factors. The Task Force nevertheless concludes that uninsured lawyers will generally be able to obtain coverage for a reasonable premium on the insurance market in Washington.

2. Insurance Requirements for Retired and Semi-retired Lawyers

The second largest number of comments received from WSBA members—10% of all comments—were from licensed lawyers who noted they were either retired, semi-retired, or planning to retire, and as such should not be required to maintain malpractice insurance.

Fully retired lawyers are not engaged in the “private practice of law,” and therefore, by operation of the proposed rule, would *not* be required to obtain a malpractice insurance policy. Fully retired lawyers would simply need to certify that status, and the insurance requirement would not apply. Apparently, a number of retired

²¹⁴ “First Dollar Defense” is a coverage option offered to certain law firms based upon eligibility that states [that] when a firm is faced with a claim, the deductible will apply to damages only[,]” meaning the insurer pays the ‘first dollar’ to defend the claim. Email, Newbold to Task Force Member Startzel, Dec. 14, 2018, on file with WSBA.

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**Part-time, semi-
retired lawyers should
carry a minimum level
of insurance so long
as they are engaged
in private practice.**
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lawyers maintain their licenses either because they believe that they might want to re-enter practice, or because they intend to continue to be licensed until they have reached the fifty-year mark. On the other hand, lawyers who are "retired" but who still practice on a part-time basis are as capable of making mistakes as any other experienced lawyers. The Task Force concludes that in the interest of client protection, those lawyers should carry a minimum level of insurance so long as they are engaged in private practice. It should be noted that malpractice policy premiums for part-time lawyers frequently will be lower than for full-time practitioners because the lower levels of work translate into lower risks of error.

3. Anticipated Adverse Impact on Pro Bono Services

The Task Force received a number of comments from members who are retired and/or semi-retired but continue to provide legal work only on a pro bono basis and/or a low-cost basis. Members were concerned that a mandatory insurance requirement might be cost prohibitive and force some of those members to discontinue providing pro bono and/or low-cost services. The Task Force is extremely sensitive to this concern. Washington does not have a mandatory pro bono requirement, but the Task Force recognizes that RPC 6.1 strongly encourages lawyers to provide "legal services to those unable to pay." The Task Force does not want to recommend a requirement that might undermine the aspirational recommendation of RPC 6.1 or materially interfere with a lawyer's purpose to provide legal services to the underserved.

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**Emeritus pro bono
status is available for
those who are retired
from the practice
of law but wish to
provide volunteer
legal services
through a QLSP.**
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The Task Force has determined that many lawyers who desire to provide pro bono services (and are not otherwise engaged in private practice) can become affiliated with Bar-approved QLSPs or VLPs and thereby be covered by a malpractice insurance policy. Emeritus pro bono status is available for licensed legal professionals who are otherwise retired from the practice of law but wish to provide volunteer legal services through a QLSP. See APR 3(g). Further, some pro bono practitioners may choose to carry their own insurance. The Task Force recognizes there could be gaps in pro bono services provided in certain Washington State communities. While the overall impact of a malpractice insurance requirement on pro bono service might not be large, the WSBA should take positive action to reduce the possibility of a material effect on the number of lawyers willing to volunteer to perform pro bono services. The primary goal of a mandatory malpractice requirement is to protect the public, and that need for protection applies with equal force to legal services provided to the disadvantaged.

4. Concerns about Uninsurability Due to Legal Specialty

Several members raised a concern that they had been historically unable to obtain malpractice insurance coverage due to the unique nature of their practice, such as transactional securities. The Task Force has not been provided with documentary evidence supporting the assertion that any Washington State lawyer has been unable to obtain malpractice insurance due to a unique specialty.

Indeed, the Task Force has been provided information to the contrary. The Idaho State Bar instituted a mandatory malpractice insurance requirement of coverages at a minimum of \$100,000 per occurrence with a \$300,000 annual aggregate, effective January 2018. Diane Minnich, Executive Director of the Idaho State Bar, gave a presentation to the Task Force regarding Idaho's experience with instituting mandatory malpractice insurance coverage. Ms. Minnich was the contact point for all Idaho lawyers that had concerns or questions about the requirement and the availability of insurance. Ms. Minnich confirmed that *no Idaho lawyer*, regardless of specialty, has reported being unable to obtain malpractice insurance coverage based upon the new requirement. Further, in Washington, limited license legal technicians have not reported problems obtaining insurance.

The Task Force received presentations, as noted above, from insurance industry professionals and recognizes that premiums may vary based on a variety of factors. The Task Force understands that lawyers practicing in unique specialties, such as entertainment law, patent law, or transactional law, may be required to obtain coverage through a secondary market. The premium costs in the secondary market may be higher because these insurers view the unique practices as posing a higher risk. However, if a malpractice event occurs involving a lawyer in a unique field, the potential damage to the client could be substantial. The Task Force therefore believes that there is at least equal responsibility for lawyers that practice in specialized fields to obtain malpractice insurance coverage.

5. "Moral Hazard"

A few WSBA members raised a concern that mandatory malpractice insurance will give rise to a "moral hazard" situation. Economists have developed the "moral hazard" theory, which suggests that an individual will be more likely to engage in risky behavior if that person knows that he or she is protected against adverse consequences because another party (e.g., an insurer) will incur the costs.²¹⁵ Applying the moral hazard analysis to legal malpractice, the argument is that some lawyers will provide either risky or

²¹⁵ See, e.g., Shaila Dewan, *Moral Hazard: A Tempest-Tossed Idea*, N.Y. Times, Feb. 25, 2012, at BU1, <https://www.nytimes.com/2012/02/26/business/moral-hazard-as-the-flip-side-of-self-reliance.html>.

incompetent legal services because they know that any adverse consequences will be covered by a malpractice policy. The Task Force rejects this argument. The Task Force simply does not believe that lawyers will abdicate professional responsibilities owed to clients because there is a safety net of malpractice coverage. Insurance is unlikely to encourage attorneys to shirk their obligations under RPC 1.1 to represent the client with “legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”

6. Insurance and Increasing Claims against Lawyers

Several comments from WSBA members argued that a drawback of mandatory insurance is that if all lawyers were covered by malpractice insurance, the number of malpractice claims and associated lawsuits against lawyers would increase. The Task Force agrees that this will likely occur. But that is the point. If more clients who have been injured have potential access to the courts and to a remedy, then the insurance mandate is doing precisely what it is supposed to do: provide access to justice.

7. Adverse Impact on Public Attitude towards Lawyers

The Task Force received a small number of comments to the effect that the public might think less highly of lawyers if it is known that lawyers need insurance because they make mistakes. But the Task Force received information that suggests the contrary. In fact, members of the public widely believe that all lawyers already carry insurance and are surprised when they learn that malpractice insurance is not already mandatory.²¹⁶ Further, the Task Force believes that to the extent there are existing negative public attitudes about lawyers, these will not be materially affected one way or the other by an insurance mandate.

8. Mandatory Insurance Not in Lawyers’ Best Interests

Several impassioned comments were received from lawyers who stated that as an association of lawyers, the WSBA should focus on what is in the best interests of lawyers rather than the interests of the public at large. The Task Force does not agree with this viewpoint. See, e.g., GR 12.1 (“Legal services must be regulated in the public interest.”).

²¹⁶ Levin, *supra* note 15, at 1325-1327.

D. POTENTIAL APPROACHES CONSIDERED BY THE TASK FORCE

After compiling a considerable amount of data and other information summarized above, and after hearing from researchers, Bar staff, regulators from other states, insurance industry professionals, and Washington lawyers, the Task Force has concluded that the existing disclosure requirement is insufficient to adequately protect most consumers of legal services. **Uninsured lawyers pose, and continue to pose, a distinct risk to their clients.**

While it may be appropriate for lawyers to evaluate and assume personal risks created by lack of malpractice insurance, the Task Force concluded that it is simply not fair to the clients. Clients of uninsured lawyers often have a difficult time obtaining compensation from those lawyers after a malpractice event. Clients of uninsured lawyers have an especially difficult time finding legal representation for legitimate claims against uninsured lawyers because malpractice plaintiffs' lawyers routinely decline to handle those claims. The Washington Supreme Court's Client Protection Fund cannot and does not make payments based on malpractice; if it did, and if it were fully funded through license fees or assessments, Washington would have the equivalent of Oregon's Professional Liability Fund.

In the Task Force's view, there is a distinct problem that directly affects the public interest, and a solution is needed. The Washington Supreme Court as the supervisory authority over the practice of law in this state, regulates the profession to protect the public and maintain the integrity of the legal profession, and it does so by adopting rules for the regulation of the practice of law. GR 12. **Lawyers make mistakes. A license to practice law is a privilege, and no lawyer should be immune from his or her responsibility to clients injured because of those mistakes.**

The Task Force considered a number of possible approaches to more effectively address the risk to clients posed by uninsured Washington lawyers. These approaches are summarized below, followed by a more detailed discussion of the approaches considered and the considerations, pro and con, relevant to each potential solution for dealing with the problem identified. The Report concludes by recommending consideration of a rule to implement a system of malpractice insurance for lawyers as a condition of licensing.

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Lawyers make mistakes. A license to practice law is a privilege, and no lawyer should be immune from his or her responsibility to clients injured because of those mistakes.
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SUMMARY CHART OF POSSIBLE SOLUTIONS

1. Do nothing and maintain the status quo.

- No resource cost or fiscal impact on WSBA
- Does not address the identified problems for clients in any way

2. Implement a Proactive Management-Based Regulation model

(e.g., Illinois "PMBR" model, which increases training requirements for uninsured lawyers, particularly in practice management and bookkeeping).

- Directly addresses issues of competence/practice management but not financial responsibility for professional errors
- Practical effect of PMBR model in Illinois not yet known
- May reduce lawyer errors, but does not provide protection to clients when claims do arise
- May encourage acquisition of insurance, but insufficient evidence at this time

3. Implement more extensive malpractice insurance disclosure requirements

(e.g., South Dakota model, which requires direct disclosure of a lawyer's lack of malpractice insurance to clients and prospective clients).

- Low cost to administer
- Impact on conduct appears significant in South Dakota, although the potential impact in Washington is unknown
- Appears to encourage acquisition of insurance
- Does not address financial responsibility when professional errors occur
- Noncompliance puts lawyers at risk of permanent record of professional discipline

4. Combine PMBR with more extensive disclosure requirements

(Combine 2 and 3 above, i.e., require uninsured lawyers to both undergo self-assessment and education on risk reduction, practice management, and bookkeeping and directly disclose lack of insurance).

- Double requirement of extra mandatory training courses and vivid disclosure to clients of lack of insurance might cause many uninsured attorneys to purchase coverage
- Does not address financial responsibility when professional errors occur

SUMMARY CHART OF POSSIBLE SOLUTIONS (continued)

5. Implement mandatory malpractice insurance through a free market model (e.g., Idaho model).

- Provides diverse coverage options to members
- Free market allocates risks and costs based on practice character, claims history, and other underwriting standards
- Highly competitive market provides reasonable cost and options for coverage, exclusions, and deductibles (Idaho reports no lawyers unable to obtain insurance)
- Modest operating costs
- Guarantees available coverage for vast majority of client claims
- Adverse reaction by members who feel “forced” to purchase insurance that they don’t want

6. Implement professional liability fund model (e.g., Oregon model, requiring all private practice lawyers with a primary office in Oregon to participate in the Bar-operated Professional Liability Fund, with coverage of all members).

- Coverage available for all members
- Robust practice management, member support, and claims support systems
- Relatively high annual premium (in current market) and high operating costs
- Large staff required to administer and significant fiscal impact to implement
- Choice restricted to single provider
- Spreads risks across all classes of lawyers, with internal “cross-subsidization”

7. Consider other approaches (e.g., allowing letters of credit or surety bonds for uninsured lawyers).

- Client ability to obtain sufficient recovery on surety bonds is unclear
- Letters of credit are as expensive or more expensive than insurance premiums, and would not typically provide defense costs for covered attorneys

1. Do Nothing and Maintain the Status Quo

This “no action” approach would leave things as they are today, with roughly 14% of Washington lawyers in private practice declining to carry malpractice insurance. The insurance coverage disclosure requirement notwithstanding, it is not reasonable to assume that most consumers check the WSBA website to ascertain whether their prospective lawyer has a malpractice insurance policy. On the contrary, anecdotal information received by many Task Force members suggests that most of the general public (and indeed, many lawyers) assume that all lawyers carry malpractice insurance. The Task Force has concluded that the status quo would not address the problem identified: Uninsured lawyers would, like other practicing lawyers, continue to commit errors, clients would be harmed, and those clients would continue to have a very difficult time engaging plaintiffs’ lawyers to represent them in pursuing their claims. Where clients are able to seek compensation, they would continue to encounter problems collecting judgments because of defendant lawyers who shield assets or declare bankruptcy. In other words, this “solution” is no solution at all.

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The Illinois “PMBR” Model

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2. Implement a Proactive Management-Based Regulation (“PMBR”) Model

The Proactive Management-Based Regulation approach, described above, requires that uninsured lawyers must, every two years, complete a four-hour interactive, online self-assessment regarding the operation of their law firms. They are then provided with a list of resources to help improve their law practices. The educational programs and resources are “aimed at helping lawyers avoid disciplinary problems before they occur,”²¹⁷ providing uninsured lawyers with information and tools that also might help prevent actions or inaction leading to incidences of malpractice. One highlight of the Illinois approach is its assessment in practice management and bookkeeping. One way of looking at the PMBR program is that it provides lawyers with some of the questions and potential training that insurance companies regularly provide to the lawyers they insure. The Task Force believes that Illinois’ PMBR approach might result in some improved practices among uninsured lawyers in that state, and might reduce incidences of malpractice as well as disciplinary rule violations (PMBR’s primary purpose). In any event, because the program is new, no empirical data is available. The program might also induce some lawyers to obtain insurance in order to avoid spending four hours completing the assessment. (Note, however, that Illinois’ program satisfies four hours of a lawyer’s MCLE obligation.) But the most significant problem with the PMBR model is that training in practice management and record-keeping does not necessarily prevent lawyer errors. After all, lawyers in firms with excellent record-keeping and careful deadline-tracking systems

²¹⁷ Press Release, Sup. Ct of Ill., *supra* note 149.

The South
Dakota Model

still make mistakes. PMBR does not address the impact on clients when uninsured lawyers commit errors that have severe financial consequences.

3. Impose More Extensive Insurance
Disclosure Requirements

This approach would be based on South Dakota's RPC 1.4(c) requirement that every lawyer without at least \$100,000 in malpractice insurance disclose, on the lawyer's letterhead and in every written communication to a client, that "This [lawyer][firm] is not covered by professional liability insurance." As a rule of professional conduct, the potential consequence of noncompliance is professional discipline. South Dakota's disclosure approach is low-cost from an administrative standpoint and it appears to have reduced the number of uninsured lawyers. At the same time, South Dakota, with a much smaller population and less diverse economy, has a much smaller number of lawyers than Washington. It is difficult to assess whether this type of disclosure approach would be as effective here. Many nonlawyers do not know how to find and engage a lawyer, and nonlawyers are often unskilled at reading engagement letters and even less able to evaluate the risks involved in hiring an uninsured lawyer. Finally, notwithstanding South Dakota's disclosure requirement, there are still many uninsured lawyers practicing in that state, and when incidences of malpractice occur with damaging consequences, the clients of uninsured lawyers can suffer serious adverse consequences.

Two-pronged
Approach

4. Couple Illinois' PMBR Model with South Dakota's
Direct Disclosure Requirement

Washington State could impose a two-pronged approach coupling Illinois' Proactive Management-Based Regulation with South Dakota's direct disclosure model. Conceivably, the PMBR portion of the requirement could be strengthened so that the four-hour assessment would be *in addition to* other MCLE requirements, and uninsured lawyers could also be *required* to take a special multi-hour course in practice management, record-keeping and other skills. These additional hours of requirements might encourage some lawyers simply to purchase insurance. A Washington rule might also provide that the PMBR assessment and training be undertaken at the cost of the uninsured lawyer. Obviously, the effectiveness of this approach in encouraging the purchase of malpractice insurance cannot be ascertained in advance. However, like the two possible solutions described immediately above, this approach would never address the impact on those *clients* whose lawyers remain uninsured and commit errors that have severe financial consequences.

The Idaho Model

The Oregon
“PLF” Model

5. Implement Mandatory Malpractice Insurance through a Free Market Model

This approach is based on Idaho’s recent mandate that all lawyers in private practice obtain malpractice insurance at minimum specified coverage levels (\$100,000/\$300,000), and that those lawyers obtain their professional policies on the open market. In Idaho, there is no evidence that any lawyers have been unable to obtain insurance policies. The highly competitive character of the existing malpractice insurance market appears to have kept annual premiums at reasonable levels for Idaho lawyers. Although there has been some adverse reaction from Idaho lawyers who would prefer to be without insurance, this approach guarantees that lawyers for most clients will have sufficient coverage in the event of a malpractice incident leading to financial loss to a client. This model could be implemented in Washington with modest administrative costs by enforcing the mandate through lawyer certification made in connection with the annual licensing process. One advantage of the free market approach to most lawyers is that insurance underwriters will set premiums to reflect the expected risks associated with various law practices and the history of individual attorneys. That means that most lawyers will pay relatively low premiums, but some will pay more for insurance. The actual mandated level can be set at a level high enough to cover the vast majority of potential claims, while not at such a high coverage amount as to make insurance unreasonably expensive or unavailable to some practitioners.

6. Implement Mandatory Malpractice Insurance through a Centralized Professional Liability Fund (“PLF”) Model

Oregon’s Professional Liability Fund is the model for this approach. Washington could similarly require that all lawyers in private practice participate in a single insurance pool administered by WSBA and funded through an assessment on the participating lawyers.²¹⁸ The advantage of this mechanism is its ability to provide universal lawyer access to insurance. In addition, Oregon’s robust practice management and claims management systems successfully reduce incidences of malpractice while causing prompt notification of potential claims and enabling the PLF to respond swiftly to and manage potential claims.

²¹⁸ In the late 1980s, the WSBA previously considered and rejected such a proposal. Specifically, in 1986, the WSBA Board of Governor’s considered creating a professional liability fund and system for requiring malpractice insurance, which would have been incorporated into the former Admission to Practice Rules. *Status Report on Malpractice Insurance Coverage and Professional Liability Fund Proposal*, Wash. St. B. News, October 1986, at 27. In December 1986, by a 7-4 vote, the BOG approved the proposal for submission to the Supreme Court, subject to submission of the issue to a referendum of the membership. Carole Grayson, *Washington State Bar Newslines: The Board’s Work*, Wash. St. B. News, January 1987, at 29. The membership defeated the referendum by a vote of 6,971 to 1,693. Carole Grayson, *Washington State Bar Newslines: The Board’s Work*, Wash. St. B. News, March 1987, at 16.

The Oregon coverage levels (\$300,000/\$300,000) are sufficient to handle most claims, thus protecting almost all clients in that state. Indeed, Oregon's PLF staff have been quite effective at promptly addressing and resolving small claims. One disadvantage of the Oregon approach is that it is relatively expensive (\$3,300 per year per lawyer) given the modest coverage levels (\$300,000/\$300,000). This is because of the costs of operating a system that provides robust staff and programmatic support to lawyers, and because the flat universal fee means that costs are spread among all lawyers, *i.e.*, lawyers who represent a low risk profile are essentially subsidizing those whose practices or personal histories might generate higher risk (and higher premiums) on the open market. Setting up and operating a new PLF in Washington State would entail substantial staff time and a significant commitment of financial resources. In addition, the Oregon system does not provide lawyers with any ability to tailor their policies by adjusting coverage amounts or policy terms.

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**Letter of Credit or a
Performance Bond**
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**7. Use the Free Market Model but Permit Lawyers to
Substitute Alternate Financial Guarantee Instruments**

This system would be based on the Idaho "free market" insurance model but would permit lawyers to provide an alternate financial instrument in lieu of a malpractice insurance policy. In order to assure prompt access to amounts necessary to pay a judgment, a bank letter of credit or a performance bond equaling the maximum coverage amount would be provided to a central administrator (presumably at the WSBA). A letter of credit would provide, for example, that the administrator could file a certificate with the provider bank that the lawyer's former client obtained a final judgment in a malpractice case in a specific amount (up to the required maximum), and then the bank would immediately pay that amount to the administrator. The administrator would remit the amount to the claimant. A performance bond might work similarly.

There are several potential concerns with this approach. First, in contrast with malpractice insurance policies, letters of credit and performance bonds would not cover defense costs for the lawyer against whom a claim is made. More importantly, banks providing letters of credit charge annual fees that typically equal or exceed the cost of normal malpractice insurance premiums. In addition, letter of credit banks require the "account party" for whom the bank issues a letter of credit to post collateral equaling the amount of the highest possible draw. For example, a lawyer providing a letter of credit as a substitute for a \$300,000 insurance requirement would have to post \$300,000 in collateral and pay a letter of credit fee in the range of several thousand dollars. Alternatively, those who work with performance bonds often find that the companies providing those bonds do not make prompt payments, or dispute the amount to be paid (often paying just half of the bond amount). To address that, it might be prudent to require a performance bond equaling twice

the minimum insurance amount. The bottom line is that alternate financial instruments present significant complications and cost concerns.

E. RECOMMENDATIONS

After considering the information and findings described above, listening to the concerns and suggestions of hundreds of WSBA members, and debating a variety of alternate approaches, the WSBA's Mandatory Malpractice Insurance Task Force makes the recommendations outlined below. It should be emphasized that the Task Force listened *very* carefully to the diverse concerns voiced by commenting lawyers, and adjusted a number of recommendations based on those comments. (The Task Force's analysis and response to the main categories of comments are provided under "WSBA Member Concerns and Task Force Responses".)

1. Mandate a Basic Level of Malpractice Insurance for All Lawyers in Private Practice

Active Washington-licensed attorneys engaged in the private practice of law, with specified exemptions, should be required to be covered by continuous, uninterrupted malpractice insurance. Attorneys should be required to obtain minimum levels of malpractice insurance in the private marketplace. The required minimum coverage should be \$250,000 per occurrence/\$500,000 total per year ("\$250K/\$500K"). This requirement should be implemented through court rule.

Comment: The absence of malpractice insurance coverage for 14% of Washington lawyers in private practice poses a distinct risk to clients and to the lawyers themselves. It may be appropriate for lawyers to evaluate and assume personal risks created by lack of malpractice insurance. However, that is not fair to clients. As noted above, clients of uninsured lawyers face significant difficulties recovering from those lawyers after a malpractice event, and the Washington Supreme Court's Client Protection Fund cannot make payments based on malpractice. A license to practice law is a privilege, and every lawyer engaged in the business of providing legal services should be financially responsible for the effects of his or her own mistakes. Lack of malpractice insurance is fundamentally an access-to-justice problem. Individual clients with everyday legal needs are more likely to seek representation from uninsured lawyers than will wealthy people or institutions. Mistakes made by lawyers without malpractice insurance have a disproportionate impact on low and middle income Washingtonians. This is simply unfair, and it is a problem that can be addressed as a regulatory measure.

The Task Force reviewed the range of potential approaches described in the preceding section of this Report. It determined that the Illinois-style PMBR approach might lead to an improvement in practice-management skills but would not provide protection to

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Required Malpractice
Insurance
(\$250K/\$500K)
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clients when legitimate malpractice claims arise, as they inevitably do. Further, Illinois' PMBR approach provides no incentives for lawyers to purchase insurance because the required four-hour on-line assessment is free, is a substitute for regular CLE hours, and lawyers are not required to enroll in the subsequent skills programs if the assessment suggests that might be useful. The South Dakota approach of "super-disclosure" is attractive because it is low-cost and has been relatively successful in reducing the percentage of lawyers without insurance in that state. However, disclosure is not the equivalent of coverage, and it does not protect clients who believe they have a legitimate basis to pursue a malpractice claim. Oregon's mandatory Professional Liability Fund has proved quite successful and handles small claims well, but it is expensive, would have significant startup costs, and would require the development of substantial staff capacity. Further, comments received by the Task Force suggest that Oregon's one-size-fits-all approach might not be viewed as compatible with the free market attitude of many Washington lawyers.

After substantial discussion, the Task Force has decided to recommend a free-market model analogous to the system recently implemented in Idaho. Task Force members concluded that this will provide the least expensive and most flexible approach. Further, the WSBA already has designated an endorsed provider (ALPS) through a competitive process, and in Idaho, that same provider has been successful in helping to ensure that every lawyer has access to an affordable insurance policy.

The Task Force considered possible coverage level requirements of \$100K/\$300K, \$250K/\$250K, and \$250K/\$500K. The Task Force recommends mandatory minimum coverage at \$250K/\$500K. Idaho's minimum of \$100K/\$300K appears too low for Washington State practice because, based on the data reviewed, in many instances \$100,000 would not cover the cost of payment to a successful claimant and the costs of representing the lawyer. Upon consideration, the premium cost difference between a \$250K/\$250K and \$250K/\$500K policy would not be substantial, with an estimated one to two hundred dollar difference annually. Because most claims are for less than \$250,000, **the Task Force determined that a policy coverage minimum of \$250,000/\$500,000 will likely be sufficient to cover the large majority of claims.** The insurance requirement can be fulfilled by the lawyer himself/herself, or by his or her law firm.

Coverage Minimum of
\$250,000/\$500,000

The Task Force also discussed tail coverage, deductibles, defense costs, and prior acts (retroactive) coverage. It determined that tail coverage issues will likely be addressed in some individual insurance policies, but that obligatory tail coverage posed significant regulatory impediments. The Task Force has decided not to recommend a deductible size limitation requirement because deductible levels will not affect coverage and because such matters are most effectively decided by the insurer and the insured. The Task Force further noted the impracticality of mandating prior acts coverage, because this

Exemptions for those
whose practices are
not of a “private
practice” character.

can be very expensive to purchase on the open market. However, the Task Force emphasizes the importance of maintaining **continuous, uninterrupted coverage** in order to ensure legitimate claims are covered.

The malpractice insurance requirement should be implemented by an amendment to the Admission and Practice Rules promulgated by the Washington Supreme Court. **The Task Force’s draft proposed rule appears as Appendix E to this Report.**

2. Exemptions from the Malpractice Insurance Requirement

Only active lawyers engaged in the private practice of law should be subject to the mandatory malpractice insurance requirement. Exemptions should be provided for the substantial number of lawyers whose practices are not of a “private practice” character that calls for insurance requirements. In this context, “private practice” means the provision of legal services to clients other than a lawyer’s employing organization and that organization’s representatives and employees in their organizational capacities. Specific exemptions should include:

1. Employment as a government lawyer;
2. Employment as a judge;
3. Employment by a corporation or business entity, including nonprofits;
4. Employee or independent contractor for a nonprofit legal aid or public defense office that provides insurance to its employees or independent contractors;
5. Mediation or arbitration;
6. Volunteer pro bono service for a qualified legal services provider as defined in APR 1(e)(8) that provides insurance to its volunteers; and
7. Other lawyers either not “actively licensed” or not “engaged in the private practice of law,” including, for example, retired lawyers maintaining their licenses, judicial law clerks, and Rule 9 interns.

Comment: The Task Force has considered a large number of proposed exemptions suggested by WSBA members. These have included existing exemptions from the insurance disclosure requirements of APR 26 (e.g., full-time government lawyers) and others that were suggested. Based on the primary goal of protecting clients, the Task Force recommends that *all* actively licensed lawyers engaged in the private practice of law be required to comply with the malpractice insurance requirement, except those recommended exemptions discussed in more detail below.

a) Recommended Exemptions

Fundamentally, the recommended “exemptions,” with the exception of the pro bono category, can be thought of as exclusions because these are categories of lawyers who are not in private practice and therefore not serving private clients who need the protection that malpractice insurance affords.

1. **Employment as a government lawyer.** This category would include lawyers who are employed by:

- The U.S. Government;
- State of Washington;
- A federally-recognized American-Indian tribal government; or
- A county, regional, or city government or any other government body, board or commission.

Governments, as well as private organizations, are often self-insured. In any event, actions by their own employees that might constitute malpractice are treated as acts of the organizations themselves. Therefore, a requirement for outside malpractice insurance is illogical for these lawyers. At the same time, if full-time government lawyers choose to engage in private practice apart from their regular work, they would be required to obtain malpractice insurance (unless they fall within one of the other exemptions, such as performing pro bono work through a QLSP).

2. **Employment as a judge.** Judges, administrative law judges, and hearing officers will qualify for an exemption if the lawyer certifies that he or she is not actively engaged in the private practice of law. Adjudicators are neutrals and are not “representing” any clients when they are acting in an adjudicative capacity.

3. **Employment by a corporation or business entity, including nonprofits.** A lawyer who provides legal services, solely as an employee, of a private for-profit or non-profit corporation or business entity would not be “engaged in the private practice of law.” In-house lawyers are typically covered by an employer’s errors and omissions policy or through the employer’s self-insurance. Similar to lawyers employed by government agencies, house counsel’s malpractice is treated as an act of the organization itself, so an insurance requirement is inapposite. At the same time, a lawyer who provides legal services to a private company as an independent contractor (rather than as an employee) would not be entitled to this exemption because the lawyer would be deemed to be engaged in the private practice of law.

4. **Employee or independent contractor for a nonprofit legal aid or public defense office that provides insurance to its employees or independent contractors.** A lawyer employed to provide public defense services or civil legal aid through an organization that insures its employees or independent contractors would be

insured for the purposes of the malpractice insurance mandate. This exemption anticipates that there may be some circumstances under which lawyers will not be insured when providing indigent service or civil legal aid representation to clients. This exemption makes clear to those lawyers who are not insured through any organization that they must obtain malpractice insurance. If lawyers who qualify for this exemption choose to engage in private practice apart from their work as public defenders or in civil legal aid, they would be required to obtain malpractice insurance (unless they fall within one of the other exemptions, such as performing pro bono work through a QLSP).

5. **Mediation and arbitration.** A lawyer can qualify for this exemption if the lawyer's practice is limited exclusively to mediation and arbitration services and therefore, by operation of the rule, the lawyer would not be engaged in the private practice of law. Indeed, mediators, arbitrators, and other adjudicators are not "practicing law" and do not have "clients" as is thought of in the legal representation context.
6. **Volunteer pro bono service for a qualified legal services provider as defined in APR 1(e)(8) that provides insurance to its volunteers.** Task Force research has confirmed that the various QLSP and/or pro bono clinics across the state provide malpractice insurance coverage for their volunteers. Established low-income legal services organizations such as KCBA's Pro Bono Services Program, Eastside Legal Assistance Program, and Northwest Justice Project, for example, all provide coverage. If the sponsoring non-profit entity does not provide malpractice coverage itself, or through another QLSP, then this exemption would not apply. Further, the exemption would apply only if and to the extent the lawyer is practicing exclusively with one or more insured QLSPs or covered pro bono clinics, and is not representing private clients or engaging in other activities constituting the private practice of law. The Task Force notes that some small-population counties in the state do not have QLSPs operating in them or providing the opportunity for lawyers to provide pro bono services through them. As discussed in more detail elsewhere in this Report, the Task Force recommends that the WSBA focus on this issue and work to encourage or enable lawyers in every county to do pro bono work that is automatically covered by a QLSP's insurance policy.
7. **Catchall Category.** Any other lawyer who is either not "actively licensed" or not "engaged in the private practice of law" will be exempt from the malpractice insurance mandate. Individuals who may fit within this category include, among others, judicial law clerks, Rule 9 interns, inactive members, unemployed lawyers, and fully retired lawyers who do not practice law but choose to maintain their active licenses without engaging in the private practice of law.

b) Exemptions Considered But Not Recommended

The Task Force examined several other potential exemptions but concluded that they would not be appropriate. These included:

1. **Lawyers practicing solely before federal tribunals.** These lawyers are engaged in the private practice of law, notwithstanding that their work is before federal rather than state courts or agencies. The Task Force concluded that their clients deserve the same protections afforded to clients who happen to be in state adjudicatory or administrative systems, and therefore an insurance mandate is appropriate.
2. **Family member exemption.** The Task Force received a number of comments from members suggesting a “family member” exemption. The members noted that they provide only limited legal services to “close family” members and this family “benefit” would be eliminated if the members were required to obtain malpractice insurance. The Task Force deliberated about the possible exemption, but the majority voted against creating an exemption for lawyers that assist or advise family members. The primary reasons were that family members are not immune from lawyer malpractice, and further, the Task Force concluded that it was extremely difficult to precisely define those individuals who constitute a “close” family member. Furthermore, while ALPS’ current policies exclude coverage for legal work for family members, many other policies written for Washington lawyers do not have such exclusions, e.g. policies written by the CNA Financial Corporation, Hanover Insurance Group, and Travelers Indemnity Company.²¹⁹
3. **Lobbying and/or legislative advocacy exemption.** The Task Force evaluated an exemption for lawyers who exclusively participate in lobbying and/or legislative advocacy work. The Task Force recognized that GR 24 defines activities that constitute the private practice of law. GR 24(a). The GR also discusses other conduct that is deemed permissible activity of a lawyer, such as “acting as a legislative lobbyist,” but does not define whether that conduct constitutes the practice of law. GR 24(b)(7). The Task Force concluded that an exemption for lobbying and/or legislative advocacy work was inappropriate because each individual lawyer was in the best position to assess whether the lawyer’s work fell within the definition of the practice of law set forth in GR 24(a) as well as RPC 5.7. If the lawyer’s work satisfies the definition of “practicing law” under GR 24(a) and the lawyer is providing those services to private clients, then the lawyer would be required to obtain malpractice insurance.

²¹⁹ Email, Insurance Industry Professional and Task Force Member Rob Karl to Task Force Chair Hugh Spitzer, Dec. 20, 2018, on file with WSBA.

4. **Pro bono services provided to a nonprofit organization.** The Task Force also considered an exemption for lawyers who exclusively provide pro bono services to a nonprofit organizations (other than as house counsel), as opposed to providing pro bono services to individuals. The Task Force is sensitive to member concerns that malpractice insurance expenses could potentially limit or impact a member's ability to provide pro bono services to a nonprofit organization. The Task Force nevertheless concluded there is no difference between the actual harm of legal malpractice to an organization, as opposed to an individual pro bono client. That is, a nonprofit organization is just as susceptible to legal malpractice and negative consequences flowing therefrom as any other member of the public.
5. **Lawyers providing pro bono legal services where the services are not provided through a civil legal aid provider that maintains malpractice insurance for its volunteers.** Because the lawyer would not have coverage, clients would be unprotected. Lawyers may if they choose, transfer their licenses to emeritus status and work through qualified legal service providers to serve pro bono clients.
6. **Unaffordable insurance.** The Task Force received comments from a number of members regarding concerns that malpractice insurance premiums would be prohibitively expensive and force the lawyer to resign from the Bar and stop the practicing law. The Task Force therefore considered a potential financial hardship exemption. The Task Force understands this same argument was raised in Idaho. The Task Force was provided information, however, that all lawyers in Idaho were able to obtain insurance at a rate the lawyers deemed acceptable. The Task Force received presentations from insurance professionals, including insurance brokers and underwriters, and appreciates that the premium for each individual lawyer may vary based upon a variety of factors, including, but not limited to, the nature of practice; years of practice; claims history; and/or disciplinary history. The Task Force concluded that an affordability exemption could not be drafted with sufficient precision and accuracy given the lack of known parameters and the wide variability in the subjective concept of affordability. The Task Force further noted that evaluation of an affordability exemption would require substantial WSBA administrative resources to review and resolve an individual lawyer's entitlement to such an exemption.

.....
Malpractice insurance
coverage managed
through the annual
licensing process.
.....

7. Washington-licensed lawyers practicing solely out-of-state or out-of-country. Because it is difficult to define precisely where the “practice of law” occurs and difficult to determine if a lawyer claiming to be “out-of-state” is in fact providing legal services in Washington, the Task Force concluded that if a lawyer has a Washington license, the lawyer should carry insurance so that clients are protected. If a lawyer in private practice is certain that he/she will not practice law in Washington, then that lawyer may wish to reconsider whether it makes sense to maintain an active license in this state. If a lawyer’s entitlement to practice elsewhere is based solely on the possession of a Washington state license, then it is a legitimate regulatory objective to require insurance coverage for the legal services provided to private clients.

3. Annual Certification and Enforcement

Licensed lawyers should report whether they are engaged in the private practice of law, and their malpractice insurance coverage status, through the annual licensing process. Failure to comply with the insurance requirement would lead to administrative suspension of the lawyer’s license pursuant to APR 17.

Comment: The Task Force recommends that the malpractice insurance coverage requirement be managed through the existing annual licensing process. This would involve only a minimal allocation of WSBA staff resources given existing processes for administering insurance disclosure under APR 26. Every lawyer would be required to certify annually that he or she is covered by a malpractice insurance policy consistent with the minimum limits described above. Alternatively, the lawyer could certify that he or she qualifies for a recognized exemption. Lawyers who are required to maintain insurance would be required to provide to the WSBA, upon request, specific information such as the name of the insurance carrier, policy number, coverage limits in the specific policy, and dates of coverage. This information provided upon request would not be public. Lawyers would also be obligated to notify the WSBA if at any time they do not renew insurance coverage or if their insurance lapses.

The Task Force recommends that a lawyer’s failure to obtain malpractice coverage by the annual licensing deadline would constitute noncompliance with the licensing requirements in the APR. The Task Force understands that the WSBA Regulatory Services Department would engage in enforcement efforts consistent with the applicable APR for failure to comply with licensing requirements.

WSBA should work to
implement a robust
pro bono insurance
program statewide.

4. Increasing Insurance Availability for Pro Bono Representation

The WSBA should develop and put into effect an improved statewide program to increase access to malpractice insurance for lawyers whose private practices are limited solely to pro bono representations.

Comment: As described earlier in the Report, a majority of lawyers who provide pro bono services already carry malpractice insurance or are able to obtain coverage through VLPs or QLSPs. However, only 20 of Washington’s 39 counties are served by VLPs, and the unserved counties are typically those with small populations. In order to obtain coverage, otherwise-uninsured lawyers in the unserved counties have to work through a program based elsewhere. This appears to work in many instances, but it is important to make sure that a pro bono client can be matched with an insured lawyer in *any* community in Washington. As noted above, lawyer malpractice insurance is an access-to-justice issue, and pro bono clients should have the same access to an insured lawyer as anyone else.

A more robust pro bono insurance program statewide will require cooperation and effort with the existing VLPs and QLSPs, with the Statewide Pro Bono Council, and with local and specialized bar associations. The Task Force recommends the WSBA should begin work with these groups to develop and implement an improved statewide program to increase the access to malpractice insurance for lawyers whose private practices are limited solely to pro bono representations. Such a program improvement might be workable (and financially achievable) within the existing pro bono framework. Alternatively, it might require the allocation of additional WSBA or other funds. The development of an expanded pro bono insurance coverage program is beyond the scope of the Task Force’s work. However, while this issue will require a separate initiative that could take time, it should not delay the fundamental decision to move ahead on mandating malpractice insurance coverage.

MANDATORY
MALPRACTICE
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III. CONCLUSION

With this Report, the Task Force recommends to the WSBA Board of Governors that all actively licensed lawyers in private practice be required to maintain malpractice insurance as a condition of licensure.

Consistent with the directive in its Charter, the Task Force has drafted a rule designed to implement its recommendation. See draft revised APR 26 as [Appendix E](#). The Rule incorporates the Task Force's recommended mandatory minimums and exemptions. The Task Force submits this draft rule for the Board's consideration and any further action the Board deems appropriate.

APPENDIX A

Mandatory Malpractice Insurance Task Force Charter

MANDATORY MALPRACTICE
INSURANCE TASK FORCE REPORT

FEBRUARY 2019



MANDATORY MALPRACTICE INSURANCE TASK FORCE

(Adopted by the WSBA Board of Governors on September 28, 2017)

CHARTER

Background

Admission and Practice Rule (APR) 26 requires annual reporting of whether a lawyer is covered by professional liability insurance. Washington State does not, as a condition of licensing, require that lawyers have such insurance. By contrast, Washington's two other licenses to practice law (limited practice officers and limited license legal technicians) are, by court rule, obligated to show proof of insurance coverage or demonstrate financial responsibility in order to obtain and maintain their licenses to practice. In 2016, the Board of Governors (BOG) convened a Mandatory Malpractice Insurance Work Group to gather information about jurisdictions that require lawyers to have professional liability insurance and the systems used to implement such requirements. The Work Group gathered information from Oregon, Idaho, and other non-U.S. jurisdictions, investigated a number of system models, examined data collected from APR 26 insurance disclosure records, and reviewed historical documentation about a 1986 WSBA initiative to adopt a mandatory malpractice rule. Without formulating a recommendation or proposal, the Work Group presented this information to the Board of Governors as a generative discussion topic at the May 2017 Board meeting. After consideration of the information presented, the BOG decided to form a Task Force to review the topic in greater depth, receive member input, and present a recommendation about whether to proceed with a mandatory malpractice insurance proposal.

Task Force Purpose

1. Solicit and collect input from WSBA members and others about whether to recommend a system of mandatory malpractice insurance for lawyers in Washington State.
2. Review information gathered by Mandatory Malpractice Insurance Work Group and gather any additional information needed for a comprehensive analysis of the topic, including alternative options.
3. Consider oral presentations and/or written materials regarding mandatory malpractice insurance systems used in the U.S. and elsewhere, together with other potential system models, and evaluate the feasibility, suitability, and practicality of such a regulatory requirement in Washington.

4. Determine whether to recommend adoption of a mandatory malpractice insurance requirement in Washington.
5. If a regulatory requirement is recommended, determine the most suitable contours of such a system, including development of a model that addresses the means of providing or procuring coverage, as well as issues of scope, exemptions, and enforcement.
6. After considering relevant materials and input, submit a final report to the BOG, including, as appropriate, draft rules to implement a system of mandatory malpractice insurance for Washington lawyers, and including any minority report(s).

Timeline

- Begin meeting no more than six weeks after appointments are completed;
- Complete work and submit a final report not later than the January 2019 BOG meeting, unless the timeline for completion is extended by the BOG;
- If the task force recommends adoption of a mandatory malpractice system, prepare a BOG-approved set of suggested rule amendments for submission to the Supreme Court before the first GR 9 deadline after the draft amendments are approved by the BOG;
- Provide updates on the work of the task force as requested by the BOG.

Task Force Membership

The task force shall consist of the following voting members:

- A WSBA member who shall be appointed to serve as Chair;
- Three current or former members or officers of the BOG;
- Not fewer than ten at-large members of the WSBA, including
 - at least one lawyer member with substantial experience in insurance coverage law;
 - at least one lawyer member who is also an active member of the Oregon State Bar and who participates in Oregon's Professional Liability Fund;
 - at least one limited practice officer or limited license legal technician member;
- A full-time superior court, district court, municipal court, or court of appeals judge;
- An individual with professional experience in the insurance/risk management industry;
- Two community representatives who are not licensed to practice law.

The Executive Director will designate a WSBA staff liaison.

In accordance with WSBA Bylaws Art. IX(B)(2)(e) and (f), the members and the Chair of the task force will be appointed by the WSBA President subject to being accepted or rejected by the BOG. Such appointment and approval shall be completed by no later than the BOG's November 2017 meeting.

APPENDIX A

Addendum:

Extension of Charter Reporting Deadline

At its November 16, 2018, meeting, the WSBA Board of Governors extended the Mandatory Malpractice Insurance Task Force Charter to March 2019. Attached to the Task Force Charter is an excerpt of the approved November 16, 2018, Board minutes reflecting that extension.

MANDATORY MALPRACTICE
INSURANCE TASK FORCE REPORT

FEBRUARY 2019

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS MEETING

Public Session Minutes

Seattle, WA

November 16, 2018

The Public Session of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Bill Pickett on Friday, November 16, 2018, at 11:50 a.m. at the WSBA Conference Center, Seattle, Washington. Governors in attendance were:

Dan W. Bridges
 Michael John Cherry
 Daniel D. Clark
 Peter J. Grabicki
 Carla Higginson
 Jean Y. Kang
 Russell Knight
 Christina A. Meserve
 Athan P. Papailiou
 Kyle D. Sciuchetti
 Alec Stephens
 Paul Swegle
 Judge Brian Tollefson (ret.)

Also in attendance were President-elect Rajeev Majumdar, Executive Director Paula Littlewood, General Counsel Julie Shankland, Chief Disciplinary Counsel Doug Ende, Chief Regulatory Counsel Jean McElroy, Director of Advancement/Chief Development Officer Terra Nevitt, Chief Communications and Outreach Officer Sara Niegowski, and Executive Assistant Margaret Shane. Governor Hunter was not present for the Public Session meeting.

...

MANDATORY MALPRACTICE INSURANCE TASK FORCE CHARTER EXTENSION

Governor Grabicki moved to approve the extension of the Mandatory Malpractice Insurance Task Force Charter as contained in the meeting materials to authorize the Task Force to report to the Board at the March 7, 2019, Board meeting. Motion passed 11-2.

...

APPENDIX B

Mandatory Malpractice Insurance Task Force

MEMBERS

MANDATORY MALPRACTICE
INSURANCE TASK FORCE REPORT

FEBRUARY 2019

FEBRUARY 2019

MANDATORY MALPRACTICE INSURANCE TASK FORCE	
Member/Liaison	Member Type and Charter-Mandated Position
Hugh D. Spitzer University of Washington School of Law Professor of Law	Chair
John Bachofner Jordan Ramis, PC	Member (Oregon Lawyer)
Stan Bastian United States Courthouse	Judge
Dan Bridges McGaughey Bridges Dunlap PLLC	Current/Former BOG Member
Christy Carpenter Mylllt.Com, A Legal Technician Firm, PLLC	Member (LPO/LLLT)
Gretchen Gale Attorney at Law	Member
P.J. Grabicki Randall Danskin PS	Member
Lucy Isaki Retired Attorney	Current/Former BOG Member
Mark Johnson Johnson Flora Sprangers PLLC	Current/Former BOG Member
Rob Karl Sprague Israel Giles, Inc.	Insurance Industry Professional
Kara Masters Masters Law Group	Member (Insurance Experience)
Evan McCauley Jeffers, Danielson Sonn & Aylward PS	Member
Brad Ogura	Public Member
Suzanne Pierce Davis Rothwell Earle & Xochihua	Member
Brooke Pinkham Seattle University School of Law Center for Indian Law and Policy	Member
Todd Startzel Kirkpatrick & Startzel PS	Member
Stephanie Wilson Seattle University School of Law Reference Services	Public Member
Annie Yu Pierce County Prosecuting Attorney's Office	Member

FEBRUARY 2019

MANDATORY MALPRACTICE INSURANCE TASK FORCE	
WSBA Staff Liaisons	
Douglas J. Ende	Chief Disciplinary Counsel
Thea Jennings	
Rachel Konkler	

Mandatory Malpractice Insurance Task Force

MEMBER BIOS

Hugh Spitzer is a law professor at the University of Washington School of Law, where he teaches Professional Responsibility along with several other courses. From 1982 until his retirement in 2016, he practiced public finance and municipal law with Foster Pepper PLLC and its predecessor firms in Seattle. Hugh continues to practice as a part-time solo practitioner, advising other lawyers. He has a modest professional liability insurance policy through ALPS.

John Bachofner is a shareholder at Jordan Ramis PC. His practice focuses on litigation and jury trials, as well as on insurance coverage, product liability, general business, bankruptcy, and creditors' rights issues. He is the chair of Jordan Ramis PC's Litigation Group as well as chair of the Oregon State Bar's Litigation Section. He has represented individuals and organizations in a variety of state and federal courts, arbitration forums, and agency hearings, as well as in a variety of transactions. Having taken or defended hundreds of depositions, he is frequently involved in binding arbitration of matters. Since 1996, he has first-chaired a number of jury trials to verdict in trials lasting from one day to as long as two weeks.

Stan Bastian is a U.S. District Court Judge in the Eastern District of Washington, with Chambers in Yakima. He was appointed by President Barack Obama in 2014. Prior to that he was in private practice for over 25 years in Wenatchee and he served as the President of the Washington State Bar Association in 2007-08.

Dan Bridges was elected to the Board of Governors in September 2016, when he replaced Elijah Forde as District-9 governor. Bridges is a partner with McGaughey Bridges Dunlap PLLC. He has tried over 50 jury trials in state and U.S. District Court and argued more than 30 appeals in Washington Supreme Court, all three divisions of the Washington Court of Appeals, and the U.S. Court of Appeals for the Ninth Circuit. And he serves as a superior court arbitrator in four Washington counties. Bridges received his undergraduate degree in political science from the University of Washington and his law degree from the University of Puget Sound (now Seattle University School of Law).

Christy Carpenter is a Limited License Legal Technician with a solo practice in Tacoma. Prior to opening her own firm in 2017, she was a paralegal for over 20 years, mainly in family law. Christy also serves on the WSBA LLLT Board and is an active volunteer with Tacoma Pro Bono.

Gretchen Gale is a graduate of the University of Colorado School of Law. She served in the Prosecuting Attorney's Offices of Pierce and Thurston Counties, the Thurston County Commissioner's Office, the Office of the State Treasurer, the Washington Attorney General's Office in the Labor and Personnel and Education Divisions, and was a partner in the government relations law firm of Cushman Gale LLC. Gretchen is currently retired from law practice but maintains an active license in the Washington State Bar Association and an inactive license in the Colorado Bar. She resides in Olympia, WA.

P.J. Grabicki practices law in Spokane with the Randall Danskin law firm, and is President of the firm. The firm consists of twenty-two attorneys, who engage in a broad range of civil practice. P.J.'s practice centers on estate planning and tax and business planning, including transactional work. P.J. is currently the President of the Legal Foundation of Washington and represents the Fifth Congressional District on the Board of Governors of the Washington State Bar Association. He is a member of the WSBA Taskforce studying mandatory malpractice proposals and a member of the Taskforce studying bar association structure in light of the U.S. Supreme Court's recent Keller decision. His firm is insured with ALPS.

Lucy Isaki is a retired civil litigator. She practiced law at a large Seattle firm from 1978 until 1999. She then joined the Attorney General's Office where she led the Complex Litigation Team. In 2007, Ms. Isaki joined the Gregoire Administration as a Senior Assistant Director at the Office of Financial Management where she was in charge of the State Risk Management and Contracts Division. She led the Risk Management Division until 2016 when she retired from the Department of Enterprise Services. The Risk Management Division is responsible for the state's extensive commercial insurance program, as well as the state's self-insurance program. Lucy was President of the King County Bar Association and served on the WSBA Board of Governors.

Mark Johnson is an elected Fellow in the American College of Trial Lawyers. He has been listed in every edition of The Best Lawyers in America since 1995 and Best Lawyers Publishing has named him Seattle's Plaintiffs' Legal Malpractice Lawyer of the Year three times. In 2008-2009 he was President of the Washington State Bar Association. He is a past president of LAW Fund, a nonprofit corporation that raises money from lawyers and judges to support Washington's civil legal aid organizations. He is currently a trustee on the board of The Legal Foundation of Washington. In 2018 he received the WSBA's Professionalism award. Mark is a partner at Johnson Flora Sprangers PLLC in Seattle. He limits his practice to the representation of plaintiffs in serious injury and medical and legal negligence cases, ethics consultations for lawyers and law firms, and mediation of personal injury and professional liability claims.

Rob Karl is an Agency Principal and Commercial Lines Property and Casualty Producer with Sprague Israel Giles, Inc. Rob has been with Sprague Israel Giles for 21 years, previously with Sedgewick James of Washington and Safeco Insurance Company. Rob and Sprague Israel Giles are experts, with over 60 years of experience, in malpractice and errors and omissions insurance and a specific focus on Lawyer Professional Liability coverage.

Kara R. Masters is an attorney who practices in the state and federal courts in Washington, Idaho, Oregon and Alaska. Kara is experienced in a number of civil practice areas, but a significant part of her practice focuses on complex insurance coverage and defense matters. In addition, Kara devotes a substantial amount of time working with various local non-profit organizations. Kara is currently "Of Counsel" to two firms, working from Bainbridge Island. She has professional liability insurance coverage through both firms.

Evan McCauley is a partner at Jeffers, Danielson, Sonn & Aylward, P.S., in Wenatchee, Washington, where he is a member of the firm's business transactional group. His practice is focused on all aspects of corporate and business transactional law, tax and estate planning, real estate, and representation in probate and trust matters. Prior to joining JDSA in 2011, Evan practiced as a Certified Public Accountant in Seattle where he worked for an international accounting firm and for a Fortune 500 company. During law school, Evan served as a judicial extern to the Honorable Edward F. Shea in U.S. District Court in the Eastern District of Washington and to the Honorable Christine Quinn-Brintnall at Division II of the Washington State Court of Appeals.

Brad Ogura is a community member of the Mandatory Malpractice Insurance Task Force. He has also served on WSBA's Disciplinary Selection Panel, Disciplinary Board and Client Protection Board. In addition to WSBA service, he is vice-chairman of Invest in Youth, a Seattle nonprofit that provides tutoring to at-risk elementary school students. He also serves on the board of the local chapter of the National Investor Relations Institute.

Suzanne K. Pierce is currently a shareholder with the Seattle office of Davis Rothwell Earle and Xóchihua, PC (32 lawyers) providing insurance defense, including defending professionals (engineers, doctors, psychologists and attorneys). She has previously worked as a Senior Assistant City Attorney for the City of Seattle defending personal injury and property claims made against the City. She has also worked as a federal judicial clerk, a solo practitioner, an associate in a five-person firm and an associate in a very large firm with worldwide offices and hundreds of attorneys. She is licensed in Washington (25 years) and Oregon. She received her B.A. and law degrees from the University of Michigan.

Brooke Pinkham currently directs the Center for Indian Law & Policy at Seattle University School of Law. The Center for Indian Law & Policy provides an emphasis on Indian law, research, programs and projects. Prior to Seattle University, Ms. Pinkham was a Staff Attorney with the Northwest Justice Project (NJP), Washington's only legal aid organization. While at NJP, Ms. Pinkham provided direct representation and advocacy on behalf of tribal members throughout Washington State. Brooke has served on the Boards for the Washington State Bar Association Indian Law Section, the Northwest Indian Bar Association, Powerful Voices, Indigenous Peoples' Institute at Seattle University, and many others. Brooke has particular expertise in Indian estate planning and probate, enforcing application of the Indian Child Welfare Act, protecting the rights to secure housing, tribal and non-tribal public benefits, and the education rights of Native American students. Brooke is a University of Washington School of Law graduate.

Todd Startzel is a principal with Kirkpatrick & Startzel, P.S., a six-person litigation firm based in Spokane, Washington. He has 31 years of litigation experience. His litigation practice focuses primarily on areas of insurance defense, construction defect and complex multi-party litigation. His firm has a professional liability insurance policy with ALPS with limits of \$2 million per claim/\$4 million aggregate.

Stephanie Wilson is the Head of Reference Services at Seattle University School of Law, where she manages a team of law library faculty, teaches legal research courses, and provides legal research instruction and support for faculty, students, alumni, and patrons. Prior to coming to Seattle University, Ms. Wilson was a reference librarian at Willkie Farr and Gallagher in New York City. As a lawyer, she worked for the Legal Aid Society of New York City and in New York City's Legal Counsel Office.

Annie Yu serves as a deputy prosecuting attorney with the Pierce County Prosecutor's Office. She currently represents the Washington Department of Child Support in child support enforcement actions. She attended Seattle Pacific University and Gonzaga University School of Law.

APPENDIX C

WSBA Member Licensing Counts and WSBA Member Demographics Report

as of February 1, 2019

**MANDATORY MALPRACTICE
INSURANCE TASK FORCE REPORT**

FEBRUARY 2019

WSBA MEMBER* LICENSING COUNTS – 2/1/19

BY DISTRICT	ALL	ACTIVE
0	3,389	2,519
1	2,975	2,473
2	2,060	1,640
3	2,122	1,789
4	1,385	1,166
5	3,206	2,587
6	3,279	2,752
7N	5,174	4,409
7S	6,734	5,584
8	2,213	1,873
9	4,818	4,070
10	2,888	2,412
TOTAL	40,243	33,274

BY WA COUNTY	
Adams	15
Asotin	24
Benton	368
Chelan	244
Clallam	153
Clark	793
Columbia	7
Cowlitz	140
Douglas	30
Ferry	14
Franklin	50
Garfield	2
Grant	110
Grays Harbor	104
Island	138
Jefferson	93
King	15,340
Kitsap	742
Kittitas	84
Klickitat	23
Lewis	95
Lincoln	13
Mason	98
Okanogan	97
Pacific	27
Pend Oreille	18
Pierce	2,147
San Juan	70
Skagit	277
Skamania	20
Snohomish	1,496
Spokane	1,709
Stevens	45
Thurston	1,464
Wahkiakum	8
Walla Walla	109
Whatcom	557
Whitman	72
Yakima	422

MEMBER TYPE	IN WA STATE	ALL
Attorney - Active	26,060	32,427
Attorney - Emeritus	102	107
Attorney - Honorary	365	412
Attorney - Inactive	2,478	5,633
Judicial	629	656
LLLT - Active	36	36
LLLT - Inactive	3	3
LPO - Active	799	811
LPO - Inactive	146	158
TOTAL	30,618	40,243

* Per WSBA Bylaws 'Members' include active attorney, emeritus pro-bono, honorary, inactive attorney, judicial, limited license legal technician (LLLT), and limited practice officer (LPO) license types.

WSBA MEMBER LICENSING COUNTS - 2/1/19

BY STATE AND PROVINCE			
Alabama	29	Montana	166
Alaska	201	Nebraska	17
Alberta	9	Nevada	140
Arizona	349	New Hampshire	9
Arkansas	16	New Jersey	65
Armed Forces Americas	4	New Mexico	64
Armed Forces Europe, Middle East	25	New York	243
Armed Forces Pacific	18	North Carolina	75
British Columbia	100	North Dakota	9
California	1,732	Northern Mariana Islands	6
Colorado	235	Nova Scotia	1
Connecticut	50	Ohio	69
Delaware	6	Oklahoma	25
District of Columbia	328	Ontario	15
Florida	241	Oregon	2,643
Georgia	89	Pennsylvania	70
Guam	15	Puerto Rico	2
Hawaii	143	Quebec	1
Idaho	417	Rhode Island	15
Illinois	154	Saskatchewan	1
Indiana	37	South Carolina	27
Iowa	27	South Dakota	7
Kansas	27	Tennessee	55
Kentucky	22	Texas	352
Louisiana	51	Utah	179
Maine	13	Vermont	20
Maryland	116	Virginia	274
Massachusetts	86	Virgin Islands	1
Michigan	70	Washington	30,619
Minnesota	94	West Virginia	7
Mississippi	6	Wisconsin	41
Missouri	71	Wyoming	19

WSBA MEMBER LICENSING COUNTS - 2/1/19

BY ADMIT YR			
1940	3	1981	534
1941	2	1982	510
1942	1	1983	548
1944	1	1984	627
1945	1	1985	450
1946	2	1986	690
1947	6	1987	604
1948	8	1988	576
1949	16	1989	614
1950	16	1990	748
1951	27	1991	744
1952	27	1992	738
1953	25	1993	779
1954	27	1994	804
1955	20	1995	811
1956	40	1996	759
1957	31	1997	852
1958	39	1998	805
1959	38	1999	842
1960	30	2000	856
1961	29	2001	917
1962	35	2002	996
1963	33	2003	1,019
1964	40	2004	1,037
1965	56	2005	1,063
1966	61	2006	1,094
1967	61	2007	1,168
1968	92	2008	1,085
1969	102	2009	994
1970	109	2010	1,083
1971	114	2011	1,053
1972	178	2012	1,097
1973	273	2013	1,229
1974	268	2014	1,354
1975	331	2015	1,614
1976	399	2016	1,307
1977	398	2017	1,386
1978	447	2018	1,299
1979	486	2019	178
1980	497		

MISC COUNTS	
All License Types **	40,556
All WSBA Members	40,243
Members in Washington	30,618
Members in western Washington	23,762
Members in King County	15,340
Members in eastern Washington	3,455
Active Attorneys in western Washington	20,173
Active Attorneys in King County	13,422
Active Attorneys in eastern Washington	2,835
New/Young Lawyers	6,367
MCLE Reporting Group 1	10,524
MCLE Reporting Group 2	10,833
MCLE Reporting Group 3	11,487
Foreign Law Consultant	19
House Counsel	284
Indigent Representative	10

** All license types include active attorney, emeritus pro-bono, foreign law consultant, honorary, house counsel, inactive attorney, indigent representative, judicial, LPO, and LLLT.

WSBA MEMBER LICENSING COUNTS - 2/1/19

BY SECTION ***	ALL	PREVIOUS YEAR
Administrative Law Section	192	277
Alternative Dispute Resolution Section	271	357
Animal Law Section	73	102
Antitrust, Consumer Protection and Unfair Business Practice	179	221
Business Law Section	1,112	1,287
Cannabis Law Section	71	66
Civil Rights Law Section	132	168
Construction Law Section	442	512
Corporate Counsel Section	961	1,115
Creditor Debtor Rights Section	407	507
Criminal Law Section	334	441
Elder Law Section	542	654
Environmental and Land Use Law Section	669	797
Family Law Section	822	1,150
Health Law Section	325	387
Indian Law Section	292	316
Intellectual Property Section	763	899
International Practice Section	197	241
Juvenile Law Section	133	186
Labor and Employment Law Section	879	1,002
Legal Assistance to Military Personnel Section	66	92
Lesbian, Gay, Bisexual, Transgender (LGBT) Law Section	89	110
Litigation Section	885	1,058
Low Bono Section	51	101
Real Property Probate and Trust Section	1,972	2,363
Senior Lawyers Section	202	256
Solo and Small Practice Section	738	987
Taxation Section	523	660
World Peace Through Law Section	94	98

*** The values in the All column are reset to zero at the beginning of the WSBA fiscal year (Oct 1). The Previous Year column is the total from the last day of the fiscal year (Sep 30).

WSBA staff with complimentary membership are not included in the counts.

WSBA MEMBER* DEMOGRAPHICS REPORT – 2/1/19

BY AGE	ALL	ACTIVE
21 to 30	1,979	1,895
31 to 40	9,181	8,191
41 to 50	9,749	8,019
51 to 60	8,694	6,857
61 to 70	7,680	5,758
71 to 80	2,392	1,583
Over 80	568	124
TOTAL:	40,243	32,427

BY YEARS LICENSED	
Under 6	8,520
6 to 10	5,432
11 to 15	5,641
16 to 20	4,568
21 to 25	4,110
26 to 30	3,544
31 to 35	3,000
36 to 40	2,483
41 and Over	2,945
TOTAL:	40,243

BY DISABILITY	
Yes	1,055
No	19,553
Respondents	20,608
No Response	10,878
All Member Types	40,243

BY GENDER	
Female	12,227
Male	17,129
Selected Mult Gend	9
Respondents	29,365
No Response	10,878
All Member Types	40,243

BY SEXUAL ORIENTATION	
Asexual	10
Gay, Lesbian, Bisexual, Pansexual, or Queer	203
Heterosexual	1,955
Not Listed	34
Selected multiple orientations	12
Two-spirit	1
Respondents	2,215
No Response	38,028
All Member Types	40,243

BY ETHNICITY	
American Indian / Native America	249
Asian-Central Asian	18
Asian-East Asian	96
Asian-South Asian	26
Asian-Southeast Asian	28
Asian—unspecified	1,275
Black / African American / African	641
Hispanic / Latinx	678
Middle Eastern Descent	9
Multi Racial / Bi Racial	883
Not Listed	193
Pacific Islander / Native Hawaiian	60
White / European Descent	23,891
Respondents	28,047
No Response	12,196
All Member Types	40,243

* Includes active attorneys, emeritus pro-bono, honorary, inactive attorneys, judicial, limited license legal technician (LLLT), and limited practice officer (LPO).

WSBA MEMBER DEMOGRAPHICS REPORT – 2/1/19

BY PRACTICE AREA			
Administrative-regulator	2,008	Immigration-naturaliza	860
Agricultural	204	Indian	530
Animal Law	93	Insurance	1,464
Antitrust	253	Intellectual Property	1,785
Appellate	1,391	International	772
Aviation	142	Judicial Officer	389
Banking	387	Juvenile	826
Bankruptcy	904	Labor	996
Business-commercial	4,373	Landlord-tenant	1,168
Cannabis	23	Land Use	721
Civil Litigation	4,425	Legal Ethics	272
Civil Rights	918	Legal Research-writing	623
Collections	518	Legislation	359
Communications	201	LGBTQ	26
Constitutional	536	Litigation	3,924
Construction	1,142	Lobbying	165
Consumer	677	Malpractice	694
Contracts	3,590	Maritime	266
Corporate	2,942	Military	316
Criminal	3,296	Municipal	825
Debtor-creditor	863	Non-profit-tax Exempt	530
Disability	607	Not Actively Practicing	1,811
Dispute Resolution	1,226	Oil-gas-energy	185
Education	439	Patent-trademark-copyr	1,019
Elder	851	Personal Injury	2,888
Employment	2,447	Privacy And Data Securit	70
Entertainment	264	Real Property	2,150
Environmental	1,139	Real Property-land Use	2,058
Estate Planning-probate	3,068	Securities	650
Family	2,577	Sports	138
Foreclosure	481	Subrogation	87
Forfeiture	89	Tax	1,067
General	2,647	Torts	1,809
Government	2,492	Traffic Offenses	600
Housing	292	Workers Compensation	651
Human Rights	277		

WSBA MEMBER DEMOGRAPHICS REPORT – 2/1/19

BY LANGUAGES SPOKEN					
Afrikaans	6	Haitian Creole	2	Polish	32
Akan /twi	4	Hebrew	38	Portuguese	122
Albanian	2	Hindi	90	Portuguese Creole	1
American Sign Language	16	Hmong	1	Punjabi	58
Amharic	17	Hungarian	15	Romanian	19
Arabic	53	Ibo	4	Russian	233
Armenian	8	Icelandic	2	Samoan	9
Bengali	11	Ilocano	9	Serbian	20
Bosnian	11	Indonesian	13	Serbo-croatian	11
Bulgarian	13	Italian	156	Sign Language	23
Burmese	2	Japanese	217	Singhalese	2
Cambodian	7	Javanese	1	Slovak	2
Cantonese	99	Kannada/canares	4	Somali	1
Cebuano	4	Kapampangan	1	Spanish	1,820
Chamorro	5	Khmer	1	Spanish Creole	9
Chaozhou/chiu Chow	1	Kongo/kikongo	1	Swahili	4
Chin	3	Korean	239	Swedish	53
Croatian	22	Lao	6	Tagalog	70
Czech	6	Latvian	6	Taishanese	2
Danish	19	Lithuanian	5	Taiwanese	21
Dari	4	Malay	4	Tamil	11
Dutch	24	Malayalam	9	Telugu	3
Egyptian	2	Mandarin	358	Thai	14
Farsi/persian	63	Marathi	6	Tigrinya	3
Fijian	1	Mongolian	2	Tongan	1
Finnish	7	Navajo	1	Turkish	14
French	717	Nepali	4	Ukrainian	40
French Creole	3	Norwegian	38	Urdu	39
Fukienese	5	Not listed	36	Vietnamese	91
Ga/kwa	2	Oromo	3	Yoruba	10
German	428	Other	23	Yugoslavian	4
Greek	28	Pashto	1		
Gujarati	15	Persian	22		

WSBA MEMBER DEMOGRAPHICS REPORT – 2/1/19

MEMBERS IN FIRM TYPE	
Bank	5
Escrow Company	9
Government/ Public Secto	4,440
House Counsel	2,552
Non-profit	108
Title Company	26
Solo	5,228
Solo In Shared Office Or	1,571
2-5 Members in Firm	4,266
6-10 Members in Firm	1,810
11-20 Members in Firm	1,283
21-35 Members in Firm	805
36-50 Members In Firm	584
51-100 Members in Firm	587
100+ Members in Firm	1,837
Not Actively Practicing	620
Respondents	25,731
No Response	14,512
All Member Types	40,243

APPENDIX D

ABA List of Admitted and Non-Admitted Carriers in Washington

as of February 6, 2019

Data based on *LPL Insurance Directory - Washington*,
ABA Standing Comm. on Law. Prof. Liability (A.B.A.),

https://www.americanbar.org/groups/lawyers_professional_liability/resources/lpl-insurance-directory/washington/

**MANDATORY MALPRACTICE
INSURANCE TASK FORCE REPORT**

FEBRUARY 2019

ADMITTED CARRIERS

Allianz
Allied World Assurance Company
Aon Attorneys Advantage
Chartis Lawyers Professional Liability Program
Chubb - Executive Risk
CNA
Hanover Professionals
Hartford Specialty
Lawyer's Protector Plan®
Navigators Insurance Company
Noetic Specialty Insurance Co.
Old Republic Insurance Company (Chicago Underwriting Group)
ProAssurance
Protecture Lawyers
RPS Plus Companies, Markel Insurance
State National Insurance Company
Swiss Re Corporate Solutions (Underwritten by Westport Insurance Corp. and First Specialty Insurance Corporation)
Travelers
Wesco Insurance Company (Synergy Professional Associates, Inc.)
XL Catlin Insurance
Zurich

NON-ADMITTED CARRIERS

Admiral Insurance Company
Arch Insurance Group
Liberty Surplus Insurance Corporation
Lloyd's of London - Attorney Select
Medmarc Casualty Insurance Co. (LawyerCare)
Underwriters at Lloyds (Synergy Professional Associates, Inc.)

APPENDIX E

Draft Revised APR 26

MANDATORY MALPRACTICE
INSURANCE TASK FORCE REPORT

FEBRUARY 2019

Redlined Version

~~APR 26. INSURANCE DISCLOSURE~~

- (a) Unless exempted under section (b) of this rule, Each active lawyer member of the Bar who is to any extent engaged in the private practice of law shall must certify annually in a form and manner approved by the Bar by the date specified by the Bar ~~(1) whether that the lawyer is covered by engaged in the private practice of law; (2) if engaged in the private practice of law, whether the lawyer is currently covered by professional liability insurance at a minimum limit of \$250,000 per occurrence/\$500,000 annual aggregate; and (3) whether the lawyer intends to maintain insurance during the period of time the lawyer is on active status in the current licensing period engaged in the practice of law, and (4) whether the lawyer is engaged in the practice of law as a full-time government lawyer or is counsel employed by an organizational client and does not represent clients outside that capacity;~~
- (b) A lawyer is exempt from the coverage requirement of section (a) of this rule if the lawyer certifies to the Bar in a form and manner approved by the Bar that the lawyer is not engaged in the practice of law or the lawyer's practice consists exclusively of any one or more of the following categories and that the lawyer does not represent any clients outside of that service or employment:
- (1) Employment as a government lawyer or judge;
 - (2) Employment by a corporation or business entity, including nonprofits;
 - (3) Employee or independent contractor for a nonprofit legal aid or public defense office that provides insurance to its employees or independent contractors;
 - (4) Mediation or arbitration; and
 - (5) Volunteer pro bono service for a qualified legal services provider as defined in APR 1(e)(8) that provides insurance to its volunteers.
- (c) Each active lawyer who certifies coverage under section (a) of this rule must, reports being covered by professional liability insurance shall certify in a form and manner prescribed by the Bar, notify the Bar in writing within 3010 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason.
- ~~(b)~~ (d) The information submitted pursuant to this rule as to the existence of coverage will be made available to the public by such means as may be designated by the Bar, which may include publication on the website maintained by the Bar.

- ~~(c)~~ ~~(e)~~ ~~Any active~~ If a lawyer ~~of law~~ who is required to certify coverage under section (a) of this rule ~~who~~ fails to comply with this rule by the date specified by the Bar ~~or fails to maintain the coverage required throughout the licensing period, the lawyer~~ may be ordered suspended from the practice of law by the Supreme Court until such time as the lawyer complies: ~~and the Court orders the lawyer's reinstatement to active status.~~
- (f) A lawyer who has certified the existence of professional liability insurance coverage under section (a) of this rule must provide proof to the Bar, upon request, of the existence of the certified coverage, including a copy of any applicable insurance policy and other relevant information. A lawyer who has not complied with a request under this section for more than 30 days may be ordered suspended from the practice of law by the Supreme Court until such time as the lawyer complies with the request and the Court orders the lawyer's reinstatement to active status.
- (g) Supplying false information in a certification under section (a) or (e) of this rule or in response to a request for information under section (f) of this rule, or failure to provide timely notice under section (c) of this rule, ~~may~~ ~~shall~~ subject the lawyer to appropriate disciplinary action.

Clean Version

APR 26. INSURANCE

- (a) Unless exempted under section (b) of this rule, each active lawyer member of the Bar who is to any extent engaged in the private practice of law must certify annually in a form and manner approved by the Bar by the date specified by the Bar that the lawyer is covered by professional liability insurance at a minimum limit of \$250,000 per occurrence/\$500,000 annual aggregate and intends to maintain insurance during the period of time the lawyer is on active status in the current licensing period.
- (b) A lawyer is exempt from the coverage requirement of section (a) of this rule if the lawyer certifies to the Bar in a form and manner approved by the Bar that the lawyer is not engaged in the practice of law or the lawyer's practice consists exclusively of any one or more of the following categories and that the lawyer does not represent any clients outside of that service or employment:
 - (1) Employment as a government lawyer or judge;
 - (2) Employment by a corporation or business entity, including nonprofits;
 - (3) Employee or independent contractor for a nonprofit legal aid or public defense office that provides insurance to its employees or independent contractors;
 - (4) Mediation or arbitration; and
 - (5) Volunteer pro bono service for a qualified legal services provider as defined in APR 1(e)(8) that provides insurance to its volunteers.
- (c) Each lawyer who certifies coverage under section (a) of this rule must, in a form and manner prescribed by the Bar, notify the Bar in writing within 10 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason.
- (d) The information submitted pursuant to this rule as to the existence of coverage will be made available to the public by such means as may be designated by the Bar, which may include publication on the website maintained by the Bar.
- (e) If a lawyer who is required to certify coverage under section (a) of this rule fails to comply with this rule by the date specified by the Bar or fails to maintain the coverage required throughout the licensing period, the lawyer may be ordered suspended from the practice of law by the Supreme Court until such time as the lawyer complies and the Court orders the lawyer's reinstatement to active status.

- (f) A lawyer who has certified the existence of professional liability insurance coverage under section (a) of this rule must provide proof to the Bar, upon request, of the existence of the certified coverage, including a copy of any applicable insurance policy and other relevant information. A lawyer who has not complied with a request under this section for more than 30 days may be ordered suspended from the practice of law by the Supreme Court until such time as the lawyer complies with the request and the Court orders the lawyer's reinstatement to active status.
 - (g) Supplying false information in a certification under section (a) or (e) of this rule or in response to a request for information under section (f) of this rule, or failure to provide timely notice under section (c) of this rule, may subject the lawyer to appropriate disciplinary action.
-

MEMORANDUM

To: WSBA President, President-Elect, Immediate Past President, and Board of Governors

From: WSBA Court Rules and Procedures Committee

Date: February 20, 2019

Re: Proposed Amendments to Mandatory Arbitration Rules (MARs)

ACTION: Approve proposed amendments to MARs: GR 1; Rule 1.1; Rule 1.2; Rule 1.3; Rule 2.1; Rule 2.2; Rule 2.3; Rule 3.1; Rule 3.2; Rule 4.1; Rule 4.2; Rule 4.3; Rule 5.1; Rule 5.2; Rule 5.3; Rule 5.4; Rule 6.1; Rule 6.2; Rule 6.3; Rule 6.4; Rule 7.1; Rule 7.3; Rule 8.1; Rule 8.2; Rule 8.3; Rule 8.4; and Rule 8.5 for submission to the Washington Supreme Court.

By letter dated May 23, 2018, the Supreme Court Rules Committee asked the WSBA Court Rules and Procedures Committee (“Committee”) to review the Mandatory Arbitration Rules (“MAR”). The Supreme Court Rules Committee had reviewed enacted legislation EHB 1128 – Civil Arbitration, determined that it would benefit from a review by the Committee, and asked that such review and feedback “be provided as soon as practicable so the court can consider it and take any necessary action by the September 1, 2018, effective date.” The legislature amended RCW Chapter 7.06 effective September 1, 2018. While the Committee could not meet that short deadline, it has now completed its review and presents these proposed amendments to the WSBA Board of Governors for action, so as to expedite returning this feedback to the Supreme Court Rules Committee.

Attached to this memorandum are the proposed amendments to MARs, which address the renaming of the MARs to Supreme Court Mandatory Arbitration Rules (“SCCAR”) and effectuating the RCW Chapter 7.06 amendments.

The Committee created an ad hoc subcommittee – MAR Subcommittee – to review EHB 1128 and the entire class of MARs.

MAR Subcommittee recommended the following proposals:

- GR 1: Strike the word “mandatory” and replace with “civil.” The acronym will accordingly be changed from MAR to SCCAR.
- MAR Title: References to the word “mandatory” are removed throughout the arbitration laws. “Mandatory Arbitration” is replaced with “Civil Arbitrations.” The title is changed accordingly to Superior Court Civil Arbitration Rules or SCCAR.
- Rule 1.1 Amendment: Striking the word “mandatory.”
- Rule 1.2 Amendment: Striking the word “mandatory” in two places.

- Rule 1.3 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 2.1 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 2.2 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 2.3 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 3.1 Amendment: Striking MAR from the title of the rule and adding the word RULE before 3.1.

The suggested amendments reflect the amendments in Sec. 5 of EHB 1128 and the corresponding amendments to RCW 7.06.040 about the necessary qualifications for an arbitrator.

- Rule 3.2 Amendment: Striking MAR from the title of the rule.
- Rule 4.1 Amendment: Striking MAR from the title of the rule.
- Rule 4.2 Amendment: Striking MAR from the title of the rule.

These suggested amendments are consistent with the new section added by EHB 1128 to RCW Chapter 7.06. The section addresses the allowed discovery after the case has been assigned to an arbitrator.

- Rule 4.3 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 5.1 Amendment: Amending “63” to “75” to reflect the new limit on the how soon the case must be set for a hearing after it is assigned to an arbitrator. This is consistent with the new section under EHB 1128, Sec. 3.
- Rule 5.2 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 5.3 Amendment: Changing “MAR” to “SCCAR” to reflect the new abbreviation for the civil arbitration rules.
- Rule 5.4 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 6.1 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 6.2 Amendment: Striking MAR from the title of the rule.
- Rule 6.3 Amendment: Striking MAR from the title of the rule.
- Rule 6.4 Amendment: Striking MAR from the title of the rule.
- Rule 7.1 Amendment: Striking MAR from the title and adding the word RULE before 7.1.
Also, this rule is amended to reflect the changes in EHB 1128, Sec. 6 and reflected in RCW 7.06.050. This requires that the aggrieved party sign the request for the trial de novo. The Subcommittee also proposes changes to the signature line to reflect this amendment and to provide for information about the signatory when a party is an organization/corporation.
- Rule 7.3 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 8.1 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 8.2 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 8.3 Amendment: Amendment only to the title to change classification to SCCAR.
- Rule 8.4 Amendments: Inserting the word “Civil” and striking the word “Mandatory” before Arbitration. Also changing the abbreviation from MAR to SCCAR.
- Rule 8.5 Amendment: Amendment only to the title to change classification to SCCAR.

The proposed revisions were circulated widely to the WSBA’s list of stakeholders, including: representatives from the Supreme Court, the three Courts of Appeal, the Superior Court Judges

Association, and the District & Municipal Court Judges Association; specialty bars (the WA Defense Trial Lawyers, WA Association for Justice, NW Justice Project, WA Association of Criminal Defense Lawyers, WA Appellate Lawyers Associations, International Association of Defense Counsel, WA Association of Prosecuting Attorneys, WA State Association of Municipal Attorneys, Public Defenders Association, ACLU of Washington, Columbia Legal, and section leaders for the WSBA's sections); and local and minority bar associations.

MAR Subcommittee received seven comments from the following:

1. Barbara Miner, King County Superior Clerk
2. Jon C. Parker
3. Roger Leed
4. Judge Korsmo, on behalf of the Court of Appeals Rules Committee
5. Favian Valencia
6. Brad Smith
7. Washington Defense Trial Lawyers ("WDTL")

Ms. Miner proposed amendments to MAR 7.2 on the issue of who should have access to an arbitration award following a trial de novo request. Given the scope of the Subcommittee's role in implementing EHB 1128 and the timing, the Subcommittee referred MAR 7.2 for further review and discussion. (The Committee did not vote on MAR 7.2 and tabled it for the FY 2018-2019 Committee to review. MAR Subcommittee is reviewing the rule).

Some of the remaining comments raised issues including arbitrator qualifications, scope of discovery, and the new arbitration limit increase from \$50,000 to \$100,000. The Subcommittee discussed the remaining comments and agreed there was no need to propose any revised amendments.

After hearing about the feedback gathered by the subcommittee and discussing the proposed amendments, the Committee voted to adopt the proposed changes.

The attached materials include a redline and clean version of the proposed amendments

We anticipate submitting these amendments to the Washington Supreme Court after the BOG has completed its consideration.

ATTACHMENTS:

- Appendix A: Justice Johnson's May 23, 2018 Letter
- Appendix B: Redline and Clean version of the proposed amendments to MARs
- Appendix C: Stakeholder List
- Appendix D: Comments Received

Appendix A

The Supreme Court
State of Washington

CHARLES W. JOHNSON
JUSTICE
TEMPLE OF JUSTICE
POST OFFICE BOX 40929
OLYMPIA, WASHINGTON
98504-0929



(360) 357-2020
FACSIMILE (360) 357-2103
E-MAIL J.C.JOHNSON@COURTS.WA.GOV

May 23, 2018

MAY 29 2018

Ms. Paula Littlewood
Executive Director
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Dear Ms. Littlewood:

Recently, the legislature enacted EHB 1128—Civil Arbitration, which is effective September 1, 2018. This law will affect the current statewide Mandatory Arbitration Rules (MARs). The Supreme Court Rules Committee has reviewed this legislation and has determined that it would benefit from a review by the Washington State Bar Association's Court Rules and Procedures Committee.

The Supreme Court Rules Committee recognizes that this law will become effective before the Court Rules and Procedures Committee is regularly scheduled to review the MARs. The Rules Committee would appreciate any review and feedback that can be provided as soon as practicable so the court can consider it and take any necessary action by the September 1, 2018 effective date.

Very truly yours,

A handwritten signature in black ink, appearing to read "Charles W. Johnson".

Charles W. Johnson, Chair
Supreme Court Rules Committee

cc: Mr. Kevin Bank, WSBA Assistant General Counsel
Ms. Shannon Kilpatrick, WSBA Court Rules and Procedures Committee Chair

Appendix B

GR 1
CLASSIFICATION SYSTEM FOR COURT RULES

PART I: RULES OF GENERAL APPLICATION

General Rules	GR
Code of Judicial Conduct	CJC
Discipline Rules for Judges	DRJ
Board for Judicial Administration Rules	BJAR
Admission to Practice Rules	APR
Rules of Professional Conduct	RPC
Rules for Enforcement of Lawyer Conduct	ELC
Judicial Information System Committee Rules	JISCR
Rules of Evidence	ER

PART II: RULES FOR APPELLATE COURT ADMINISTRATION

Supreme Court Administrative Rules	SAR
Court of Appeals Administrative Rules	CAR

PART III: RULES ON APPEAL

Rules of Appellate Procedure	RAP
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PART IV: RULES FOR SUPERIOR COURT

Superior Court Administrative Rules	AR
Superior Court Civil Rules	CR
Superior Court <u>CivilMandatory</u> Arbitration Rules	<u>MSCCAR</u>
Superior Court Special Proceedings Rules	SPR
Superior Court Guardian ad Litem Rules	GALR
Superior Court Criminal Rules	CrR
Superior Court Special Proceeding Rules--Criminal	SPCR
Superior Court Mental Proceedings Rules	MPR
Juvenile Court Rules	JuCR

PART V: RULES FOR COURTS OF LIMITED JURISDICTION

Administrative Rules for Courts of Limited Jurisdiction	ARLJ
Rules for Appeal of Decisions of Courts of Limited Jurisdiction	RALJ
Civil Rules for Courts of Limited Jurisdiction	CRLJ
Criminal Rules for Courts of Limited Jurisdiction	CrRLJ
Infraction Rules for Courts of Limited Jurisdiction	IRLJ

SUGGESTED AMENDMENT
SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES
(SCCARMAR)

RULE 1.1
APPLICATION OF RULES

1 These arbitration rules apply to ~~mandatory~~ arbitration of civil actions under RCW 7.06. These
2 rules do not apply to arbitration by private agreement or to arbitration under other statutes,
3 except by stipulation under rule 8.1.
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SUGGESTED AMENDMENT
SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES
(~~SCCARMAR~~)

RULE 1.2
MATTERS SUBJECT TO ARBITRATION

1 A civil action, other than an appeal from a court of limited jurisdiction, is subject to arbitration
2 under these rules if the action is at issue in a superior court in a county which has authorized
3 ~~mandatory~~ arbitration under RCW 7.06, if (1) the action is subject to ~~mandatory~~ arbitration as
4 provided in RCW 7.06, (2) all parties, for purposes of arbitration only, waive claims in excess of
5 the amount authorized by RCW 7.06, exclusive of attorney fees, interest and costs, or (3) the
6 parties have stipulated to arbitration pursuant to rule 8.1.
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCARMAR)

RULE 1.3
RELATIONSHIP TO SUPERIOR COURT JURISDICTION AND OTHER RULES

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 2.1
TRANSFER TO ARBITRATION

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 2.2

COURT MAY DETERMINE ARBITRABILITY

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 2.3

ASSIGNMENT TO ARBITRATOR

1 [Unchanged]

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25 Suggested Amendment MAR 2.3
Page 1

26

SUGGESTED AMENDMENT
SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES
(~~SCCARMAR~~)
~~RULE MAR 3.1~~
QUALIFICATION

1 Unless otherwise ordered or stipulated, an arbitrator must be a member in good standing of the
2 Washington State Bar Association who has been admitted to the Bar for a minimum of 5 years,
3 or who is a retired judge. The parties may stipulate to a nonlawyer arbitrator.

4 ~~Unless waived pursuant to RCW 7.06.040(2)(b), a person may not serve~~To qualify as an
5 arbitrator ~~unless the,~~a person ~~has~~must completed a minimum of three credits of Washington
6 State Bar Association approved continuing legal education credits on the professional and ethical
7 considerations for serving as an arbitrator. A person serving as an arbitrator must file a
8 declaration or affidavit stating or certifying to the appointing court that the person is in
9 compliance with the qualifications described in RCW 7.06.040~~sign and file an oath of office,~~
10 ~~either to serve in a particular case, or as a member of a panel of arbitrators.~~ The court is
11 authorized to remove an individual from a list of qualified arbitrators for good cause.
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)
RULE MAR 3.2
AUTHORITY OF ARBITRATORS

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE MAR 4.1

RESTRICTIONS ON COMMUNICATION BETWEEN ARBITRATOR AND PARTIES

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCARMAR)
RULE ~~MAR~~ 4.2
DISCOVERY

1 After the assignment of a case to the arbitrator, a party may ~~demand a specification of damages~~
2 ~~under RCW 4.28.360, may~~ conduct discovery as follows: (1) request from the arbitrator an
3 examination under CR 35; ~~(2), may~~ request admissions from a party under CR 36; and ~~(3) may~~
4 take the deposition of another party, ~~unless the arbitrator orders otherwise. No~~ A party may
5 request additional discovery from the arbitrator, including interrogatories, and the arbitrator will
6 allow additional discovery shall be allowed, except as the parties may stipulate or as the arbitrator
7 may order. The arbitrator will allow discovery only when reasonably necessary. ~~The conference~~
8 ~~requirements of CR 26(i) shall not apply to motions to the arbitrator to allow additional~~
9 ~~discovery under this rule.~~

SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 4.3
SUBPOENA

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES
(~~SCCARMAR~~)

RULE 5.1
NOTICE OF HEARING

1 The arbitrator shall set the time, date, and place of the hearing and shall give reasonable notice of
2 the hearing date to the parties. Except by stipulation or for good cause shown, the hearing shall
3 be scheduled to take place not sooner than 21 days, nor later than ~~7563~~ days, from the date of the
4 assignment of the case to the arbitrator. The hearing shall take place in appropriate facilities
5 provided or authorized by the court.
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 5.2
PREHEARING STATEMENT OF PROOF

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES
(~~SCCARMAR~~)

RULE 5.3
CONDUCT OF HEARING –WITNESSES—RULES OF EVIDENCE

1 **(a) – (c)** [Unchanged]

2 **(d)** Certain Documents Presumed Admissible. The documents listed below, if relevant, are
3 presumed admissible at an arbitration hearing, but only if (1) the party offering the document
4 serves on all parties a notice, accompanied by a copy of the document and the name, address and
5 telephone number of its author or maker, at least 14 days prior to the hearing in accordance with
6 ~~SCCARMAR~~ 5.2; and (2) the party offering the document similarly furnishes all other related
7 documents from the same author or maker. This rule does not restrict argument or proof relating
8 to the weight of the evidence admitted, nor does it restrict the arbitrator's authority to determine
9 the weight of the evidence after hearing all of the evidence and the arguments of opposing
10 parties. The documents presumed admissible under this rule are:

11 **(d)(1) – (d)(7)** [Unchanged]

12 **(e)** [Unchanged]

SUGGESTED AMENDMENT
SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES
(SCCAR MAR)

RULE 5.4

ABSENCE OF PARTY AT HEARING

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 6.1
FORM AND CONTENT OF AWARD

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)
RULE MAR 6.2
FILING OF AWARD

1 [Unchanged]

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25 Suggested Amendment MAR 6.2
Page 1

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SUGGESTED AMENDMENT
SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES
(~~SCCAR~~ MAR)
RULE MAR 6.3
JUDGMENT ON AWARD

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)
RULE MAR 6.4
COSTS AND ATTORNEY FEES

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCARMAR)

RULE MAR 7.1
REQUEST FOR TRIAL DE NOVO

1 (a) [Unchanged]

2 (b) Form. The request for a trial de novo shall not refer to the amount of the award,
3 including any award of costs or attorney fees, and shall be substantially in the form set
4 forth below, and must be signed by the party:

6 SUPERIOR COURT OF WASHINGTON
7 FOR (_____) COUNTY

)	
Plaintiff,)	No. _____
v.)	REQUEST FOR
)	TRIAL DE NOVO
Defendant.)	

13 TO: The clerk of the court and all parties:

14 Please take notice that (name of aggrieved party) requests a trial de novo from the award filed
15 (date)_____.

16 Dated: _____

(Signature Name of attorney for aggrieved party)
(Printed Name):
(Title, if applicable)

(Name of attorney for aggrieved party)

21 (c) – (d) [Unchanged]

SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 7.3

COSTS AND ATTORNEY FEES

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 8.1
STIPULATIONS

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 8.2
LOCAL RULES

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES
(SCCAR MAR)

RULE 8.3
EFFECTIVE DATE

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES
(~~SCCARMAR~~)

RULE 8.4
TITLE AND CITATION

1 These rules shall be known and cited as the Superior Court CivilMandatory Arbitration Rules.

2 SCCARMAR is the official abbreviation.

SUGGESTED AMENDMENT
SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES
(~~SCCAR~~ MAR)

RULE 8.5

STATUS OF COMMENTS

1 [Unchanged]

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GR 1
CLASSIFICATION SYSTEM FOR COURT RULES

PART I: RULES OF GENERAL APPLICATION

General Rules	GR
Code of Judicial Conduct	CJC
Discipline Rules for Judges	DRJ
Board for Judicial Administration Rules	BJAR
Admission to Practice Rules	APR
Rules of Professional Conduct	RPC
Rules for Enforcement of Lawyer Conduct	ELC
Judicial Information System Committee Rules	JISCR
Rules of Evidence	ER

PART II: RULES FOR APPELLATE COURT ADMINISTRATION

Supreme Court Administrative Rules	SAR
Court of Appeals Administrative Rules	CAR

PART III: RULES ON APPEAL

Rules of Appellate Procedure	RAP
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PART IV: RULES FOR SUPERIOR COURT

Superior Court Administrative Rules	AR
Superior Court Civil Rules	CR
Superior Court Civil Arbitration Rules	SCCAR
Superior Court Special Proceedings Rules	SPR
Superior Court Guardian ad Litem Rules	GALR
Superior Court Criminal Rules	CrR
Superior Court Special Proceeding Rules--Criminal	SPCR
Superior Court Mental Proceedings Rules	MPR
Juvenile Court Rules	JuCR

PART V: RULES FOR COURTS OF LIMITED JURISDICTION

Administrative Rules for Courts of Limited Jurisdiction	ARLJ
Rules for Appeal of Decisions of Courts of Limited Jurisdiction	RALJ
Civil Rules for Courts of Limited Jurisdiction	CRLJ
Criminal Rules for Courts of Limited Jurisdiction	CrRLJ
Infraction Rules for Courts of Limited Jurisdiction	IRLJ

SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)

RULE 1.1
APPLICATION OF RULES

1 These arbitration rules apply to arbitration of civil actions under RCW 7.06. These rules do not
2 apply to arbitration by private agreement or to arbitration under other statutes, except by
3 stipulation under rule 8.1.
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 1.2
MATTERS SUBJECT TO ARBITRATION

1 A civil action, other than an appeal from a court of limited jurisdiction, is subject to arbitration
2 under these rules if the action is at issue in a superior court in a county which has authorized
3 arbitration under RCW 7.06, if (1) the action is subject to arbitration as provided in RCW 7.06,
4 (2) all parties, for purposes of arbitration only, waive claims in excess of the amount authorized
5 by RCW 7.06, exclusive of attorney fees, interest and costs, or (3) the parties have stipulated to
6 arbitration pursuant to rule 8.1.
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 1.3
RELATIONSHIP TO SUPERIOR COURT JURISDICTION AND OTHER RULES

1 [Unchanged]

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26 Suggested Amendment MAR 1.3
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Washington State Bar Association
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 2.1
TRANSFER TO ARBITRATION

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 2.2
COURT MAY DETERMINE ARBITRABILITY

1 [Unchanged]

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26 Suggested Amendment MAR 2.2
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 2.3
ASSIGNMENT TO ARBITRATOR

1 [Unchanged]

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26 Suggested Amendment MAR 2.3
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Washington State Bar Association
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)

RULE 3.1
QUALIFICATION

1 Unless otherwise ordered or stipulated, an arbitrator must be a member in good standing of the
2 Washington State Bar Association who has been admitted to the Bar for a minimum of 5 years,
3 or who is a retired judge. The parties may stipulate to a nonlawyer arbitrator.

4 Unless waived pursuant to RCW 7.06.040(2)(b), a person may not serve as an arbitrator unless
5 the person has completed a minimum of three credits of Washington State Bar Association
6 approved continuing legal education credits on the professional and ethical considerations for
7 serving as an arbitrator. A person serving as an arbitrator must file a declaration or affidavit
8 stating or certifying to the appointing court that the person is in compliance with the
9 qualifications described in RCW 7.06.040. The court is authorized to remove an individual from
10 a list of qualified arbitrators for good cause.
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 3.2
AUTHORITY OF ARBITRATORS

1 [Unchanged]

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26 Suggested Amendment MAR 3.2
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)

RULE 4.1

RESTRICTIONS ON COMMUNICATION BETWEEN ARBITRATOR AND PARTIES

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)

RULE 4.2
DISCOVERY

1 After the assignment of a case to the arbitrator, a party may conduct discovery as follows: (1)
2 request from the arbitrator an examination under CR 35; (2) request admissions from a party
3 under CR 36; and (3) take the deposition of another party. A party may request additional
4 discovery from the arbitrator, including interrogatories, and the arbitrator will allow additional
5 discovery only when reasonably necessary.

**SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)**

**RULE 4.3
SUBPOENA**

1 [Unchanged]

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26 Suggested Amendment MAR 4.3
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Washington State Bar Association
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Seattle, WA 98101-2539

SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 5.1
NOTICE OF HEARING

1 The arbitrator shall set the time, date, and place of the hearing and shall give reasonable notice of
2 the hearing date to the parties. Except by stipulation or for good cause shown, the hearing shall
3 be scheduled to take place not sooner than 21 days, nor later than 75 days, from the date of the
4 assignment of the case to the arbitrator. The hearing shall take place in appropriate facilities
5 provided or authorized by the court.
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 5.2
PREHEARING STATEMENT OF PROOF

1 [Unchanged]

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26 Suggested Amendment MAR 5.2
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 5.3
CONDUCT OF HEARING –WITNESSES—RULES OF EVIDENCE

1 **(a) – (c)** [Unchanged]

2 **(d)** Certain Documents Presumed Admissible. The documents listed below, if relevant, are
3 presumed admissible at an arbitration hearing, but only if (1) the party offering the document
4 serves on all parties a notice, accompanied by a copy of the document and the name, address and
5 telephone number of its author or maker, at least 14 days prior to the hearing in accordance with
6 SCCAR 5.2; and (2) the party offering the document similarly furnishes all other related
7 documents from the same author or maker. This rule does not restrict argument or proof relating
8 to the weight of the evidence admitted, nor does it restrict the arbitrator's authority to determine
9 the weight of the evidence after hearing all of the evidence and the arguments of opposing
10 parties. The documents presumed admissible under this rule are:

11 **(d)(1) – (d)(7)** [Unchanged]

12 **(e)** [Unchanged]

SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 5.4
ABSENCE OF PARTY AT HEARING

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 6.1
FORM AND CONTENT OF AWARD

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 6.2
FILING OF AWARD

1 [Unchanged]

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26 Suggested Amendment MAR 6.2
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Washington State Bar Association
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 6.3
JUDGMENT ON AWARD

1 [Unchanged]

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26 Suggested Amendment MAR 6.3
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)
RULE 6.4
COSTS AND ATTORNEY FEES

1 [Unchanged]

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26 Suggested Amendment MAR 6.4
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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)

RULE 7.1
REQUEST FOR TRIAL DE NOVO

1 (a) [Unchanged]

2 (b) Form. The request for a trial de novo shall not refer to the amount of the award,
3 including any award of costs or attorney fees, and shall be substantially in the form set
4 forth below, and must be signed by the party:
5

SUPERIOR COURT OF WASHINGTON
FOR (_____) COUNTY

)	
)	No. _____
Plaintiff,)	
)	REQUEST FOR
v.)	TRIAL DE NOVO
)	
)	
)	
Defendant.)	

13 TO: The clerk of the court and all parties:

14 Please take notice that (name of aggrieved party) requests a trial de novo from the award filed
15 (date) _____.

16 Dated: _____

17 _____
(Signature of aggrieved party)
(Printed Name): _____
(Title, if applicable) _____

18 _____
(Name of attorney for aggrieved party)

21 (c) – (d) [Unchanged]
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**SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)**

**RULE 7.3
COSTS AND ATTORNEY FEES**

1 [Unchanged]

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**SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)**

**RULE 8.1
STIPULATIONS**

1 [Unchanged]

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**SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)**

**RULE 8.2
LOCAL RULES**

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)

RULE 8.3
EFFECTIVE DATE

1 [Unchanged]

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SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)

RULE 8.4
TITLE AND CITATION

1 These rules shall be known and cited as the Superior Court Civil Arbitration Rules. SCCAR is
2 the official abbreviation.

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**SUGGESTED AMENDMENT
SUPERIOR COURT CIVIL ARBITRATION RULES (SCCAR)**

**RULE 8.5
STATUS OF COMMENTS**

1 [Unchanged]

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Appendix C

Stakeholders List

COURTS	
Organization	Name
Supreme Court	Shannon Hinchcliffe AOC Liaison
Court of Appeals, Div. 1	Presiding Chief Judge Laurel Siddoway
Court of Appeals, Div. 2	Chief Judge Brad Maxa
Court of Appeals, Div. 3	Judge Kevin Korsmo
Superior Court Judges Association (SJCA)	Judge Blaine Gibson
District & Municipal Court Judges Association (DMCJA)	Judge G. Scott Marinella, President Judge Jeffrey Goodwin, Chair of Rules Cmte

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	Erin Hammond, President Jennifer Campbell, President-elect
WA Association for Justice (WSAJ)	Ann Rosato, President
	John Allison, President- Elect
	Jane Morrow(Chair, Court Rules)
	Christopher Love, Vice- Chair Court Rules)
	Kyle Olive
NW Justice Project	Deborah Perluss, Director of Advocacy/General Counsel
WA Association of Criminal Defense Lawyers	Louis Frantz, President
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WA Assoc. of Prosecuting Attorneys (WAPA)	Pam Loginsky, Staff Attorney Denis Tracy, President Richard Weyrich
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ACLU of WA	Kathleen Taylor, Executive Director
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QLaw – LGBT Bar Assoc.	Dan Shih President
Korean Bar Assoc.	Paige Hardy President
Latina/Latino Bar Assoc.	Veronica Quinonez President Debra Akhbari

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South Asian Bar Assoc.	Smriti Chandrashekar President
Vietnamese American Bar Assoc.	D.Sho Ly President Melanie Nguyen President-Elect
WA Attorneys with Disabilities Assoc.	Conrad Reynoldson President
WA Veterans Bar Assoc.	Thomas Jarrad President
WA Women Lawyers	Lisa Keler President President-Elect

SECTIONS

Paris Eriksen, WSBA Sections Program Manager, distributed all rule proposals by email to Section Leaders.

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Benton-Franklin County	Diana N. Ruff
Chelan-Douglas County	Travis C. Brandt
Clallam County	Ariel Speser
Clark County	Mark Sampath
Cowlitz-Wahkiakum County	Meredith Long
East King County	Chris Pirnke
Ferry County	James Von Sauer
Grant County	Jamie Cordell
Grays Harbor County	Jean Cotton
Island County	Anna Thompson
Jefferson County	Nathanial Jacob
King County	Andrew J. Prazuch, Executive Director Harry Schneider, President
Kitsap County	Tom Weaver
Kittitas County	Tony Swartz
Klickitat-Skamania County	Joanne Gallagher
Lewis County	Jakob McGhie
Lincoln County	Lee Russell McGuire Jr.
Mason County	Julie Sund Nichols
Okanogan County	Ted Reinbold
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San Juan County	John Chessell
Skagit County	Heather Webb
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Stakeholders List

COUNTY BAR ASSOCIATIONS	
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Walla Walla County	Jill Peitersen
Whatcom County	Lisa Saar
Whitman County	Luke E. Baumgarten
Yakima County	Quinn Dalan

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	Alex Frix (District Court)
	Sharonda D. Amamilo (Family and Juvenile Court)
Office of Assigned Counsel (Pierce County)	Kriston McDonough, Lead Attorney (Civil Contempt Unit)
	Jessica Campbell (District Court)
Tacoma Municipal Court Unit	Denise Whitley
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Limited License Legal Technician Board	Steve Crossland, Chair
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MCLE Board	John Bender, Chair
N/A	Karl Tegland
AGs Office	Rebecca Glasgow
Kitsap County Bar Assoc. Civil Practice & Proc. Cmte	Phil Havers
N/A	Elizabeth Turner
N/A	Shannon Kilpatrick

Appendix D

The Supreme Court
State of Washington

CHARLES W. JOHNSON
JUSTICE
TEMPLE OF JUSTICE
POST OFFICE BOX 40929
OLYMPIA, WASHINGTON
98504-0929



(360) 357-2020
FACSIMILE (360) 357-2103
E-MAIL J.C.JOHNSON@COURTS.WA.GOV

October 23, 2018

Ms. Paula Littlewood
Executive Director
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Dear Ms. Littlewood:

Recently, the Supreme Court Rules Committee requested the Washington State Bar Association's Court Rules and Procedures Committee review the current statewide Mandatory Arbitration Rules (MAR) as a result of legislation enacted effective September 1, 2018. I understand that a MAR subcommittee has been convened to complete this request.

On August 15, 2018, the Rules Committee received a request from Ms. Barbara Miner, King County Superior Court Clerk, to clarify the language of MAR 7.2. I am sharing this request with you in case it may be prudent for the subcommittee to consider it during its review process.

Very truly yours,

Charles W. Johnson, Chair
Supreme Court Rules Committee

Enclosure

cc: Ms. Nicole Gustine, WSBA Assistant General Counsel
Mr. Jefferson Coulter, WSBA Court Rules and Procedures Committee Chair



King County

Department of Judicial Administration
Barbara Miner
Director and Superior Court Clerk
(206) 296-9300 (206) 296-0100 TTY/TDD

August 15, 2018

Justice Charles Johnson, Chair
Supreme Court Rules Committee
PO Box 40929
Olympia, WA 98504-0929

Re: Mandatory Arbitration Rule 7.2

Dear Justice Johnson:

I write with a question and possible suggested rule edit regarding MAR 7.2.

Highlighted below is section (a) of MAR 7.2 which dictates the sealing of the arbitration award upon the filing of a de novo request. The language in the other sections goes on to instruct keeping the arbitration award information completely out of court filings and hearings as the case proceeds through the de novo process.

My question is in regard to the audience to whom the arbitration award is sealed. Pursuant to the current rule language, Clerks around the state would seal the document and not allow public or parties access to the arbitration award. However, it is regular procedure that a document which is sealed is accessible to any judicial officer of that court. Is that what is intended by this rule language?

Historically we interpreted old rule language or case law to mean that judicial officers were prohibited from accessing/viewing arbitration awards, though parties were allowed access. It appears the current language does the exact opposite: it allows judicial officers to see the award, but the parties are prohibited.

If the intent of the language is to keep judicial officers who might be handling the de novo trial from seeing the award, I would suggest that a rule change is necessary. Perhaps something like this language could be added to the current language: "judicial officer access to the award is also prohibited." Or this edit could be applied: "The clerk shall seal any arbitration award from judicial officers if a de novo is requested."

Seattle:
516 Third Avenue Room E609
Seattle, WA 98104-2386

Regional Justice Center:
401 Fourth Avenue North Room 2C
Kent, WA 98032-4429

Juvenile Division:
1211 East Alder Room 307
Seattle, WA 98122-5598

Justice Charles Johnson
August 15, 2019
Page 2

Current Mandatory Arbitration Rule 7.2 language:

RULE 7.2

PROCEDURE AFTER REQUEST FOR TRIAL DE NOVO

~~(a) Sealing. The clerk shall seal any award if a trial de novo is requested.~~

~~(b) No Reference to Arbitration; Use of Testimony.~~

~~(1) The trial de novo shall be conducted as though no arbitration proceeding had occurred. No reference shall be made to the arbitration award, in any pleading, brief, or other written or oral statement to the trial court or jury either before or during the trial, nor, in a jury trial, shall the jury be informed that there has been an arbitration proceeding.~~

~~(2) Testimony given during the arbitration proceeding is admissible in subsequent proceedings to the extent allowed by the Rules of Evidence, except that the testimony shall not be identified as having been given in an arbitration proceeding.~~

~~(c) Relief Sought. The relief sought at a trial de novo shall not be restricted by RCW 7.06, local arbitration rule, or any prior waiver or stipulation made for purposes of arbitration.~~

~~(d) Arbitrator as Witness. The arbitrator shall not be called as a witness at the trial de novo.~~

Proposed Mandatory Arbitration Rule 7.2 language:

RULE 7.2 (version 1)

PROCEDURE AFTER REQUEST FOR TRIAL DE NOVO

~~(a) Sealing. The clerk shall seal any award from judicial officers if a trial de novo is requested.~~

....

Or

RULE 7.2 (version 2)

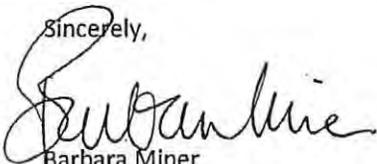
PROCEDURE AFTER REQUEST FOR TRIAL DE NOVO

~~(b) Sealing. The clerk shall seal any award if a trial de novo is requested. Judicial officer access to the award is also prohibited.~~

....

Thank you for your attention to this and please feel free to contact me should you have questions or need more information. I can be reached at (206) 477-0777.

Sincerely,



Barbara Miner
King County Superior Court Clerk

cc: Shannon Hinchcliffe; Office of Legal Services and staff to Superior Court Rules Committee

From: Sherry Lindner
To: ["Jon C. Parker"](#)
Subject: RE: EHB 1128 - MAR Amendments
Date: Thursday, October 25, 2018 8:56:00 AM

Received.

Thank you for your comment.

Sherry Lindner | Paralegal | Office of General Counsel
Washington State Bar Association | T 206.733.5941 | F 206.727.8314 | sherry@wsba.org
1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539

From: Jon C. Parker [<mailto:jon@hoquiamlaw.com>]
Sent: Wednesday, October 24, 2018 2:21 PM
To: WSBA CourtRules
Subject: EHB 1128 - MAR Amendments

I realize that the request for comments is largely an exercise in cosmetics but I am submitting my thoughts anyway.

1. I have been an attorney for 44 years and have mediated and arbitrated many cases. I do not think I need additional CLE to do that job. Why not state in the rule that the CLE requirement applies to attorneys that have not been in practice for at least 10 years or cannot swear that they have arbitrated/mediated at least X number of cases?
2. Allowing discovery defeats the purpose of the rule. Insurance company attorneys and wealthy parties can take advantage of poorer parties with discovery. The current rule works fine by halting discovery for the most part.
3. I do not see a good reason for a party having to sign the request for a *de novo* trial. An attorney is defined as one who is appointed and authorized to act in the place or stead of another. Attorneys sign pleading for clients all of the time and there are times when the client is not available to sign and return such a document.

Jon C. Parker
Parker, Winkelman & Parker, PS
P.O. Box 700
813 Levee Street
Hoquiam, WA. 98550
(360) 532-5780
Fax (360) 532-5788

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recommending to another party any transaction or matter that is addressed herein.

From: Sherry Lindner
To: "Roger Leed"
Subject: RE: new arbitration rules to replace MAR
Date: Friday, October 26, 2018 10:15:00 AM

Received.

Thank you for your comment.

Sherry Lindner | Paralegal | Office of General Counsel
Washington State Bar Association | T 206.733.5941 | F 206.727.8314 | sherryl@wsba.org
1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539

From: Roger Leed [mailto:rmleed@comcast.net]
Sent: Thursday, October 25, 2018 12:55 PM
To: WSBA CourtRules
Subject: new arbitration rules to replace MAR

Non-lawyers should not be allowed to handle Superior Court arbitrations. The parties have no right to transfer a court-authorized and supervised proceeding to the hands of someone not under court supervision and not subject to the legal ethics standards that apply to member of the Bar. There are no standards applicable to this non-lawyer arbitrator chosen by stipulation. Does the arbitrator need to be of age? a citizen? may a felon serve? Can it be someone who does not subscribe to the U.S. Constitution and regime of law? Proposed Rule 3.1 should be amended accordingly.

Rule 4.2 leaves it unclear whether the arbitrator has authority to enforce the discovery court rules. Who has that authority when the discovery takes places after the matter is assigned to arbitration? This needs to be explicitly addressed.

Rule 5.1 should be amended to authorize the parties to stipulate to hearing venue. I usually hold the hearing at the offices of one of the parties since that is more convenient for witnesses and parties. We consider factors such as commute time, availability of facilities for video or conference calls, parking, availability of public transit, handicapped access, and distance traveled by those involved in the hearing. Why restrict this practice?

Law Offices of Roger M. Leed
1826 East Hamlin Street
Seattle, WA 98112-2006
(206) 795-0513 (cell)
rmleed@comcast.net

From: [Korsmo, Kevin](#)
To: [Sherry Lindner](#); [Hinchcliffe, Shannon](#); [Siddoway, Laurel](#); [Maxa, Bradley](#); hdclarke@spokanecounty.org; gsm.judge@gmail.com; fdacca@co.pierce.wa.us
Cc: [Jefferson Coulter](#); [Nicole Gustine](#)
Subject: RE: Feedback Requested: WSBA Court Rules and Procedures Committee/MAR Proposals
Date: Tuesday, October 30, 2018 9:19:46 AM
Attachments: [image001.png](#)

The Court of Appeals Rules Committee has reviewed the proposed rules and will not be commenting on them.

Thank you for asking.

KK

From: Sherry Lindner [mailto:sherryl@wsba.org]
Sent: Wednesday, October 24, 2018 10:52 AM
To: Hinchcliffe, Shannon <Shannon.Hinchcliffe@courts.wa.gov>; Siddoway, Laurel <Laurel.Siddoway@courts.wa.gov>; Maxa, Bradley <J_B.Maxa@courts.wa.gov>; [Korsmo, Kevin <Kevin.Korsmo@courts.wa.gov>](mailto:Kevin.Korsmo@courts.wa.gov); hdclarke@spokanecounty.org; Michael.downes@snoco.org; gsm.judge@gmail.com; fdacca@co.pierce.wa.us
Cc: [Jefferson Coulter <Jeffersonc@NWJustice.org>](mailto:Jeffersonc@NWJustice.org); [Nicole Gustine <nicoleg@wsba.org>](mailto:nicoleg@wsba.org)
Subject: Feedback Requested: WSBA Court Rules and Procedures Committee/MAR Proposals

Greetings,

The legislature enacted [EHB 1128](#)-Civil Arbitration which was effective September 1, 2018. The Supreme Court has asked the WSBA Court Rules and Procedures Committee to review the legislation. These proposed changes would make the entire class of MARs consistent with that bill and corresponding amendments to RCW Chapter 7.06, Mandatory Arbitration of Civil Actions (Now, Arbitration of Civil Actions). GR 1 is also amended to change the acronym from MAR to SCCAR.

The Committee is reaching out to stakeholders for comments and feedback on its proposals.

Stakeholder input is crucially important in the rulemaking process and assists the subcommittee in making an informed decision.

Attached please find materials submitted by Stephanie Dikeakos.

Please submit your feedback/comments to WSBACourtRules@wsba.org by January 1, 2019.

Thank you,



Sherry Lindner | Paralegal | Office of General Counsel

Washington State Bar Association | T 206-733-5941 | F 206-727-8314 | sherryl@wsba.org
1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org

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From: Sherry Lindner
To: "[Favian Valencia](#)"
Subject: RE: Proposed Arbitration Edits
Date: Wednesday, October 31, 2018 8:31:00 AM

Received.

Thank you,

Sherry Lindner | Paralegal | Office of General Counsel
Washington State Bar Association | T 206.733.5941 | F 206.727.8314 | sherryl@wsba.org
1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539

From: Favian Valencia [<mailto:favian@sunlightlaw.com>]
Sent: Wednesday, October 31, 2018 8:14 AM
To: WSBA CourtRules
Subject: Proposed Arbitration Edits

Thanks for reaching out. I approve the proposed amendments to the rule. Thanks!

Favian Valencia
Attorney
Sunlight Law, PLLC
402 E. Yakima Ave, Suite 730
Yakima Washington 98901
800.307.1261
www.sunlightlaw.com

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From: Sherry Lindner
To: "[Brad Smith](#)"
Subject: RE: Comments on Civil Arbitration Rules
Date: Monday, November 05, 2018 9:43:00 AM

Received.

Your comment will be forwarded to the Committee.

Thank you,
Sherry

Sherry Lindner | Paralegal | Office of General Counsel
Washington State Bar Association | T 206.733.5941 | F 206.727.8314 | sherryl@wsba.org
1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539

From: Brad Smith [<mailto:brads@feltmanewing.com>]
Sent: Monday, November 05, 2018 8:19 AM
To: WSBA CourtRules
Subject: Comments on Civil Arbitration Rules

First a Disclaimer. I am the Legislative Committee Chair for the WDTL. I was very involved in the last three years in the negotiations and actions resulting in the current legislative change. Many of the arguments below were proposed (and ultimately rejected) by the WA legislature in adopting the new changes.

The 100K limit is too high, especially without changes in: 1) Discovery allowed in MAR's; and 2) trial de novo requests.

Discovery: We're essentially transferring fairly large, 100K cases, into MAR, with extreme limits on discovery. If the other party or arbitrator do not agree, defendants are faced with only one depo of the plaintiff, limited discovery of experts, etc, and we have to get permission of the arbitrator even for a CR 35 exam. All in a compressed time period. Discovery in cases from 50K to 100K should be expanded.

Trial De Novo: After a trial de novo, costs will go up, and often add'l medical expenses are incurred. All of which add to the plaintiff's eventual recovery. However, there is no provision in the existing legislation or former statute which allows the trial judge, in determining whether the appealing party, has "improved their position" from the arbitration award. At a minimum, the trial judge should have discretion to review all the factors in determining whether attorneys fees should be awarded.

Arbitrator Qualification: The judges should have approved the alternative qualification procedure for experienced arbitrators to avoid having to have the 3 credit CLE to qualify. The Spokane county panel certainly lost many older, experienced arbitrators who did not want to shoulder the expense and time of the CLE.

Brad Smith

WSBA 16435

Brad E. Smith



FELTMAN | EWING

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December 31, 2018

Sherry Lindner
Office of General Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539
sherryl@wsba.org

Re: WDTL's Position on Proposed Changes to the Mandatory Arbitration Rules

Dear Ms. Lindner,

Thank you for reaching out and requesting input regarding the Washington Defense Trial Lawyers' (WDTL) position on the WSBA Court Rules and Procedures Committee's Suggested Amendments to the Superior Court Mandatory Arbitration Rules (MAR) and General Rules (GR) 1.

WDTL remains opposed to the increase in limits and adoption of HB 1128, which unfairly expand the cases subject to Civil Arbitration while limiting discovery tools essential to preparation of a meaningful defense. The WDTL maintains its belief that the increase in limits for Civil Arbitration will continue to have adverse consequences to the fair and equal administration of justice, as well as to the stated goal of reducing court congestion. A fuller detailing of the reasons for the WDTL's opposition is outlined in the comments WDTL filed prior to adoption of that bill.

Given that the legislature has enacted HB 1128, however, WDTL does not oppose the proposed changes to the Mandatory Arbitration Rules in order to accurately reflect the state of the law. Accordingly, the WDTL does not have any comments to the proposed changes, as they merely reflect the statutory language contained in RCW 7.06.010 *et. seq.*

Sincerely,

Peter M. Ritchie
President
Washington Defense Trial Lawyers

WASHINGTON STATE
BAR ASSOCIATION

TO: WSBA Board of Governors
FROM: Margaret Shane
DATE: February 22, 2019
RE: WSBA Diversity Committee Statement of Solidarity with Oregon Specialty Bar Associations Statement Against White Nationalism and Normalization of Violence

Action: Authorize the WSBA Diversity Committee to issue its Statement to be shared with the WSBA Membership, Minority Bar Associations of Washington, Specialty Bar Associations in Oregon, and the Oregon State Bar.

Attached please find the cover memo and materials on this matter that was on the agenda for “first reading” at the January 17-18, 2019, Board meeting. Discussion was held and a motion was made to approve the request of the WSBA Diversity Committee, but action was subsequently tabled until the March 7, 2019, Board meeting in order to provide an opportunity to receive advice related to this item from General Counsel Shankland.

This matter is on the agenda for “action” at the March 7, 2019, Board meeting.

WASHINGTON STATE
BAR ASSOCIATION

TO: WSBA Board of Governors
FROM: Alec Stephens
DATE: January 9, 2019
RE: WSBA Diversity Committee Statement of Solidarity with Oregon Specialty Bar Associations Statement Against White Nationalism and Normalization of Violence

First Reading: Authorize the WSBA Diversity Committee to issue its Statement to be shared with the WSBA Membership, Minority Bar Associations of Washington, Specialty Bar Associations in Oregon, and the Oregon State Bar.

The WSBA Diversity Committee became aware that, after the Oregon State Bar issued a statement alongside a statement by Specialty Bar Associations calling out the rise of White Nationalism and violence, objections went beyond spirited debate. While some members of the Oregon State Bar have pursued an effort to significantly reduce their license fees, individuals have also threatened to use the disciplinary processes against the Specialty Bar Association leaders who signed the Statement on behalf of their organizations and their communities, and made threats of physical harm. These personal attacks have resulted in some of the Specialty Bar Association leaders resigning from their positions.

The WSBA Diversity Committee seeks to issue this statement in support of the rights of Specialty Bar Association leaders and to call attention to the alarming presence in Oregon and Washington of those who would seek to use strategies and tactics to stifle the speech of those leaders through intimidation and harassment.

WSBA Diversity Committee Statement of Solidarity with Oregon Specialty Bar Associations Statement
Against White Nationalism and Normalization of Violence

In September 2017, the Board of Governors issued “WSBA Statement Denouncing Recent Acts of Violence and a Reaffirmation of Equity and Inclusion Principles”, citing the disturbing trend that societal movement towards equity and inclusion is under attack. The statement was issued in response to events that took place the month earlier in the city of Charlottesville, Virginia, where acts of terror and violence at the hands of an emboldened white nationalist movement resulted in dozens of people injured, a person killed, and the aftermath throwing race relations in our country into a state of national turmoil.

The Washington State Bar Association (WSBA) holds a deep commitment to its stated mission of serving the public and the members of the Bar, ensuring the integrity of the legal profession, and to champion justice. WSBA’s services must be conducted with a framework of equity and inclusion. It is in WSBA’s service to its members and to the public that WSBA emphasizes its commitment to an equitable and inclusive society. WSBA also recognizes that events such as Charlottesville require a response, lest those who perpetrate such acts are emboldened by our silence. In keeping with those values, the WSBA Diversity Committee issues this statement.

Since Charlottesville, events have occurred that are closer to home. In Portland, Oregon, a female transit rider wearing a hijab was subjected to harassment by a man who objected to riding with a person he believed was a Muslim. When another rider who happened to be white and male intervened, the harasser killed the man, while uttering further hateful sentiments.

The Oregon State Bar Association and its Specialty (Minority) Bar Associations each issued separate statements in response to the Charlottesville and Portland incidents. These two statements were published together in the Oregon State Bar Bulletin. Objections were raised by some members of the Oregon Bar about what they cited as the partisan nature of the Specialty Bar Statement and the tacit support of the Oregon Bar Association in providing space in the Bar Bulletin for the Specialty Bar Statement. Such objections included a demand for a return of license fees. The WSBA takes no position on the actions taken by the Oregon State Bar Association, the Specialty Bar Associations, or those raising objections

Since the publication of the Oregon Specialty Bar Associations joint statement “Against White Nationalism and Normalization of Violence”, some of the Specialty Bar leaders who signed the statement received threats of physical violence, intimidation, and harassment from members of the public and members of the Oregon State Bar. Some of the threats included using the disciplinary process regarding the Specialty Bar leaders’ practice of law. As a result, some of the Specialty Bar leaders have resigned from leadership positions with their respective Specialty Bar Associations. It is here that we feel compelled to speak out against such threats.

WASHINGTON STATE BAR ASSOCIATION

Minority (Specialty) Bar Associations, their leadership, and members provide critical voices for the communities that they represent. In times of attacks on minorities and historically disadvantaged communities, these associations are often the first legal responders to defend against such attacks. In so doing their speech may be forceful, pointed and, as in the case in Oregon even directed at political figures. As previously stated, the WSBA does not take a position with respect to the content of such statements. We do, however, support the right of Minority(Specialty) leaders and members of their legal communities here and in other states to represent the position of their constituents without fear of reprisal in the form of intimidation, harassment and threats of harm.

We can do no less to ensure the unfettered practice of law and the administration of justice equitably and inclusively for all persons.

Joint Washington MBA Statement in Support of Oregon Specialty Bar Associations
Issued _____

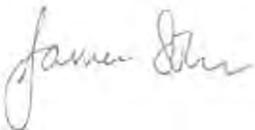
In the April 2018 issue of the Oregon State Bar Bulletin, a statement was published denouncing white nationalism and the normalization of violence and racism. This statement was signed by several minority bar associations, including the Oregon Asian Pacific American Bar Association, Oregon Filipino American Lawyers Association, Oregon Chapter of the National Bar Association, Oregon Hispanic Bar Association, Oregon Women Lawyers, Oregon Minority Lawyers Association, and OGALLA -- the LGBT Bar Association of Oregon. Shortly thereafter, the bar leaders who signed the statement received backlash in the form of threats of physical violence, intimidation, and harassment from members of the public and surprisingly, even from some fellow members of the Oregon State Bar.

We are living in historic times when Americans are confronted with disturbing headlines on a weekly basis. Reports of intimidating behavior and openly violent acts towards people of color are becoming the norm. A surge in white nationalism and the advancement of white supremacist groups is troubling and alarming. These developments must be addressed. Violence, intimidation, and the systematic silencing of oppressed voices has no place in society or our profession.

We, the undersigned minority bar associations of Washington, stand with our sister minority bar associations and diversity representatives in Oregon and commend their bravery in publicly rejecting white supremacy and white nationalism. When fellow attorneys use intimidation, harassment, threats of bar complaints or lawsuits against minority bar leaders who have shown bravery and leadership by vocalizing their concerns about the state of this country, we cannot remain silent. This is unacceptable.

Our organizations are deeply committed to ensuring that the legal profession maintain integrity and vigilance against the normalization of racism. The legal profession as a whole benefits when we intentionally include more voices, experiences, and backgrounds. As attorneys, it is our professional responsibility to combat injustices, advocate on behalf of marginalized groups, and disavow threats of violence and retaliation. As leaders, we have a duty to respond; leadership requires speaking up, even when it is mischaracterized as divisive. We will continue to stand up for our communities and for other groups that have been systematically oppressed. We unequivocally disavow white supremacy and reject any notion that this is "too political."

We will not be silenced.



State Board
Asian Bar Association of Washington



State Board
QLaw Association of Washington



State Board
Filipino Lawyers of Washington

State Board
South Asian Bar Association of Washington



State Board
Korean American Bar Association of Washington

State Board
Vietnamese American Bar Association of Washington

State Board
Latino/a Bar Association of Washington



State Board
Loren Miller Bar Association

State Board
Washington Attorneys with Disabilities Association



State Board
Washington Women Lawyers



**WSBA STATEMENT DENOUNCING RECENT ACTS OF VIOLENCE AND
A REAFFIRMATION OF EQUITY AND INCLUSION PRINCIPLES**

(Approved by the WSBA Board of Governors on September 29, 2017)

The societal movement towards equity and inclusion is under attack. The city of Charlottesville, Virginia, experienced reprehensible acts of violence at the hands of an emboldened white nationalist movement. Lives were lost, dozens of people were injured, and the aftermath has thrown race relations in our country into a state of national turmoil.

The Washington State Bar Association (WSBA) holds a deep commitment to its stated mission of serving the public and the members of the Bar, ensuring the integrity of the legal profession, and to champion justice. The WSBA is part of the judicial branch, exercising a governmental function authorized by the Washington Supreme Court to license the state's nearly 40,000 legal professionals. The WSBA both regulates legal professionals under the authority of the Court and serves its members as a professional association.

Our service to members of the Bar and the public is a function that must be conducted with the broad and deep lens of equity and inclusion. We exist to regulate the practice of law AND to serve our members and the public as a professional association. It is in service to our members and to the public that we emphasize our commitment to an equitable and inclusive society. This commitment demands that we clearly articulate a resolute stance and support of non-violence against any human for any reason. Violence perpetrated against unarmed people is a deplorable act. The people of Charlottesville are representative of the public served by our members and who access our services.

History has proven that justice does not happen within a vacuum and is not exercised without the oversight, involvement and expertise of those trained in the law.

The Washington State Minority Bar Association community has been an important partner with the WSBA in this commitment within our legal profession. This community is critical to the continued understanding and development of laws, practices, and policies intersecting diversity, equity and inclusion. We highly esteem the work of this community and experience them as partners and collaborators in the pursuit of justice. In light of this partnership we express our support as allies in the denunciation of the lethal acts of violence perpetrated in Charlottesville, Virginia.

We recognize and appreciate that the First Amendment is a critical facet of our democracy. We unwaveringly support its protections, even if we do not agree with the statements being made. However, violence, threats, and physical intimidation are not protected by the First Amendment and have no place in a civil dialogue.

We share a duty with government leaders to speak up when injustice occurs in order to reassure our communities, including those communities that are minority or historically disadvantaged, that we will use all resources at our disposal, including legal resources, to protect the rights and safety of everyone.

It is incumbent upon us, given our unique role in society, our understanding of the practice of law, and our ethical commitment to serving the public that we clearly and forcefully not only denounce violent, divisive, marginalizing, oppressive and inequitable behavior; but that we step into any void created by those actions regardless of where it originates.

This is a country governed by laws. Our laws are designed not only to protect democratic principles, but also to protect people from violence and harassment in the guise of political speech. The WSBA pledges to work vigorously to ensure that those ideals work in practice as well as in principle. We will not tolerate anything less for the people of Washington.



Feb. 23, 2018

Statement on White Nationalism and Normalization of Violence

As the United States continues to grapple with a resurgence of white nationalism and the normalization of violence and racism, the Oregon State Bar remains steadfastly committed to the vision of a justice system that operates without discrimination and is fully accessible to all Oregonians. As we pursue that vision during times of upheaval, it is particularly important to understand current events through the lens of our complex and often troubled history. The legacy of that history was seen last year in the streets of Charlottesville, and in the attacks on Portland's MAX train. We unequivocally condemn these acts of violence.

We equally condemn the proliferation of speech that incites such violence. Even as we celebrate the great beneficial power of our First Amendment, as lawyers we also know it is not limitless. A systemic failure to address speech that incites violence emboldens those who seek to do harm, and continues to hold historically oppressed communities in fear and marginalization.

As a unified bar, we are mindful of the breadth of perspectives encompassed in our membership. As such, our work will continue to focus specifically on those issues that are directly within our mission, including the promotion of access to justice; the role of law, and a healthy and functional judicial system that equitably serves everyone. The current climate of violence, extremism and exclusion gravely threatens all of the above. As lawyers, we administer the keys to the courtroom, and assist our clients in opening doors to justice. As stewards of the justice system, it is up to us to safeguard the role of law and to ensure its fair and equitable administration. We simply cannot lay claim to a healthy justice system if whole segments of our society are fearful of the very laws and institutions that exist to protect them.

In today's troubling climate, the Oregon State Bar remains committed to equity and justice for all, and to vigorously promoting the law as the foundation of a just democracy. The courageous work done by specialty bars throughout the state is vital to our efforts and we continue to be both inspired and strengthened by those partnerships. We not only refuse to become accustomed to this climate, we are intent on standing in support and solidarity with those historically marginalized, underrepresented and vulnerable communities who feel voiceless within the Oregon legal system.

Vanessa A. Nordlyke
2018 President
Board of Governors

Jonathan Puente
Director of Diversity & Inclusion

Helen Hierschbiel
Chief Executive Officer

Christine R. Costantino
2018 President-elect
Board of Governors

Liani Reeves
Board of Governors
Liaison to the Advisory Committee
on Diversity & Inclusion

Jonathan Patterson
Chairperson
Advisory Committee
on Diversity & Inclusion

Joint Statement of the Oregon Specialty Bar Associations Supporting the Oregon State Bar's Statement on White Nationalism and Normalization of Violence

The Oregon Asian Pacific American Bar Association, the Oregon Women Lawyers, the Oregon Filipino American Lawyers Association, OGALLA-The LGBT Bar Association of Oregon, the Oregon Chapter of the National Bar Association, the Oregon Minority Lawyers Association, and the Oregon Hispanic Bar Association support the Oregon State Bar's Statement on White Nationalism and Normalization of Violence and its commitment to the vision of a justice system that operates without discrimination and is fully accessible to all Oregonians.

Through the recent events from the Portland MAX train attacks to Charlottesville, we have seen an emboldened white nationalist movement gain momentum in the United States and violence based on racism has become normalized. President Donald Trump, as the leader of our nation, has himself catered to this white nationalist movement, allowing it to make up the base of his support and providing it a false sense of legitimacy. He has allowed this dangerous movement of racism to gain momentum, and we believe this is allowing these extremist ideas to be held up as part of the mainstream, when they are not. For example, President Trump has espoused racist comments, referring to Haiti and African countries as "shithole countries" and claiming that the United States should have more immigrants from countries like Norway. He signed an executive order that halted all refugee admissions and barred people from seven Muslim-majority countries, called Puerto Ricans who criticized his administration's response to Hurricane Maria "politically motivated migrants," said that the white supremacists marching in Charlottesville, North Carolina in August of 2017 were "very fine people," and called into question a federal judge, referring to the Indiana-born judge as "Mexican," when the race of his parents had nothing to do with the judge's decision. We are now seeing the white nationalist movement grow in our state and our country under this form of leadership.

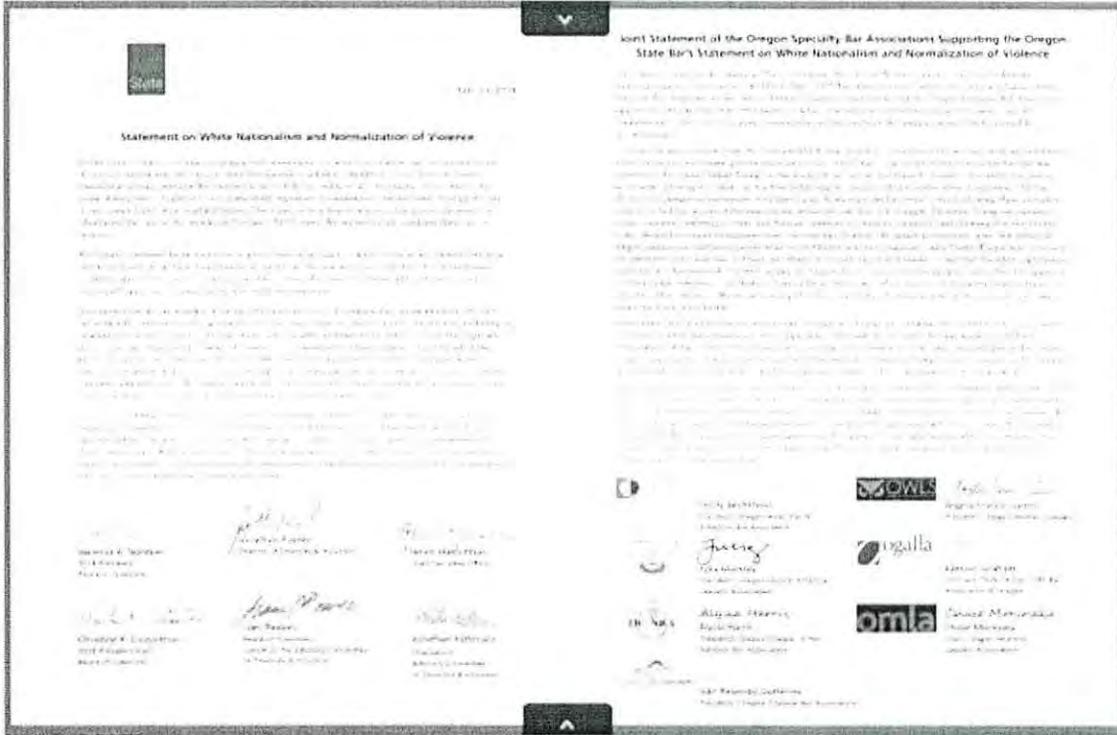
As attorneys who lead diverse bar associations throughout Oregon, we condemn the violence that has occurred as a result of white nationalism and white supremacy. Although we recognize the importance of the First Amendment of the United States Constitution and the protections it provides, we condemn speech that incites violence, such as the violence that occurred in Charlottesville. President Trump needs to unequivocally condemn racist and white nationalist groups. With his continued failure to do so, we must step in and speak up.

As attorneys licensed to practice law in Oregon, we took an oath to "support the Constitution and the Laws of the United States and of the State of Oregon." To that end, we have a duty as attorneys to speak up against injustice, violence, and when state and federal laws are violated in the name of white supremacy or white nationalism. We must use all our resources, including legal resources, to protect the rights and safety of everyone. We applaud the Oregon State Bar's commitment to equity and justice by taking a strong stand against white nationalism. Our bar associations pledge to work with the Oregon State Bar and to speak out against white nationalism and the normalization of racism and violence.

			Angela Franco Lucero President, Oregon Women Lawyers
			Kamron Graham Co-Chair, OGALLA-The LGBT Bar Association of Oregon
			Chase Morinaka Chair, Oregon Minority Lawyers Association
			Derily Bechtold President, Oregon Asian Pacific American Bar Association
			Julia Mankley President, Oregon Filipino American Lawyers Association
			Alyxia Harris President, Oregon Chapter of the National Bar Association
			Ivan Resendiz Gutierrez President, Oregon Hispanic Bar Association

Oregon State Bar's statement on 'white nationalism' draws criticism

Updated Apr 24, 2018; Posted Apr 23, 2018



The Oregon State Bar's recent bulletin had these back-to-back pages displayed. On the left is the bar's, "Statement on White Nationalism and Normalization of Violence." On the right, is a separate but related "Joint Statement of the Oregon Specialty Bar Associations" that supports the state bar's statement. (Screenshot)

1.3kshares

By **Maxine Bernstein**
mbernstein@oregonian.com
The Oregonian/OregonLive

Two signed statements in the latest Oregon State Bar bulletin – one by the bar condemning speech that incites violence and the other by non-bar specialty groups decrying the rise of the white nationalist movement under President Trump -- have drawn fire from some lawyers aghast that the bar would allow such political statements.

The bar has received requests from six lawyers who requested refunds of their dues, and has granted one partial refund so far, said spokeswoman Kateri Walsh. The bar

stands by its own statement, but the refund will respond to the second statement that wasn't approved by state bar leadership, she said.

A "Statement on White Nationalism and Normalization of Violence" denounces hate mongering, referencing the white nationalist march last August in Charlottesville, Virginia, and the May stabbing attacks on the Portland MAX train. The bar's statement calls out a "current climate of violence, extremism and exclusion" that threatens the rule of law and judicial system that serves everyone.

That statement was signed by the president and president-elect of the bar's board of governors, a board member, the bar's chief executive officer, a state bar staff member and a volunteer lawyer who leads the bar's diversity and inclusion committee.

An adjoining page has a "Joint Statement of the Oregon Specialty Bar Associations Supporting the Oregon State Bar's Statement." It goes further, repeatedly criticizing President Donald Trump for having "catered to this white nationalist movement, allowing it to make up the base of his support and providing it a false sense of legitimacy."

Leaders of the Oregon Asian Pacific American Bar Association, Oregon Filipino American Lawyers Association, Oregon chapter of the National Bar Association, Oregon Hispanic Bar Association, Oregon Women Lawyers, OGALLA-The LGBT Bar Association of Oregon and Oregon Minority Lawyers Association signed the supporting statement.

Document: The Oregon State Bar Bulletin's pages

West Linn lawyer Diane Gruber slammed the statements as "blatantly partisan" and in clear violation of a 1990 U.S. Supreme Court ruling in *Keller v. State Bar of California*, which held that attorneys required to be members of a state bar association have a First Amendment right to refrain from subsidizing the organization's political or ideological activities.

The Oregon State Bar is a government agency that regulates the legal profession in the state. It publishes a bulletin, a magazine that is mailed to members 10 times a year.

Lake Oswego lawyer Shawn Lindsay, who identified himself as a Republican but not a Trump supporter, said he felt the bar "grossly violated" the *Keller* ruling.

He wrote to the bar that he supports the first statement's "underlying message" of "fair and equitable administration/equal justice for all," but added, "you and the other signers went far beyond that by making it biased and political."

"You and the other signers have the right to educate and make statements, but you should do so by presenting impartial information and unbiased statements," he wrote. "You did not do so."

Several demanded that the bar print a retraction.

"I am distressed to learn that my bar dues are being used to promote a left-wing agenda," wrote Darcia Krause, another Portland lawyer.

Assistant U.S. Attorney Greg Nyhus wrote that he was disappointed to learn his dues were "used to promote a political and partisan letter – directed at hate speech but clearly intended to suppress other viewpoints."

Dues range from \$465 to \$552, depending on when a lawyer was admitted to the bar.

The Multnomah County Republican Party also sent the bar a letter, demanding that it "cease its partisan attacks against Trump."

"The bar has no business taking its members' dues money to publish false claims that fringe racist groups constitute the 'base' of the president's support," wrote lawyer James Buchal, a member of the bar and chairman of the county GOP.

Other bar members supported the statements.

Portland attorney Eric E. Meyer, for example, applauded the bulletin for publishing a "strong statement against white nationalism" and said it's crucial for all attorneys as "guardians of justice" never to be "silent in the face of racism and hatred."

At a meeting of the bar's board of governors Friday, bar chief executive officer Helen Hirschbiel noted that the board didn't formally adopt or support the statement by the specialty bar groups and said publication of the statements side-by-side was "ill-advised and confusing."

The board voted to rescind partial dues of angered members, resulting from the publication of the specialty bar statement. The board also voted to run a clarification in its next issue, affirming the state bar's statement, but explaining that the other statement was independent.

The bar also is re-examining the "editorial function" of the bar's bulletin, she said.

-- Maxine Bernstein

Subject: A Message from the President on Opposing Hate

National Asian Pacific American Bar Association

Organizational Statement

For Immediate Release
July 24, 2018

For More Information, Contact:
Brett Schuster, Communications Manager
bschuster@napaba.org, 202-775-9555

A Message from the President on Opposing Hate

Dear Colleagues,

As we see the continued rise of hate, including a [17.4% increase](#) in hate crimes in my home state of California, it is important that we continue to speak out against hate and provide support to communities impacted by discrimination. NAPABA is committed to combatting hate crimes by educating and empowering our community to act against racially-motivated dialogue and conduct. I am encouraged by the response of our affiliates and national associates to our call to action and their efforts to empower their members and local communities—offering CLE seminars, organizing pro bono and legal aid clinics, and by speaking out. As individuals and members of multiple communities, we have been making a significant difference.

Unfortunately, taking such bold and courageous action does expose individuals and groups to backlash.

Recently, in Oregon, the legal community spoke out. A coalition of diverse bars, including our affiliates—the Oregon Asian Pacific American Bar Association (OAPABA) and the Oregon Filipino American Lawyers Association (OFALA)—issued [a statement](#) condemning white supremacy and calling on the legal community and elected officials to stop normalizing racism and violence. The Oregon State Bar issued a similar statement with the support of the diverse bars. Since its publication, our affiliate bars and these brave local leaders have been subject to continued harassment, threats of lawsuits, and threats of bar complaints being filed against them.

There are those who say rejecting racist comments, including from politicians, is being too political; that actions to address diversity divides the community; that the bar should not speak out.

We reject these claims. We believe everyone should be free from hate and violence. It is why NAPABA has condemned white supremacy. It is why we and our affiliates filed amicus briefs against the Muslim Ban. It is why Asian Pacific American attorneys are standing up to racist and anti-immigrant views in their communities.

We reject the idea that the bar should not be a leader in actively promoting diversity and inclusion. We denounce the harassment that our affiliate leaders and other diverse attorneys face because they dared to speak out.

All bar associations and lawyers have an obligation to promote diversity and inclusion and to protect their communities. We must take steps to address those structural impediments to progress. Our experiences and backgrounds make us better lawyers.

The actions of OAPABA, OFALA, and the other diverse bars are shining examples of true leadership. It is especially important in places like Oregon which have a history of legalized racism—for example, with a constitution and laws explicitly denying African Americans the right to live and own property in the state—and

where the legal community is both small and not as diverse as many other places. Speaking out in these situations is even more necessary and takes more courage. These are the places where it is even more important to recognize and acknowledge the experiences of diverse attorneys—and take action to ensure their inclusion in the profession.

We can have differences over policy. But our core values are the same. They unite us a profession and as a bar association.

I continue to encourage you to find your platform to speak out. I invite you to continue to work with us and your local bar associations to develop programs to use your knowledge and skills to support those who need help. And I hope you will continue to remain brave and vigilant in the face of adversity and to rise collectively above the hate.

Sincerely,

Pankit J. Doshi
2017-18 NAPABA President

National Asian Pacific American Bar Association | [1612 K St. NW, Suite 510 | Washington, DC 20006](#) | www.napaba.org

Subject: NFALA Opposes Hate- and Bias-Motivated Acts and Condemns White Nationalism and Hate Groups

WE ARE NFALA!		Facebook Twitter Instagram
	NFALA	
NATIONAL FILIPINO AMERICAN LAWYERS ASSOCIATION		
NFALA OPPOSES HATE- AND BIAS-MOTIVATED ACTS AND CONDEMNS WHITE NATIONALISM AND HATE GROUPS		
For Immediate Release July 16, 2018	For More Information, Contact: David Mesa, NFALA President president@nfala.com	

NFALA OPPOSES HATE- AND BIAS-MOTIVATED ACTS AND CONDEMNS WHITE NATIONALISM AND HATE GROUPS

The National Filipino American Lawyers Association (NFALA) is the national voice for the Filipino-American legal profession and it is our mission to advocate for justice, civil rights, and equal opportunity for the Filipino-American community. Along those lines, NFALA is pleased to announce it has adopted [policy resolutions](#): (1) opposing hate- and bias-motivated acts, (2) condemning and rejecting white nationalism and white supremacy, the Ku Klux Klan, neo-Nazis, and other hate groups, and (3) urging political and civic leaders to speak out against racism, anti-Semitism, white supremacy and xenophobia.

"We want our communities to know that their institutions and the justice system stand with them when hate crimes and hate speech occur," said NFALA president David Mesa.

As an example, the Oregon Filipino American Lawyers Association (OFALA) and six other Oregon minority bar associations issued a joint statement in support of the Oregon State Bar Association's "Statement on White Nationalism and Normalization of Violence" in the April 2018 issue of the *Oregon State Bar Bulletin*. NFALA is a non-partisan national organization that embraces lawyers of diverse political leanings. It supports the First Amendment right of OFALA, and all of its affiliates, to speak out on these and other important issues and endorses a civil and respectful political discourse, safe and free from hateful, retaliatory conduct.

NFALA is the national voice for the Filipino-American legal profession. It advocates for justice, civil rights, and equal opportunity for the Filipino-American community. It cultivates high standards of integrity and professionalism among its members and strives for the advancement and success of Filipino-Americans within the profession. NFALA

is a family, comprised of members throughout the United States, with the shared goal of increasing its national growth, impact, and visibility while also celebrating its members' cultural heritage.

To learn more about NFALA, visit nfala.com, like us on [Facebook](#), and follow us on Twitter ([@NFALA1](#)) and Instagram ([@filamlawyers](#)).

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

TO: WSBA Board of Governors
FROM: Margaret Shane
DATE: February 25, 2019
RE: WSBA Board of Governors No Retaliation Policy

Discussion: Input on WSBA Board of Governors No Retaliation Policy.

Attached please find the WSBA Board of Governors No Retaliation Policy adopted by the Board of Governors on January 18, 2019, in order to facilitate discussion regarding implementation of procedures and processes in case of a claim of harassment and/or retaliation by a WSBA employee.

WSBA Board of Governors No Retaliation Policy

(Adopted by the Board of Governors January 18, 2019)

Purpose

The Washington State Bar Association (“WSBA”) is firmly committed to maintaining a safe environment that encourages its employees and members of the Board of Governors (“BOG”) and other volunteers to speak up about sexual discrimination or other harassment without fear of retaliation. To that end, and to prevent victimization and other retaliatory behavior towards those who report such conduct to appropriate individuals, the WSBA adopts a No Retaliation Policy. This Policy is important for many reasons, including:

1. When reports of concerns of discriminatory or harassing conduct, or retaliatory action are made, the WSBA must consider them and take appropriate action. Retaliating against a BOG member or other WSBA volunteer, or WSBA employee who brought attention to inappropriate behavior harms the WSBA’s trustworthiness and reliability. Retaliation harms the public interest by deterring others from reporting complaints.
2. Any kind of retaliatory action, whether intentional or unintentional, may expose the WSBA to a serious legal risk.

Scope

This Policy applies to all WSBA employees and prospective, current, or former BOG members and other WSBA volunteers (BOG members and other WSBA volunteers hereinafter collectively referred to as “volunteers”). WSBA Employees are subject to provisions under the employee handbook policy on “Standards of Conduct and Discipline” and “Sexual and Other Harassment Policy” as determined by the Executive Director.

Policy

The WSBA prohibits any form of retaliation against or intimidation of WSBA employees or volunteers who report good-faith concerns of discriminatory, harassing, illegal or dishonest conduct or who participate in investigations or other proceedings related to such a report, even if the WSBA ultimately concludes that the report cannot be substantiated or that no violation of law, regulation or WSBA policy has occurred.

Retaliation Definition

Retaliation includes any kind of negative action against a current or former volunteer or employee who has reported actual or potential violations of equal opportunity laws or regulations (protected activity). These adverse actions create a hostile, threatening or uncomfortable environment for a person who reported alleged inappropriate conduct or participated in an investigation. Examples of retaliatory actions can occur outside of an employment relationship and may include, but are not limited to:

- Disparaging the person to others or in the media.
- Taking actions not directly related to employment or volunteer role/status or by causing the individual harm.
- Termination or illegal retraction of compensation and benefits.
- Exclusion from events or meetings.
- Any other action that might deter reasonable individuals from engaging in protected activity.

Activity protected by this Policy includes but is not limited to:

- Complaints about workplace harassment or discrimination;
- Notice of intent to file a lawsuit or charge, even if the filing is not ultimately made;
- Participation in a pending investigation of misconduct or violations; and
- Resisting sexual advances or intervening to protect others.

The WSBA will not interfere with the rights of employees or volunteers to speak out about or disclose conduct violating this policy. When possible, the WSBA encourages open communication in accordance with our “Guiding Communication Principles” and “Conflict Resolution Practices Policy.”

Reporting Complaints

Volunteers may file complaints with the President of the WSBA, the Chair of the BOG Personnel Committee or the Executive Director. WSBA employees may file complaints internally to their immediate supervisor, the Director of Human Resources or the Executive Director. Reports from volunteers or employees of misconduct or suspected violations will be investigated thoroughly and those who report or participate in the investigation must be protected from retaliation.

Appropriate action will be taken against a volunteer who is found to have engaged in prohibited harassing or retaliatory conduct, up to and including removal from the volunteer position as determined in accordance with the WSBA Bylaws and/or Washington Supreme Court rules.

Filing False Reports

False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate action.

All WSBA employees and volunteers are required to cooperate with investigations undertaken in response to a complaint under this policy. In particular, among other things, WSBA employees and volunteers are required to make themselves available to investigators immediately upon request, be forthcoming and truthful with investigators, and provide complete and accurate information. Failing to cooperate with an investigation may also be grounds for removal from a volunteer position. WSBA Employees are subject to the policies and procedures in the employee handbook.

WASHINGTON STATE
BAR ASSOCIATION

TO: WSBA Board of Governors
FROM: Margaret Shane
DATE: February 25, 2019
RE: Proposed Resolution

Action: Approve Resolution in Recognition of Chief Justice Mary E. Fairhurst.

Attached please find the Resolution in recognition of Chief Justice Mary E. Fairhurst proposed by Governor Dan Clark. This item is on the agenda for action at this meeting.

RESOLUTION TO HONOR CHIEF JUSTICE MARY E. FAIRHURST

WHEREAS, Mary E. Fairhurst is the Chief Justice of the State of Washington Supreme Court and has been since January 9, 2017, having practiced law in Washington state for more than thirty-four (34) years; and

WHEREAS, throughout her legal career, Chief Justice Fairhurst has focused her work on equity and inclusion to expand opportunities for women and minorities in the legal profession and to ensure access to justice for all Washingtonians: She has served as president of Washington Women Lawyers as well as on its state board, she has served on the Washington Supreme Court's Gender and Justice Commission and Access to Justice Board committees, and her many well-earned awards include the Washington Women Lawyer's President's Award, Betty B. Fletcher Judge of the Year Award, and Passing the Torch Award; the LEGALS, P.S. Allies for Justice Award; and the Council for Public Legal Education's 2011 Judge William Nevins Award for distinguished service in public legal education; and

WHEREAS, Chief Justice Fairhurst has dedicated her career to service of the people of Washington state, previously serving for sixteen (16) years as an Assistant Attorney General with the Washington State Attorney General's Office prior to being elected to the Washington Supreme Court in 2002 and being named Chief Justice in January 9, 2017; and

WHEREAS, Chief Justice Fairhurst has dedicated and volunteered thousands of hours to the Washington State Bar Association, having previously served as President of the Washington State Bar Association as the second woman and first public-sector governmental attorney to hold this position; and

WHEREAS, Chief Justice Fairhurst has also served on the WSBA Board of Governors representing the Third Congressional District and has led many WSBA committees and processes including, most recently, the bar-structure work group to examine potential changes to the structure of WSBA in light of recent case law with First Amendment and antitrust implications for bar associations; and

WHEREAS, due to the numerous accomplishments and improvements to the legal professional and invaluable service to the public, Chief Justice Fairhurst received WSBA's highest honor in 2011, the Award of Merit; and

WHEREAS, Chief Justice Fairhurst's commitment and service to the profession makes her a luminary for our profession, her community, and for our country.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

The Washington State Bar Association recognizes Mary E. Fairhurst, Chief Justice of the Washington Supreme Court, for her distinguished lifetime career of achievements that have improved access to justice, gender equality and equity and inclusion in the legal community, and public-oriented innovation in delivery of legal services in the State of Washington.

Adopted by the Washington State Board of Governors on March 7, 2019.

Paula C. Littlewood
Executive Director

WASHINGTON STATE BAR ASSOCIATION

MEMORANDUM

TO: WSBA Board of Governors

FROM: Gov. Kyle Sciuchetti, BOG Legislative Committee Chair, and Sanjay Walvekar,
WSBA Outreach and Legislative Affairs Manager

DATE: March 7, 2019

RE: 2019 Legislative Session Report

OVERVIEW:

The 2019 legislative session began on January 14 and is scheduled to adjourn Sine Die on April 28, 2019. The top priority for lawmakers this session is to create a balanced budget that will guide the state's spending for the following two years, or "biennium." Remaining priorities this session include expanding access to mental health services and increasing state funding for K-12 special education.

To date, legislators have introduced approximately **2,157 bills** (as of 2/19/19). The WSBA Legislative Affairs Office has referred **1,024 bills** to relevant WSBA entities for review and potential action. WSBA entities continue to engage in this year's legislative session on issues related to voting rights, agency in real estate transactions, consumer debt reform, and many others. Legislative engagement has ranged from testifying before a legislative committee, sending written correspondence to a bill sponsor, and working collaboratively with the Outreach and Legislative Affairs Manager to convey information regarding proposed legislation.

2019 WSBA-Supported Legislation

- **WSBA-Request, Senate Bill 5003 (origin: Business Law Section; Sponsor: Sen. Jamie Pedersen, D-43).** The bill amends the state's Business Corporation Act (RCW 23B) to better align the statute with the Model Business Corporation Act and other leading corporate law jurisdictions, such as Delaware. There is no fiscal impact.
Status: SB 5003 was voted out of the Senate (45-0) and has been referred to the House Civil Rights & Judiciary Committee.

2019 WSBA Entity-Supported Legislation

- **Senate Bill 5079 (Sponsor: Sen. John McCoy, D-38).** This bill is supported by the Civil Rights Law Section. The bill enacts the Native American Voting Rights Act of Washington. There is fiscal impact for FY 2019-21.

Status: SB 5079 was voted out of the Senate (34-13) and has been referred to the House Committee on State Government & Tribal Relations.

- **Senate Bill 5399** (Sponsor: Sen. Jamie Pedersen, D-43). This bill is supported by the Family Law Section. The bill concerns child relocation by a person with joint decision-making authority and equal residential time. There is no fiscal impact.
Status: SB 5399 moved out of the Senate Rules Committee and will receive a floor vote in the Senate.
- **Senate Bill 5083** (Sponsor: Sen. John McCoy, D-38). This bill is supported by the Litigation Section. The bill allows certain records, documents, proceedings, and published laws of federally recognized Indian tribes to be admitted as evidence in courts of Washington state. There is no fiscal impact.
Status: SB 5083 voted out of the Senate (45-0) and will be referred to an appropriate House committee.

Other Bills of Note

- **House Bill 1788** (Sponsor: Rep. Drew Stokesbary, R-31). This bill is being monitored by the Board of Governors Legislative Committee. The original bill repeals the State Bar Act (RCW 2.48), sets a 1/1/2020 deadline for transferring regulatory functions and certain funds to the Washington Supreme Court, asks the Court to adopt the necessary rules for the transfer, and authorizes voluntary and non-mandatory bar associations. There is fiscal impact for FY 2019-21. Substitute House Bill 1788 provides that the Legislature recognizes the inherent plenary authority of the Washington Supreme Court to regulate court-related functions, including the practice of law and the administration of justice, and repeals most of the State Bar Act (RCW 2.48).
- **Status:** Substitute House Bill 1788 moved out of the House Civil Rights & Judiciary Committee with a unanimous vote on 2/22 and is now in the House Rules Committee.

Session Deadlines

Each legislative session is marked by key cutoff dates or session milestones. Bills must pass each of the 2019 cutoff dates below to be eligible for further consideration (and potentially final passage) this session.

- **Feb. 22: Policy Committee Cutoff** – all policy bills must be voted out of their respective policy committees.
- **March 1: Fiscal Committee Cutoff** – all bills with a fiscal impact must be voted out of their respective fiscal committees.
- **March 13: House of Origin Cutoff** – all bills must be voted out of their respective chambers.
- **April 3: Opposite House Policy Committee Cutoff** – all opposite house policy bills must be voted out of their respective policy committees.
- **April 9: Opposite House Fiscal Committee Cutoff** – all opposite house bills with a fiscal impact must be voted out of their respective fiscal committees.

- **April 17: Opposite House Floor Cutoff** – all opposite house bills must be voted out of their respective chambers.
- **April 28: Sine Die** – final day of the 2019 legislative session.

SUBSTITUTE HOUSE BILL 1788

State of Washington 66th Legislature 2019 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representative Stokesbary)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to the Washington state bar association; amending
2 RCW 2.48.180; adding new sections to chapter 2.44 RCW; recodifying
3 RCW 2.48.180 and 2.48.200; and repealing RCW 2.48.010, 2.48.020,
4 2.48.021, 2.48.030, 2.48.035, 2.48.040, 2.48.050, 2.48.060, 2.48.070,
5 2.48.080, 2.48.090, 2.48.100, 2.48.110, 2.48.130, 2.48.140, 2.48.150,
6 2.48.160, 2.48.166, 2.48.170, 2.48.190, 2.48.210, 2.48.220, and
7 2.48.230.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 2.44 RCW
10 to read as follows:

11 The legislature recognizes the inherent plenary authority of the
12 Washington state supreme court to regulate court-related functions,
13 including the practice of law and the administration of justice.
14 Therefore, the legislature hereby repeals the state bar act.

15 **Sec. 2.** RCW 2.48.180 and 2003 c 53 s 2 are each amended to read
16 as follows:

17 (1) As used in this section:

18 (a) "Legal provider" means (~~(an active member in good standing of~~
19 ~~the state bar, and any other)~~) a person authorized by the Washington
20 state supreme court to engage in full or limited practice of law;

1 (b) "Nonlawyer" means a person to whom the Washington supreme
2 court has granted a limited authorization to practice law but who
3 practices law outside that authorization, and a person who is not
4 ~~((an active member in good standing of the state bar, including~~
5 ~~persons who are disbarred or suspended from membership))~~ authorized
6 by the Washington state supreme court to engage in full or limited
7 practice of law;

8 (c) "Ownership interest" means the right to control the affairs
9 of a business, or the right to share in the profits of a business,
10 and includes a loan to the business when the interest on the loan is
11 based upon the income of the business or the loan carries more than a
12 commercially reasonable rate of interest.

13 (2) The following constitutes unlawful practice of law:

14 (a) A nonlawyer practices law, or holds himself or herself out as
15 entitled to practice law;

16 (b) A legal provider holds an investment or ownership interest in
17 a business primarily engaged in the practice of law, knowing that a
18 nonlawyer holds an investment or ownership interest in the business;

19 (c) A nonlawyer knowingly holds an investment or ownership
20 interest in a business primarily engaged in the practice of law;

21 (d) A legal provider works for a business that is primarily
22 engaged in the practice of law, knowing that a nonlawyer holds an
23 investment or ownership interest in the business; or

24 (e) A nonlawyer shares legal fees with a legal provider.

25 (3)(a) Unlawful practice of law is a crime. A single violation of
26 this section is a gross misdemeanor.

27 (b) Each subsequent violation of this section, whether alleged in
28 the same or in subsequent prosecutions, is a class C felony
29 punishable according to chapter 9A.20 RCW.

30 (4) Nothing contained in this section affects the power of the
31 courts to grant injunctive or other equitable relief or to punish as
32 for contempt.

33 (5) Whenever a legal provider or a person licensed by the state
34 in a business or profession is convicted, enjoined, or found liable
35 for damages or a civil penalty or other equitable relief under this
36 section, the plaintiff's attorney shall provide written notification
37 of the judgment to the appropriate regulatory or disciplinary body or
38 agency.

39 (6) A violation of this section is cause for discipline and
40 constitutes unprofessional conduct that could result in any

1 regulatory penalty provided by law, including refusal, revocation, or
2 suspension of a business or professional license, or right or
3 admission to practice. Conduct that constitutes a violation of this
4 section is unprofessional conduct in violation of RCW 18.130.180.

5 (7) In a proceeding under this section it is a defense if proven
6 by the defendant by a preponderance of the evidence that, at the time
7 of the offense, the conduct alleged was authorized by the rules of
8 professional conduct or the admission to practice rules, or
9 Washington business and professions licensing statutes or rules.

10 (8) Independent of authority granted to the attorney general, the
11 prosecuting attorney may petition the superior court for an
12 injunction against a person who has violated this chapter. Remedies
13 in an injunctive action brought by a prosecuting attorney are limited
14 to an order enjoining, restraining, or preventing the doing of any
15 act or practice that constitutes a violation of this chapter and
16 imposing a civil penalty of up to five thousand dollars for each
17 violation. The prevailing party in the action may, in the discretion
18 of the court, recover its reasonable investigative costs and the
19 costs of the action including a reasonable attorney's fee. The degree
20 of proof required in an action brought under this subsection is a
21 preponderance of the evidence. An action under this subsection must
22 be brought within three years after the violation of this chapter
23 occurred.

24 NEW SECTION. **Sec. 3.** The following acts or parts of acts are
25 each repealed:

- 26 (1) RCW 2.48.010 (Objects and powers) and 1933 c 94 s 2;
- 27 (2) RCW 2.48.020 (First members) and 1933 c 94 s 3;
- 28 (3) RCW 2.48.021 (New members) and 1933 c 94 s 4;
- 29 (4) RCW 2.48.030 (Board of governors) and 1982 1st ex.s. c 30 s
30 1, 1972 ex.s. c 66 s 1, & 1933 c 94 s 5;
- 31 (5) RCW 2.48.035 (Board of governors—Membership—Effect of
32 creation of new congressional districts or boundaries) and 1982 1st
33 ex.s. c 30 s 2;
- 34 (6) RCW 2.48.040 (State bar governed by board of governors) and
35 1933 c 94 s 6;
- 36 (7) RCW 2.48.050 (Powers of governors) and 1933 c 94 s 7;
- 37 (8) RCW 2.48.060 (Admission and disbarment) and 1933 c 94 s 8;
- 38 (9) RCW 2.48.070 (Admission of veterans) and 1945 c 181 s 1;

- 1 (10) RCW 2.48.080 (Admission of veterans—Establishment of
2 requirements if in service) and 2011 c 336 s 63 & 1945 c 181 s 2;
3 (11) RCW 2.48.090 (Admission of veterans—Establishment of
4 requirements if discharged) and 2011 c 336 s 64 & 1945 c 181 s 3;
5 (12) RCW 2.48.100 (Admission of veterans—Effect of disability
6 discharge) and 1945 c 181 s 4;
7 (13) RCW 2.48.110 (Admission of veterans—Fees of veterans) and
8 1945 c 181 s 5;
9 (14) RCW 2.48.130 (Membership fee—Active) and 1957 c 138 s 1,
10 1953 c 256 s 1, & 1933 c 94 s 9;
11 (15) RCW 2.48.140 (Membership fee—Inactive) and 1955 c 34 s 1 &
12 1933 c 94 s 10;
13 (16) RCW 2.48.150 (Admission fees) and 2011 c 336 s 65 & 1933 c
14 94 s 11;
15 (17) RCW 2.48.160 (Suspension for nonpayment of fees) and 2011 c
16 336 s 66 & 1933 c 94 s 12;
17 (18) RCW 2.48.166 (Admission to or suspension from practice—
18 Noncompliance with support order—Rules) and 1997 c 58 s 810;
19 (19) RCW 2.48.170 (Only active members may practice law) and 2011
20 c 336 s 67 & 1933 c 94 s 13;
21 (20) RCW 2.48.190 (Qualifications on admission to practice) and
22 1987 c 202 s 107 & 1921 c 126 s 4;
23 (21) RCW 2.48.210 (Oath on admission) and 2013 c 23 s 1 & 1921 c
24 126 s 12;
25 (22) RCW 2.48.220 (Grounds of disbarment or suspension) and 2011
26 c 336 s 68, 1921 c 126 s 14, & 1909 c 139 s 7; and
27 (23) RCW 2.48.230 (Code of ethics) and 1921 c 126 s 15.

28 NEW SECTION. **Sec. 4.** RCW 2.48.180 and 2.48.200 are each
29 recodified as sections in chapter 2.44 RCW.

--- END ---

Board of Governors Meeting
Hotel RL
Olympia, WA
March 7, 2019

How the Consent Calendar Operates: The items listed below are proposed for approval on the Consent Calendar. Following introductions in the Public Session, the President will ask the Board if they wish to discuss any matter on the Consent Calendar. If they do, the item will come off the Consent Calendar and be included for discussion under First Reading/Action Items on the regular agenda. If no discussion is requested, a Consent Calendar approval form will be circulated for each Governor’s signature.

Consent Calendar Approval

- a. January 16-18, 2019, Public Session Minutes.....219
- b. February 14, 2019, Special Meeting Public Session Minutes231

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS MEETING

Public Session Minutes

Seattle, WA

January 17-18, 2019

The Public Session of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Bill Pickett on Thursday, January 17, 2019, at 1:15 p.m., recessed at 2:00 p.m., and reconvened at 8:00 a.m. on Friday, January 18, 2019, at the WSBA Conference Center, Seattle, Washington. Governors in attendance were:

Dan W. Bridges
Daniel D. Clark
Peter J. Grabicki
Carla Higginson
Kim Hunter
Jean Y. Kang
Russell Knight (Friday)
Christina A. Meserve
Athan P. Papailiou
Kyle D. Sciuchetti
Alec Stephens
Paul Swegle
Judge Brian Tollefson (ret.)

Also in attendance were President-elect Rajeev Majumdar, Executive Director Paula Littlewood, General Counsel Julie Shankland, Chief Disciplinary Counsel Doug Ende, Chief Regulatory Counsel Jean McElroy (by phone for one item), Director of Human Resources Frances Dujon-Reynolds, Chief Operations Officer Ann Holmes, Director of Advancement/Chief Development Officer Terra Nevitt, Chief Communications and Outreach Officer Sara Niegowski, and Executive Assistant Margaret Shane. Governor Michael Cherry had resigned from the Board due to health reasons, so was not present at the meeting.

President Pickett reminded the Board that this is an opportune time to reflect on what it is the Board members are attempting to accomplish as they sit at the Board table and further WSBA's mission: serve the public and the members; protect the integrity of the profession; and champion justice. In addition, he stated that the three touchstones necessary to accomplish the WSBA's mission are trust, relationship, and service.

The following items were discussed on Thursday, January 17, 2019.

CONSENT CALENDAR

Nothing was pulled from the Consent Calendar.

ACCESS TO JUSTICE (ATJ) BOARD ORIENTATION FOR THE BOARD OF GOVERNORS – Sal Mungia, ATJ Board Chair; Michelle Lucas, ATJ Board Member; and Laura Bradley, ATJ Board Member

Chair Mungia reviewed the goals of the ATJ Board and gave an overview of the three major sources of funding for civil legal aid in Washington State. ATJ Board Member Lucas advised that the ATJ Board is in the second year of the State Plan for the Coordinated Delivery of Civil Legal Aid Services and gave an overview of the goals of the Plan: race equity; legal education and awareness; access for underrepresented populations and communities; development of holistic and client-centered services; and systemic advocacy. ATJ Board Member Bradley focused on the first goal of race equity and reported that the ATJ Board is working with the Alliance for Equal Justice to dismantle structures that perpetuate race inequity. She also shared that the ATJ Board has been working over the last two years to update the 2004 ATJ Technology Principles and have solicited input from a range of stakeholders, including focus groups facilitated by UW Tech Policy Lab, and most recently court-related entities. Chair Mungia invited the Board to attend the ATJ Conference in Spokane, June 14-16, 2019, and Executive Director Littlewood advised that all Board members are funded to attend.

The following items were discussed on Friday, January 18, 2019.

EXECUTIVE DIRECTOR REPORT

Executive Director Littlewood reported that (1) the Mandatory Continuing Legal Education (MCLE) Board received a request to add a requirement on the topic of equity and inclusion and that a subcommittee is working on the project [Diversity and Inclusion specialist Dana Barnett reported later in the meeting that the proposal has been edited to reflect the involvement of the Washington Women Lawyers and other minority bar associations]; (2) requests were made to staff by federal employees seeking a waiver of license fees during the government shutdown, and were informed that the current WSBA Bylaws and Court Rules do not allow for any sort of waiver; and (3) the Quarterly Management Report is in the materials and she highlighted the continuing development of Washington Legal Link, which is an opt-in directory for members to build a profile and use for marketing; Fastcase will be launching late January 2019; and online admissions are moving forward on track. Discussion ensued regarding options for granting waiver of license fees and late fees for federal employees during the government shutdown that included WSBA Bylaw amendments and a Washington Supreme Court Order, and the likely inapplicability of hardship waiver because it is based on prior year income. Governor Swegle moved that the Board make a statement written to the Washington Supreme Court asking the Court to extend the due date of bar fees for all WSBA members currently not receiving their salary due to their employment with the federal government during the shutdown, and continuing for 30 days following the end of the shutdown and resumption of pay to those affected. Governor Stephens amended the motion to include waiver of the late fee. Governor Swegle accepted as a friendly amendment. Motion passed unanimously. Governors Hunter and Papailiou were not present for this vote. Executive Director Littlewood advised that there would be minimal fiscal impact if the Court were to do so.

REPORT ON EXECUTIVE SESSION

President Pickett reported that the Board took up one confidential personnel matter. He advised that there would be an additional Executive Session immediately following the conclusion of this Public Session in order to address the remaining Executive Session items on the agenda.

PRESIDENT'S REPORT

President Pickett thanked the staff for their hard work and stated that the staff make this organization great.

MEMBER AND PUBLIC COMMENTS

Staff: Several members of the WSBA read an open letter to the Board, signed by numerous staff members and attached to these Minutes, that expressed disappointment and concerns in the way the Board handled the complaint of misconduct by a Board member filed by one of their co-workers; that the Board has failed to hold itself accountable, has ignored conflicts of interest, and has failed to exhibit courageous leadership, which has led to low staff morale and concern for staff safety as a result of what appears to be a lack of intervention or action by the Board; and a request that the Board create a process for handling these types of situations, including removal of a Governor or other volunteer when appropriate. Copies of the letter were distributed to each of the Board members and a copy is attached to these Minutes. Governor Grabicki thanked the staff and stated that their concerns would be considered and discussed in Executive Session because of a pending claim that must be dealt with in Executive Session. Governor Higginson asked if any of the staff presenters had brought the concerns enumerated in the open letter to Executive Director Littlewood or Human Resources Director Dujon-Reynolds prior to writing the open letter to the Board. Inclusion and Equity Specialist Nussbaum replied that while the letter was not shared with the executive staff before reading it to the Board, no one on staff would be surprised by the message, and that the Directors know how staff feel. Numerous other staff and guests added their comments of agreement and support of the open letter and the staff who read it to the Board. In response to Governor Higginson's statement that the Board had not been apprised of staff concerns, Executive Director Littlewood responded that the Board had been notified of staff concerns on numerous occasions. Governors Grabicki, Meserve, and Stephenson also confirmed that the Board had been advised many times of staff concerns, and Executive Director Littlewood asked that this statement be recorded in the Minutes.

Jonathan Grindell with Veterans for Guardianship and Probate Reform asked if the Board would be willing to vote at this moment in the interest of transparency, to remove the Treasurer in light of the allegations until the issue is resolved. Governor Papailiou moved to remove Governor Bridges as the Treasurer until the current claims involving him are resolved. Governor Stephens noted that the very body that is accused is a part of is the body also trying to deal with the issues, and that the next piece that needs to be addressed is that this is not the body to address/resolve a complaint against a Governor; it has to go someplace else. Governor Swegle expressed discomfort discussing this item in public session because of the sensitive nature of the issues. He noted that in his view it was not a case of harassment that it has been made out to be, but if true as stated, was a one-time, isolated, unfortunate incident that happened before the Governor was seated. He stated that the Board looked at the facts and the investigative report carefully, and the independent investigator said the claimant is potentially more believable. He stated that after looking at all the facts of the matter, that voting to remove the Treasurer is inappropriate. General Counsel Shankland asked if the Board was discussing a case that was currently active and received no response. Governor Higginson stated that the Board should not be taking comments from anyone but the Governors and Governor Stephens reminded her that the Board has a history of taking comments from guests as well as Governors before votes are taken. Governor Grabicki asked Governor Bridges if he would voluntarily step down until the claim is resolved so the Board could move on; Governor Bridges declined to do so.

Comments included: a question regarding whether Board members would step down when subject to litigation; some staff members having the same education as Board members and the ability to read and make their own decisions; the Board being unable to give fair and adequate consideration when the complainant is not allowed in the proceedings but the accused is; the importance of the accused being recused from any discussion related to the claim; the Board being incapable of internal discipline; support for removing the accused from the position until there is a resolution to the claim; disappointment in the Board after hearing the nature of the allegations in the open letter to the Board and the lack of response from the Board; a reminder from staff that the open letter was about process and conflict of interest;

disappointment expressed by staff that the Board heard that staff were upset and did not believe it; the maxim that people are innocent until proven guilty; the motion being about policy and not about agreement or disagreement regarding the claim; concerns about the Treasurer controlling the purse strings of the organization that can be involved in litigation, which makes for a bad appearance; consideration of the Board members' power and position and the demographics of the Board, which is mostly white and male; and the unfairness that Governor Bridges is being put on trial during a Board meeting. In response to statements made by Governor Hunter on the phone in support of Governor Bridges and likening the treatment of Governor Bridges to a "lynching," Governor Papailiou requested his following statement be put on record: that Governor Hunter had ignored the comments made during this meeting, that everything she said was unacceptable, and that he was embarrassed to have her as a colleague on this Board. Governor Higginson raised a Point of Order, referred to *Robert's Rules of Order*, and stated that Board members are not allowed to make personal attacks on each other. She then asked President Pickett if he was going to allow Governors to attack each other personally and President Pickett replied that no one is attacking anyone personally.

Governor Knight stated that the comments thus far demonstrate why a large part of this discussion needs to be held in Public Session, not in Executive Session; that the Board's practice is when the Board has a conflict regarding allegations, the applicable Governor should not vote on any issue regarding the allegations, but it is not a specific policy. Governor Meserve stated that the Board had failed to exercise courageous leadership, processes are inadequate, and the Board has not held itself accountable. She stated that the motion is to temporarily remove Governor Bridges from the post of Treasurer until the pending claims that involve him are resolved; it is not a trial; it is not voting to convict anyone; it is not a career shattering or ending move; there must be an appearance of fairness and the Board must take the processes seriously and show that the Board respects the WSBA staff and WSBA members in order to ensure the integrity of the Bar. Governor Stephens asked for a roll call vote. In response to a request, Governor Papailiou restated his motion to remove the current Treasurer until the pending claims involving the Treasurer are resolved. General Counsel Shankland requested an explanation of how this motion was intended to function and asked if it meant Governor

Bridges would remain a Governor who can participate in decisions of the Board. Governor Papailiou clarified that his motion was limited to Governor Bridges' role as Treasurer, not Governor. Governor Stephens' requested a roll call vote. Votes in favor of the motion included Governors Clark, Grabicki, Kang, Knight, Meserve, Papailiou, Stephens. Votes opposed to the motion included Governors Higginson, Hunter, Sciuchetti, Swegle. Motion passed 7-4. Governor Tollefson abstained.

COUNCIL ON PUBLIC DEFENSE (CPD) REQUEST TO APPROVE PERFORMANCE GUIDELINES FOR ATTORNEYS REPRESENTING RESPONDENTS IN CIVIL COMMITMENT PROCEEDINGS – Eileen Farley, CPD Member, and Diana Singleton, Access to Justice Manager

CPD Member Farley reviewed the background to the CPD's request and advised that the Board was being asked to approve the CPD sending the Performance Guidelines to the Washington Supreme Court for inclusion in the *Standards for Indigent Defense*, and the *Standards to the Mental Proceedings Rules (MPRs)*, and requirement that appointed counsel representing clients in civil commitment proceedings file Certifications of Compliance. She explained that these Performance Guidelines were an attempt to address a gap regarding the lack of caseload limits for involuntary treatment proceedings. In answer to a concern expressed by Governor Higginson that the Performance Guidelines may cause problems for people who do not meet the qualifications, CPD Member Farley stated that these are guidelines that people need to be familiar with and that they are nothing new. She reported that no questions had been submitted by Board members since the November Board meeting where this item was on the agenda for first reading, and it is the hope of the CPD that the Board will give approval for the CPD to send these Performance Guidelines to the Court as it did the Juvenile Guidelines. Governor Stephens moved to approve the CPD's request to recommend to the Washington Supreme Court that the Court add the *Performance Guidelines for Attorneys Representing Respondents in Civil Commitment Proceedings* to the *Standards for Indigent Defense*, add the *Standards to the Mental Proceedings Rules (MPR)*, and require that appointed counsel representing clients in civil commitment proceedings file Certifications of Compliance, as the *Standards* already require of appointed counsel representing clients in criminal proceedings. Motion passed unanimously. Governor Hunter was not present for the vote.

APPROVE RECOMMENDATIONS RE MILITARY SPOUSE ADMISSION RULE – Jean McElroy, Chief Regulatory Counsel (by phone)

Counsel McElroy summarized the reasons for the recommendations by the Military Spouse J.D. Network regarding admission for lawyer spouses of active duty military personnel. She explained that permission is being sought to submit a comment to the Washington Supreme Court that would contain the proposed recommended amendments to the amendments proposed by the Military Spouse J.D. Network so this process can work for the applicants in Washington state as easily and smoothly as possible. Governor Clark moved to approve submission by Chief Regulatory Counsel McElroy of a comment on the published proposed amendments to Admission and Practice Rule (APR) 3 regarding the admission to practice of military spouses. Motion passed 11-0-1. Governor Hunter was not present for the vote.

REQUEST FOR BOG SUPPORT OF DIVERSITY COMMITTEE STATEMENT OF SOLIDARITY – Governor Alec Stephens; Miri Cyphers, Anti-Defamation League (ADL) Pacific Northwest Regional Director, and KJ Williams, Diversity Programs Manager

Governor Stephens referred the Board to the information contained in the meeting materials and explained the background of the request. He cited examples of violence and explained that the proposed Statement is a warning to the WSBA members of what is going on and a plea to pull ranks around themselves in terms of adherence to the law and mutual respect. ADL Regional Director Cyphers explained the work of the ADL and the methods currently being used by white supremacist groups. Governor Sciuchetti advised that he believed the proposed Statement was different from the Oregon Statement in that it supports the minority bar organizations in resisting retaliation that includes punishing people for thought. Governor Stephens agreed with his assessment. Governor Swegle moved to authorize the WSBA Diversity Committee to issue its Statement to be shared with the WSBA Membership, Minority Bar Associations of Washington, Specialty Bar Associations in Oregon, and the Oregon State Bar. General Counsel Shankland advised that this item is on for “first reading” and that she had hoped to share some comments concerning it in Executive Session, but had not yet had the opportunity to do so. Discussion ensued regarding it being a risk worth taking even though there was a risk of litigation and additional angst under *Janus*; if approved, the Board would

also be approving the use of WSBA email and mailing systems, so by implication would be approved by the Board sent out by the WSBA; going into Executive Session at the end of this Public Session in order to hear from General Counsel Shankland; and it not being a good policy to vote on items that are noted on the Board meeting agenda as “first reading.” Governor Meserve moved to table this item until the March 7, 2019, Board meeting so the Board would have the opportunity to hear from General Counsel Shankland. She clarified that she is in favor of the Diversity Committee issuing the Statement but wants to be careful of the Board’s processes. With Governor Stephens’ approval, Governor Swegle withdrew his motion. Governor Meserve’s motion to table passed 10-1-1. Governor Stephens abstained. Governor Hunter was not present for the vote.

APPROVE RECOMMENDED REVISION TO WSBA FISCAL POLICIES AND PROCEDURES FROM BUDGET AND AUDIT COMMITTEE RE ATTENDANCE AT NATIONAL/REGIONAL EVENTS – Ann Holmes, Chief Operations Officer

Chief Operations Officer Holmes explained the background of the recommendation and reported that the Budget and Audit Committee considered and unanimously approved the revision as contained in the meeting materials. Governor Grabicki moved to approve the recommended revised policy on President and President-elect travel for attendance at National/Regional Events. Motion passed unanimously. Governor Hunter was not present for the vote.

ADOPT BOARD OF GOVERNORS NO RETALIATION POLICY – Governor Chris Meserve, Personnel Committee Chair, and Frances Dujon-Reynolds, Director of Human Resources

Chair Meserve referred the Board to the proposed No Retaliation Policy contained in the meeting materials and noted that the proposed Policy had been before the Board twice previously and was on the agenda for action at this meeting. She reminded the Board that it had been directed by the Washington Supreme Court to adopt a No Retaliation Policy and thanked General Counsel Shankland, Director of Human Resources Dujon-Reynolds, and former Personnel Committee Chair Hayes for their help in formulating the proposed Policy. In answer to a concern regarding whether the proposed Policy should be reviewed by the WSBA’s insurance provider to ascertain whether coverage would be lost with adoption of the proposed

Policy, Chief Operations Officer Holmes stated that she had worked on the WSBA's insurance renewals for the last six years and was not aware that the application even asks for this type of policy. In addition, General Counsel Shankland stated that the proposed Policy had been reviewed by outside employment counsel and she saw no reason why the WSBA would lose its coverage if the Board adopts a policy consistent with the law. Discussion ensued regarding concerns that the proposed Policy created obligations and duties that were greater than what the law requires; the importance of obtaining qualified advice from people in this practice area; more than one Board member having expertise in this area, especially in relation to how entities meet requirements; a reminder that the Board members are not lawyers for the Board and the Committee is trusted to seek the advice it needs; and the need to not only adopt a policy and put it in a book, but to also have training so everyone on the Board is aware of the Policy and where to find it. Governor Higginson stated that there is already a policy in the Handbook, and questioned why another special policy would be needed; how the Board would monitor federal and state law as they change to be sure the proposed Policy continues to adhere to the law; and why following state and federal law is not enough. President Pickett explained that there is currently not a policy regarding the conduct of Governors. Chair Meserve stated that the same is true for any policy the Board adopts in that one of the Board's duties is to ensure that its policies remain in compliance with federal and state law, and that she had the utmost confidence in Director Dujon-Reynolds to alert the Board if the law changes so that the proposed Policy can be revised to comply. Additional discussion ensued regarding the Board ignoring and taking no action on the charge of sexual harassment by one of its Governors and then the accuser being retaliated against; the difference between liability coverage and insurance coverage, and the importance of not making decisions based on insurance coverage issues; and it not being enough to just be in compliance with federal and state law. In answer to a statement that the proposed Policy should apply to all members of the Bar who have been subject to retaliation in the discipline system, Chief Disciplinary Counsel Ende recommended that the Board reject the premise that the discipline system has engaged in retaliation.

Director Dujon-Reynolds inquired of the Board whether, in light of some of the comments made that morning, the Board would like to consider including something in the proposed Policy that would enlist the help of an outside arbiter in cases that involve Board members. It was suggested that the proposed Policy be adopted as written, then have the Personnel Committee work on Director Dujon-Reynolds' suggestion and an amended Policy brought before the Board at a later date to be discussed in Public Session. Governor Swegle stated that he was in favor of adopting a Policy, but had some concerns regarding specific language. Governor Higginson also expressed concerns and moved to table discussion until the March 7, 2019, Board meeting so the proposed Policy had the opportunity to be reviewed and commented upon by the insurance carrier and so the Board had a chance to understand how it applies to the volunteer component, insurance coverage, and budget implications. Chair Meserve stated that she opposed tabling this item since the Board had seen it three times, and it had been vetted with outside counsel and the Board's own General Counsel. She noted that she was hearing there was some concern that the Board was increasing its risk by having the proposed Policy, but she suggested that the Board was doing just the opposite and reducing its risk by having an effective, clear policy in place regarding retaliation and reminded the Board that the Washington Supreme Court had directed the Board in a letter dated September 21, 2018, to the extent there are not policies dealing with harassment and retaliation to cover all possible interactions by persons involved in Bar activities and Bar governance, that they be adopted as soon as possible and that another delay in adopting a policy did not seem advisable. Governor Higginson's motion to table failed 3-9. Governor Hunter was not present for the vote. Governor Grabicki moved to approve the proposed No-Retaliation Policy. Governor Tollefson stated that he wanted to be sure the Board was not squashing free speech rights and requested somebody tell the WSBA's insurance carrier to review the proposed Policy. Governor Swegle moved to add the following language shown in *italics* to the proposed Policy as a friendly amendment: "*disparaging the person publicly to others or in the media...; ...exclusion from official events or meetings...; and nothing in the foregoing is intended to interfere with an individual's right to defend himself or herself in an official action of any kind.*" Governor Grabicki did not accept as a friendly amendment. Governor Swegle's motion failed 4-6-2. Governor Grabicki's original motion to approve the proposed No-Retaliation Policy passed 10-1-1.

TEMPORARY REMOVAL OF TREASURER

Governor Bridges stated his objection and Point of Order regarding the vote on suspension of the Treasurer. He noted that the WSBA Bylaws provide for the ability to remove an Officer, not suspend an Officer. He read the applicable Bylaw and stated that the Board does not have the ability to suspend an Officer and cannot have a separate quantum for suspension than for removal. He concluded by noting that he objects to the action being taken based on only a majority vote. General Counsel Shankland stated that she had previously had this discussion with Governor Bridges and explained that the 75% vote does not apply in this case since it is for removing the Treasurer from the Board, which is not what the Board voted on. She explained that if the Treasurer was removed then the seat would be vacant and the Board would have to vote on someone else. She advised that it was more like a motion regarding conflict of interest and reiterated that if the 75% requirement was used, the Board would actually be removing Governor Bridges as Treasurer and that was not what was intended by the motion.

ADJOURNMENT

There being no further business, the Public Session portion of the meeting was adjourned at 1:35 p.m. on Friday, January 18, 2019.

Respectfully submitted,

Paula C. Littlewood
WSBA Executive Director & Secretary

WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS SPECIAL MEETING

Public Session Minutes

Seattle, WA

February 14, 2019

The Special Meeting Public Session of the Board of Governors of the Washington State Bar Association (WSBA) by phone was called to order by President Bill Pickett on Thursday, February 14, 2019, at 1:05 p.m. Governors in attendance were:

Dan W. Bridges
Daniel D. Clark
Peter J. Grabicki
Kim E. Hunter
Jean Y. Kang
Russell Knight
Athan P. Papailiou
Kyle D. Sciuchetti
Alec Stephens
Paul Swegle
Judge Brian Tollefson (ret.)

Also in attendance were President-elect Rajeev Majumdar, Executive Director Paula Littlewood, Chief Disciplinary Counsel Doug Ende, Chief Operations Officer Ann Holmes, Director of Human Resources Frances Dujon-Reynolds, Director of Advancement/Chief Development Officer Terra Nevitt, Chief Communications and Outreach Officer Sara Niegowski, Associate Director of Litigation and Operations Lisa Amatangel, and Executive Assistant Margaret Shane. Governors Higginson and Meserve were not present for the meeting.

President Pickett welcomed everyone in attendance and stated that the purpose of this Special Meeting was to rank the WSBA Sections applicants for the Washington Supreme Court's consideration in its appointment of members to its Workgroup on the WSBA Structure.

Governor Swegle reported that he met with President-elect Majumdar, and Governors Clark, Meserve, and Sciuchetti, discussed the applicants, and propose the following recommendations to the Board for its consideration:

Large Sections

1. Mark Johnson
2. Thomas Setagaj
3. Geoff Gibbs

Medium Sections

1. Kim Hunter
2. Richard Johnson
3. Linda Larson

Small Sections

1. Randall Winn
2. Hunter Abell
3. Lawrence Ward

Discussion ensued regarding individual ranking preferences of various Governors; factors considered in making the specific recommendations for each group; and the lack of geographic, cultural, age, race, and gender diversity of the recommendations. Governor Sciuchetti noted that the group did the best it could with the information it had, but not much related to diversity could be discerned from the applicant materials provided. Governor Grabicki moved to accept the rankings as recommended. Motion passed 9-1-1. Governor Hunter asked that she be allowed to abstain from the vote on the Medium Sections ranking, and vote “yes” for the Large and Small Sections rankings. Since the motion was not bifurcated, she is listed as an abstention in the vote tally.

In response to an inquiry, President Pickett announced that Executive Session had been cancelled since General Counsel Shankland and Outside Counsel were not available. He advised that discussion would be held at the upcoming Special Meeting Executive Session via conference call on February 19, 2019.

ADJOURNMENT

There being no further business, the Public Session meeting was adjourned at 1:30 p.m. on Friday, February 14, 2019.

Respectfully submitted,

Paula C. Littlewood
WSBA Executive Director & Secretary

WASHINGTON STATE BAR ASSOCIATION

Office of the Executive Director
Paula C. Littlewood, Executive Director

EXECUTIVE DIRECTOR'S REPORT

March 1, 2019

2019 Licensing Season Nears Close

The 2019 licensing season is nearing completion and listed below are the current statistics:

- Number of people who have paid their licensing fees 38,056
- Number of people who have paid through *mywsba* 20,703
- Percent of people who have taken the Keller Deduction 15%
- Percent of people who contributed to the Foundation 12%
- Total amount contributed to the Foundation in dollars \$222,730
- Percent of people who contributed to LAW Fund 14%
- Total amount contributed to LAW Fund in dollars \$276,821
- Number of people opting for payment plan 73
- Number of people granted hardship waiver 70
- Average number of people visiting *mywsba* on a daily basis:
 - Avg. per weekday: 4052
 - Avg. per weekend: 754

We have received a number of appreciative emails from federal employees for the extension in paying their license fees this year due to the federal government shutdown!

[Executive Director Activity Report \(attached\)](#)

[WSBA Demographics Report \(attached\)](#)

[Correspondence and Other Informational Items \(attached\)](#)

[Summary of WSBA Outreach Visits \(attached\)](#)

[Media Contacts Report \(attached\)](#)

[Update on Various Court Rules \(attached\)](#)

WASHINGTON STATE BAR ASSOCIATION

Office of the Executive Director

Paula C. Littlewood, Executive Director

ACTIVITY REPORT Paula C. Littlewood January 18, 2019 – March 8, 2019

Current Service on Boards and Committees

Local: University of Washington School of Law Leadership Council, Executive Committee Member; University of Washington School of Law Public Interest Law Association Board of Advisors.

National: Institute for the Advancement of the American Legal System (IAALS) Board of Advisors.

International: International Institute of Law Association Chief Executives (IILACE), Vice President.

Meetings with Other WSBA and External Constituents

Board of Judicial Administration Conference Call	Feb 15
Legal Community Leaders	7
New Lawyers and Law Students	2

WSBA- and BOG-Related Meetings:

BOG Emergency Executive Session Meeting by Phone	Feb 1
BOG Executive Committee Meeting	Feb 21
BOG Legislative Committee Conference Call	4
BOG Meeting	March 7
BOG Meeting with Supreme Court	March 8
BOG Officers Meeting with Local Bench and Bar in Olympia	March 6
BOG President Weekly Calls	7
BOG Special Meeting Public Session by Phone	Feb 14
BOG Special Meeting Executive Session by Phone	Feb 19
Practice of Law Board Meeting	Feb 21
Washington State Bar Foundation	4
Other	2

Staff-Related Meetings:

All-Staff Meeting	Jan 22
Coffees with New Staff	1
Executive Management Team Meetings	6
S.A.F.E. (Staff Advocacy Forum for Employees)	Feb 14
Washington Legal Link Project Meeting	Feb 22
Weeklies with Staff Direct Reports	25
Other	4

National/International-Related Meetings:

International Institute of Law Association Chief Executives (IILACE) Executive Committee Conference Calls	2
National Association of Bar Executives (NABE)	Jan 22-26
Other	1

Organizational Events

Executive Directors Lunch at Washington State Association for Justice (WSAJ)	Jan 31
Goldmark Award Luncheon	Feb 15

Presentations

Presentation on <i>Janus</i> at NABE	Jan 22
Panel Participant at Association of Professional Responsibility Lawyers (APRL)	Jan 25
Professionalism Presentation at Gonzaga University School of Law	Feb 6
Zoom into University of Arizona Law School Class	Feb 12
Arizona Supreme Court WebX	Feb 13
Professionalism Presentation at University of Washington School of Law	Feb 14
Future of the Profession Presentation at Benchers' Meeting in Vancouver, BC (funded by host)	March 1

WSBA Member* Licensing Counts 2/1/19 8:49:25 AM GMT-08:00

Member Type	In WA State	All	By District		By State and Province		By WA County		By Admit Yr	
			All	Active						
Attorney - Active	26,060	32,427			Alabama	29	Adams	15	1940	3
Attorney - Emeritus	102	107	0	3,389	Alaska	201	Asotin	24	1941	2
Attorney - Honorary	365	412	1	2,975	Alberta	9	Benton	368	1942	1
Attorney - Inactive	2,478	5,633	2	2,060	Arizona	349	Chelan	244	1944	1
Judicial	629	656	3	2,122	Arkansas	16	Clallam	153	1945	1
LLLT - Active	36	36	4	1,385	Armed Forces Americas	4	Clark	793	1946	2
LLLT - Inactive	3	3	5	3,206	Armed Forces Europe, Middle East	25	Columbia	7	1947	6
LPO - Active	799	811	6	3,279	Armed Forces Pacific	18	Cowlitz	140	1948	8
LPO - Inactive	146	158	7N	5,174	British Columbia	100	Douglas	30	1949	16
	30,618	40,243	7S	6,734	California	1,732	Ferry	14	1951	27
			8	2,213	Colorado	235	Franklin	50	1952	27
			9	4,818	Connecticut	50	Garfield	2	1953	25
			10	2,888	Delaware	6	Grant	110	1954	27
					District of Columbia	328	Grays Harbor	104	1955	20
					Florida	241	Island	138	1956	40
					Georgia	89	Jefferson	93	1957	31
					Guam	15	King	15,340	1958	39
					Hawaii	143	Kitsap	742	1959	38
					Idaho	417	Kittitas	84	1960	30
					Illinois	154	Klickitat	23	1961	29
					Indiana	37	Lewis	95	1962	35
					Iowa	27	Lincoln	13	1963	33
					Kansas	27	Mason	98	1964	40
					Kentucky	22	Okanogan	97	1965	56
					Louisiana	51	Pacific	27	1966	61
					Maine	13	Pend Oreille	18	1967	61
					Maryland	116	Pierce	2,147	1968	92
					Massachusetts	86	San Juan	70	1969	102
					Michigan	70	Skagit	277	1970	109
					Minnesota	94	Skamania	20	1971	114
					Mississippi	6	Snohomish	1,496	1972	178
					Missouri	71	Spokane	1,709	1973	273
					Montana	166	Stevens	45	1974	268
					Nebraska	17	Thurston	1,464	1975	331
					Nevada	140	Wahkiakum	8	1976	399
					New Hampshire	9	Walla Walla	109	1977	398
					New Jersey	65	Whatcom	557	1978	447
					New Mexico	64	Whitman	72	1979	486
					New York	243	Yakima	422	1980	497
					North Carolina	75			1981	534
					North Dakota	9			1982	510
					Northern Mariana Islands	6			1983	548
					Nova Scotia	1			1984	627
					Ohio	69			1985	450
					Oklahoma	25			1986	690
					Ontario	15			1987	604
					Oregon	2,643			1988	576
					Pennsylvania	70			1989	614
					Puerto Rico	2			1990	748
					Quebec	1			1991	744
					Rhode Island	15			1992	738
					Saskatchewan	1			1993	779
					South Carolina	27			1994	804
					South Dakota	7			1995	811
					Tennessee	55			1996	759
					Texas	352			1997	852
					Utah	179			1998	805
					Vermont	20			1999	842
					Virginia	274			2000	856
					Virgin Islands	1			2001	917
					Washington	30,619			2002	996
					West Virginia	7			2003	1,019
					Wisconsin	41			2004	1,037
					Wyoming	19			2005	1,063
									2006	1,094
									2007	1,168
									2008	1,085
									2009	994
									2010	1,083
									2011	1,053
									2012	1,097
									2013	1,229
									2014	1,354
									2015	1,614
									2016	1,307
									2017	1,386
									2018	1,299
									2019	178

Misc Counts	
All License Types **	40,556
All WSBA Members	40,243
Members in Washington	30,618
Members in western Washington	23,762
Members in King County	15,340
Members in eastern Washington	3,455
Active Attorneys in western Washington	20,173
Active Attorneys in King County	13,422
Active Attorneys in eastern Washington	2,835
New/Young Lawyers	6,367
MCLE Reporting Group 1	10,524
MCLE Reporting Group 2	10,833
MCLE Reporting Group 3	11,487
Foreign Law Consultant	19
House Counsel	284
Indigent Representative	10

By Section ***		All	Previous Year
Administrative Law Section		192	277
Alternative Dispute Resolution Section		271	357
Animal Law Section		73	102
Antitrust, Consumer Protection and Unfair Business Practice		179	221
Business Law Section		1,112	1,287
Cannabis Law Section		71	66
Civil Rights Law Section		132	168
Construction Law Section		442	512
Corporate Counsel Section		961	1,115
Creditor Debtor Rights Section		407	507
Criminal Law Section		334	441
Elder Law Section		542	654
Environmental and Land Use Law Section		669	797
Family Law Section		822	1,150
Health Law Section		325	387
Indian Law Section		292	316
Intellectual Property Section		763	899
International Practice Section		197	241
Juvenile Law Section		133	186
Labor and Employment Law Section		879	1,002
Legal Assistance to Military Personnel Section		66	92
Lesbian, Gay, Bisexual, Transgender (LGBT) Law Section		89	110
Litigation Section		885	1,058
Low Bono Section		51	101
Real Property Probate and Trust Section		1,972	2,363
Senior Lawyers Section		202	256
Solo and Small Practice Section		738	987
Taxation Section		523	660
World Peace Through Law Section		94	98

* Per WSBA Bylaws 'Members' include active attorney, emeritus pro-bono, honorary, inactive attorney, judicial, limited license legal technician (LLLT), and limited practice officer (LPO) license types.

** All license types include active attorney, emeritus pro-bono, foreign law consultant, honorary, house counsel, inactive attorney, indigent representative, judicial, LPO, and LLLT.

*** The values in the All column are reset to zero at the beginning of the WSBA fiscal year (Oct 1). The Previous Year column is the total from the last day of the fiscal year (Sep 30). WSBA staff with complimentary membership are not included in the counts.

WSBA Member* Demographics Report 2/1/19 8:50:55 AM GMT-08:00

By Years Licensed		By Age		All	Active
Under 6	8,520	21 to 30	1,979	1,895	
6 to 10	5,432	31 to 40	9,181	8,191	
11 to 15	5,641	41 to 50	9,749	8,019	
16 to 20	4,568	51 to 60	8,694	6,857	
21 to 25	4,110	61 to 70	7,680	5,758	
26 to 30	3,544	71 to 80	2,392	1,583	
31 to 35	3,000	Over 80	568	124	
36 to 40	2,483	Total:		40,243	32,427
41 and Over	2,945				
Total:				40,243	

By Disability		By Gender	
Yes	1,055	Female	12,227
No	19,553	Male	17,129
		Selected Mult Gend	9
Respondents	20,608	Respondents	29,365
No Response	10,878	No Response	10,878
All Member Types	40,243	All Member Types	40,243

By Sexual Orientation	
Asexual	10
Gay, Lesbian, Bisexual, Pansexual, or Queer	203
Heterosexual	1,955
Not Listed	34
Selected multiple orientations	12
Two-spirit	1
Respondents	2,215
No Response	38,028
All Member Types	40,243

By Ethnicity	
American Indian / Native America	249
Asian-Central Asian	18
Asian-East Asian	96
Asian-South Asian	26
Asian-Southeast Asian	28
Asian—unspecified	1,275
Black / African American / African	641
Hispanic / Latinx	678
Middle Eastern Descent	9
Multi Racial / Bi Racial	883
Not Listed	193
Pacific Islander / Native Hawaiian	60
White / European Descent	23,891
Respondents	28,047
No Response	12,196
All Member Types	40,243

Members in Firm Type	
Bank	5
Escrow Company	9
Government/ Public Secto	4,440
House Counsel	2,552
Non-profit	108
Title Company	26
Solo	5,228
Solo In Shared Office Or	1,571
2-5 Members in Firm	4,266
6-10 Members in Firm	1,810
11-20 Members in Firm	1,283
21-35 Members in Firm	805
36-50 Members In Firm	584
51-100 Members in Firm	587
100+ Members in Firm	1,837
Not Actively Practicing	620
Respondents	25,731
No Response	14,512
All Member Types	40,243

By Practice Area	
Administrative-regulator	2,008
Agricultural	204
Animal Law	93
Antitrust	253
Appellate	1,391
Aviation	142
Banking	387
Bankruptcy	904
Business-commercial	4,373
Cannabis	23
Civil Litigation	4,425
Civil Rights	918
Collections	518
Communications	201
Constitutional	536
Construction	1,142
Consumer	677
Contracts	3,590
Corporate	2,942
Criminal	3,296
Debtor-creditor	863
Disability	607
Dispute Resolution	1,226
Education	439
Elder	851
Employment	2,447
Entertainment	264
Environmental	1,139
Estate Planning-probate	3,068
Family	2,577
Foreclosure	481
Forfeiture	89
General	2,647
Government	2,492
Guardianships	822
Health	820
Housing	292
Human Rights	277
Immigration-naturaliza	860
Indian	530
Insurance	1,464
Intellectual Property	1,785
International	772
Judicial Officer	389
Juvenile	826
Labor	996
Landlord-tenant	1,168
Land Use	721
Legal Ethics	272
Legal Research-writing	623
Legislation	359
Lgbtq	26
Litigation	3,924
Lobbying	165
Malpractice	694
Maritime	266
Military	316
Municipal	825
Non-profit-tax Exempt	530
Not Actively Practicing	1,811
Oil-gas-energy	185
Patent-trademark-copyr	1,019
Personal Injury	2,888
Privacy And Data Securit	70
Real Property	2,150
Real Property-land Use	2,058
Securities	650
Sports	138
Subrogation	87
Tax	1,067
Torts	1,809
Traffic Offenses	600
Workers Compensation	651

By Languages Spoken	
Afrikaans	6
Akan /twi	4
Albanian	2
American Sign Language	16
Amharic	17
Arabic	53
Armenian	8
Bengali	11
Bosnian	11
Bulgarian	13
Burmese	2
Cambodian	7
Cantonese	99
Cebuano	4
Chamorro	5
Chaozhou/chiu Chow	1
Chin	3
Croatian	22
Czech	6
Danish	19
Dari	4
Dutch	24
Egyptian	2
Farsi/persian	63
Fijian	1
Finnish	7
French	717
French Creole	3
Fukienese	5
Ga/kwa	2
German	428
Greek	28
Gujarati	15
Haitian Creole	2
Hebrew	38
Hindi	90
Hmong	1
Hungarian	15
Ibo	4
Icelandic	2
Ilocano	9
Indonesian	13
Italian	156
Japanese	217
Javanese	1
Kannada/canares	4
Kapampangan	1
Khmer	1
Kongo/kikongo	1
Korean	239
Lao	6
Latvian	6
Lithuanian	5
Malay	4
Malayalam	9
Mandarin	358
Marathi	6
Mongolian	2
Navajo	1
Nepali	4
Norwegian	38
Not_listed	36
Oromo	3
Other	23
Pashto	1
Persian	22
Polish	32
Portuguese	122
Portuguese Creole	1
Punjabi	58
Romanian	19
Russian	233
Samoan	9
Serbian	20
Serbo-croatian	11
Sign Language	23
Singhalese	2
Slovak	2
Somali	1
Spanish	1,820
Spanish Creole	9
Swahili	4
Swedish	53
Tagalog	70
Taishanese	2
Taiwanese	21
Tamil	11
Telugu	3
Thai	14
Tigrinya	3
Tongan	1
Turkish	14
Ukrainian	40
Urdu	39
Vietnamese	91
Yoruba	10
Yugoslavian	4

* Includes active attorneys, emeritus pro-bono, honorary, inactive attorneys, judicial, limited license legal technician (LLLT), and limited practice officer (LPO).

**WASHINGTON STATE
BAR ASSOCIATION**

Office of the Executive Director
Paula C. Littlewood, Executive Director

February 14, 2019

Hon. Mary E. Fairhurst
Chief Justice
Washington Supreme Court
PO Box 40929
Olympia, WA 98504

Re: Board of Governors Ranking of WSBA Sections Applicants to the Washington Supreme Court's Workgroup on the WSBA Structure

Dear Chief Justice Fairhurst,

Please see listed below the ranking of the WSBA Sections representatives on the Washington Supreme Court's Workgroup regarding the WSBA structure as decided by the Board of Governors at the Public Session Special Meeting held today.

Large Sections

1. Mark Johnson
2. Thomas Satagaj
3. Geoff Gibbs

Medium Sections

1. Kim Hunter
2. Richard Johnson
3. Linda Larson

Small Sections

1. Randall Winn
2. Hunter Abell
3. Lawrence Ward

Please advise if you have questions or need any further information.

Sincerely,



Paula C. Littlewood

The Supreme Court
State of Washington

MARY E. FAIRHURST
CHIEF JUSTICE
TEMPLE OF JUSTICE
POST OFFICE BOX 40929
OLYMPIA, WASHINGTON
98504-0929



(360) 357-2053
E-MAIL MARY.FAIRHURST@COURTS.WA.GOV

February 6, 2019

Bill Pickett, President
Washington State Bar Association
1325 Fourth Avenue, Ste. 600
Seattle, WA 98101-2539

Re: Board of Governors' recommendations for section representatives to WSBA
Structure Workgroup

Dear Bill:

I am writing to advise that, no later than the end of business on Friday, February 15, 2019, the Justices of the Supreme Court would like to know who the Board of Governors (BOG) recommend that the Court consider in its selection of the section representatives for the WSBA Structure Workgroup. I understand this was on your last BOG meeting agenda but because of other business you did not decide. I also understand that a special meeting requires five days' notice. Because today, is February 6, 2019, the Court has decided to give you until the end of business on February 15, 2019. If the BOG will not be able to meet our deadline or does not wish to make recommendations, please advise me as soon as possible and the Court will go ahead with its selections. Thank you.

Very truly yours,

A handwritten signature in black ink that reads "Mary E. Fairhurst".

MARY E. FAIRHURST
Chief Justice

cc: Justices
Paula Littlewood, Executive Director

The Supreme Court
State of Washington

MARY E. FAIRHURST
CHIEF JUSTICE
TEMPLE OF JUSTICE
POST OFFICE BOX 40929
OLYMPIA, WASHINGTON
98504-0929



(360) 357-2053
E-MAIL MARY.FAIRHURST@COURTS.WA.GOV

January 24, 2019

Paula Littlewood
Executive Director
Washington State Bar Association
1325 Fourth Avenue, Ste. 600
Seattle, WA 98101-2539

Re: Federal government shutdown and 2019 annual licensing fees

Dear Paula:

The court has received your e-mail where you relay the Board of Governors' request that the court "extend the due date of bar fees for all WSBA members currently not receiving their salary due to their employment with the federal government for the shutdown, and continuing for 30 days following the ending of the shutdown and resumption of pay to those affected. . . . The affected members would have 30 days after they receive pay to remit their 2019 license fees and the late fees would be waived."

Today the court unanimously approved the Board of Governors' request as stated above. Thus, the affected members would still pay their 2019 license fees but would have any late fees waived.

Please have WSBA regulatory staff develop the necessary processes for facilitating the waiver.

Very truly yours,

A handwritten signature in cursive script that reads "Mary E. Fairhurst".

MARY E. FAIRHURST
Chief Justice

cc: Justices
Bill Pickett, WSBA President
Susan Carlson, Court Clerk

From: Paula Littlewood
Sent: Tuesday, January 22, 2019 3:46 PM
To: Justice Mary Fairhurst
Cc: Bill Pickett; Jean McElroy; Margaret Shane
Subject: Federal Government Shutdown and Annual licensing fees

Chief,

In the last couple of weeks we have received around a dozen requests from furloughed federal employees asking for some reprieve in the late fees and deadline for paying their license fees this year. Currently, BOG-adopted policy, the WSBA Bylaws and Court rule do not allow for waiving of any such late fees (there are other reasons the late fees can be waived, but federal government shutdown is not one of them).

I reported on this issue to the BOG at their meeting last week and they passed the following motion:

That the BOG make a statement written to the Supreme Court asking the Court to extend the due date of bar fees for all WSBA members currently not receiving their salary due to their employment with the federal government for the shutdown, and continuing for 30 days following the ending of the shutdown and resumption of pay to those affected. The BOG is in favor of granting an extension and asking the Supreme Court to exercise their authority to do so. The affected members would have 30 days after they receive pay to remit their 2019 license fees and the late fees would be waived.

Thus, the affected members would still pay their 2019 license fees but would have any late fees waived. Our regulatory staff will develop the necessary processes for facilitating the waiver.

Apologies for sending this transmittal via email rather than by letter, but time seemed of the essence to convey this request from the BOG to the Court.

Please let me know if any further information would be helpful.

Thanks,
Paula

**Summary of WSBA Outreach Visits
January 1, 2019 to March 1, 2019**

1.	1-9-19	King County Bar Seattle, WA	Professional Responsibility Counsel Jeanne Marie Clavere presented a CLE on "Civility & Professionalism: Common Topics from the WSBA Ethics Line" at a KCBA section event.
2.	1-10-19	MentorLink Mixer Bellevue, WA	Practice Management Advisor Destinee Evers, Member Services and Engagement Manager Ana LaNasa-Selvedge, Member Services and Engagement Specialist Julianne Unite, and Legal Community Specialist Sue Strachan met with WSBA members at a MentorLink Mixer.
3.	1-10-19	Jefferson County Bar Port Townsend, WA	Professional Responsibility Counsel Jeanne Marie Clavere presented a CLE on "Cases from the Trenches: Ethical Messes".
4.	1-15-19	King County Bar Seattle, WA	Director of the Office of Disciplinary Counsel Doug Ende discussed "Pending Amendments to Title 7 RPCs" with the KCBA Judiciary & Litigation Committee.
5.	1-16-19	Forsberg & Umlauf Law Firm Seattle, WA	Professional Responsibility Counsel Jeanne Marie Clavere presented a CLE on "Cases from the Trenches: Ethical Messes in the Practice of Law".
6.	1-25-19	Kitsap County Bar Bremerton, WA	Legal Community Outreach Specialist Sue Strachan attended this annual installation dinner and fundraiser.
7.	1-28-19	Robert Bryan Inn of Court Tacoma, WA	Professional Responsibility Counsel Jeanne Marie Clavere presented a CLE on "Lawyers Moving From Firm to Firm".
8.	1-31-19	UW School of Law Seattle, WA	Regulatory Services Counsel Cathy Biestek and Admissions Manager Gus Quiniones presented information on the admissions process, bar exam, and character & fitness.
9.	1-31-19	Open Sections Night Seattle, WA	WSBA Staff, Section Leaders, BOG Liaisons, and WSBA members attended this annual event.
10.	2-1-19	Kitsap County Bar Port Orchard, WA	Legal Community Outreach Specialist Sue Strachan attended this monthly bar luncheon and CLE.
11.	2-6-19	Gonzaga University School of Law Spokane, WA	Executive Director Paula Littlewood and WSBA member David Gardner presented a session on professionalism to law students in a Professional Responsibility class.
12.	2-14-19	UW School of Law Seattle, WA	Executive Director Paula Littlewood and WSBA member Allen Unzelman presented a session on professionalism to law students in a Professional Responsibility class.
13.	2-20-19	Jefferson County Bar Port Townsend, WA	Legal Community Outreach Specialist Sue Strachan met with members of the Executive Committee of the Jefferson County Bar.

14.	2-20-19	Kitsap County Bar Silverdale, WA	Legal Community Outreach Specialist Sue Strachan attended a monthly Kitsap County Board of Trustees Meeting.
15.	2-21-19	GSBA Seattle, WA	Legal Community Outreach Specialist Sue Strachan attended this annual awards dinner – the theme was “Justice for All”; several WSBA members received awards.
16.	2-21-19	Equity Mixer Bellevue, WA	Diversity and Public Services Programs manager K.J. Williams, Diversity and Inclusion Specialist Dana Barnett, and Donor and Community Partnerships Specialist Laura Sanford, partnered with several Minority Bar Associations for this event.
17.	2-27-19	SU School of Law Seattle, WA	Professional Responsibility Counsel Jeanne Marie Clavere presented a CLE on “Professionalism and Civility” to participants in the Low Bono Incubator Program.
18.	2-27-19	SU School of Law Seattle, WA	Auditor II Tracy Sambrano presented “Avoiding Common Pitfalls of Managing Client Funds” as part of an Access to Justice event.
19.	2-28-19 3-1-19	WA School Counselor Association (WSCA) SeaTac, WA	Innovative Licensing Programs Manager Renata de Carvalho Garcia, Innovative Licensing Programs Lead Jaimie Patneau, Chief Communications and Outreach Officer Sara Niegowski, Outreach and Legislative Affairs Manager Sanjay Walvekar, and Legal Community Outreach Specialist Sue Strachan attended the 2019 WSCA Conference and provided information about the LLLT program.

WASHINGTON STATE BAR ASSOCIATION

MEMO

To: Board of Governors

From: Sara Niegowski, Chief Communications and Outreach Officer
Jennifer Olegario, Communication Strategies Manager

Date: Feb. 20, 2019

Re: **Summary of Media Contacts, Jan. 2 – Feb. 20, 2019**

	Date	Reporter and Media Outlet	Inquiry
1.	Jan. 16	Dan Tillkin KOIN-TV	Looking for source about limitations to small claims court, esp. about collection of judgments.
2.	Jan. 16	Lyle Moran, <i>ABA Journal</i>	Working on story about states considering making malpractice insurance mandatory, inquired when task force report would be final.
3.	Jan. 16	Joyce Cutler, Bloomberg Law	Shared that the CA Bar is considering whether to waive penalties for late payment of license renewal fees for federal employees; inquired whether WSBA will waive fees.
4.	Jan. 23	Wendy Culverwell, <i>Tri-City Herald</i>	Asked how many people on average pass the bar exam.
5.	Jan. 23	David Cromin, Crosscut	Asked whether there was any kind of database available to confirm largest settlement in Seattle history for personal injury.
6.	Jan. 28	Ted Land, KING5-TV	Covered Jan. 29 Legal Lunchbox re: Suicide Awareness and Referral Training for Legal Professionals and how legal community can be an important population for spotting suicide warning signs. Interviewed faculty presenter Dr. Jennifer Staub and Paula Littlewood. Aired Jan. 29.
7.	Jan. 31	Jeannie Baumann, Bloomberg Law	Interested in a legal expert regarding options a minor has if their parents are against vaccinations but they want to get an MMR vaccine. Connected reporter to chair of Health Law section.

8.	Jan. 31	Marc Davis, <i>ABA Journal</i>	Inquired whether WSBA has seen an uptick in referrals for elder law lawyers.
9.	Feb. 12	Lewis Kamb, <i>Seattle Times</i>	Inquired about details of voluntary resignation for member Frederick Wollett. Provided date of resignation and confirmed no public discipline.
10.	Feb. 19	Carleen Johnson, KOMO Radio	Sought comment from WSBA re: HB 1788.

To: The President, President-elect, Immediate Past-President, and Board of Governors
 From: Nicole Gustine, Assistant General Counsel
 Date: February 21, 2019
 Re: Court Rules Update

This is the regular report on the status of suggested court rules submitted by the Board of Governors and other entities to the Supreme Court. Any changes from the last report are indicated in **bold**, *shaded*, *italicized text*.

SUGGESTED RULE AMENDMENTS SUBMITTED BY <u>WSBA</u> TO SUPREME COURT			
RULE	SUBJECT	BOG ACTION	COURT ACTION
GR 24	Proposed amendments to GR 24 – Definition of Practice of Law.	9/28/18: Submitted to BOG as Information.	11/28/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than April 30, 2019.
CrR 1.3, CrR 3.4, CrR 4.4, CrRLJ 4.4, CR 30	The Washington State Bar Association recommended the suggested amendments to CrR 1.3 – Effect; CrR 3.4 – Presence of the Defendant; CrR 4.4 – Severance of Offenses and Defendants; CrRLJ 4.4 – Severance of Offenses and Defendants; and CR 30 – Depositions Upon Oral Examination.	9/28/18: Approved submission to Court.	11/28/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than April 30, 2019.
LLLT RPCs 1.0B, 1.5, 7.1, 7.2, 7.3, 7.4, and 7.5	The LLLT Board recommended the suggested amendments to LLLT RPC 1.0B – Additional	The suggested amendments were submitted to the Court to	11/9/18: The Court entered an order to publish the proposed amendments for



SUGGESTED RULE AMENDMENTS SUBMITTED BY <u>WSBA</u> TO SUPREME COURT			
RULE	SUBJECT	BOG ACTION	COURT ACTION
	Terminology; LLLT RPC 1.5 – Fees; LLLT RPC 7.1 – Communications Concerning an LLLT’s Services; LLLT RPC 7.2 – Advertising; LLLT RPC 7.3 – Direct Contact with Prospective Clients; LLLT RPC 7.4 – Communication of Fields of Practice and Specialization; and LLLT RPC 7.5 – Firm Names and Letterheads.	conform to the lawyer RPC amendments that were approved by the BOG on 3/8/18.	comment, with comments to be submitted no later than April 30, 2019.
RPCs 5.5, 7.1, 7.2, 7.3, 7.4, and 7.5	The Washington State Bar Association recommended the suggested amendments to RPC 5.5 – Unauthorized Practice of Law; Multijurisdictional Practice of Law; RPC 7.1 – Communications Concerning a Lawyer’s Service; RPC 7.2 – Advertising; RPC 7.3 – Solicitation of Clients; RPC 7.4 – Communication of Fields of Practice and Specializations; and RPC 7.5 – Firm Names and Letterheads.	3/8/18: Approved submission to Court.	11/9/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than April 30, 2019.
CrR 3.3 – Time for Trial	The Washington State Bar Association Counsel on Public Defense, in response to the Supreme Court Rules Committee Referral of a request by Mr. Stephen Dowdney	9/27/18: Approved submission to Washington Supreme Court Rules Committee.	10/31/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no



SUGGESTED RULE AMENDMENTS SUBMITTED BY <u>WSBA</u> TO SUPREME COURT			
RULE	SUBJECT	BOG ACTION	COURT ACTION
	recommended the suggested amendment to CrR 3.3 – Time for Trial.		later than April 30, 2019.
IN THE MATTER OF SUGGESTED AMENDMENTS TO APR 28 – LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS; APR 28 APPENDIX – REGULATION 2 PRACTICE AREAS – SCOPE OF PRACTICE AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE; APR 28 APPENDIX REGULATION 3 – EDUCATION REQUIREMENTS FOR LLLT APPLICANTS AND APPROVAL OF EDUCATION PROGRAMS; OF THE APR 28 LIMITED LICENSE LEGAL TECHNICIAN BOARD; RULES OF PROFESSIONAL CONDUCT (RPC) 1.0B – ADDITIONAL WASHINGTON TERMINOLOGY; RPC 1.17 – SALE OF LAW PRACTICE; RPC 4.3 – DEALING WITH A PERSON NOT REPRESENTED BY A LAWYER; RPC 5.8 – MISCONDUCT INVOLVING LAWYERS AND LLLTs NOT ACTIVELY LICENSED TO PRACTICE LAW; RPC 8.1 – BAR ADMISSION AND DISCIPLINARY MATTERS; AND LLLT RULES OF PROFESSIONAL CONDUCT (LLLTPC) LLLT RPC 1.0B – ADDITIONAL TERMINOLOGY; LLLT RPC 1.2 – SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LLLT; LLLT RPC 1.5 – FEES; LLLT RPC 1.8 CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES; LLLT RPC 1.15A – SAFEGUARDING PROPERTY; LLLT RPC 1.16 – DECLINING OR TERMINATING REPRESENTATION; LLLT RPC 1.7 SALE OF A LAW PRACTICE; LLLT RPC 2.3 [RESERVED]; LLLT RPC 3.1 – ADVISING AND ASSISTING CLIENTS IN PROCEEDINGS BEFORE A TRIBUNAL; LLLT RPC 3.6-3.9 [RESERVED]; LLLT RPC 4.1 – TRUTHFULNESS IN STATEMENTS TO OTHERS; LLLT RPC 4.2 – COMMUNICATION WITH PERSON REPRESENTED BY LAWYER; LLLT RPC 4.3 – DEALING WITH PERSON NOT REPRESENTED BY LAWYER; LLLT RPC 5.4 – PROFESSIONAL INDEPENDENCE OF A LLLT; LLLT RPC 5.5 UNAUTHORIZED PRACTICE OF LAW; LLLT RPC 8.1 – LICENSING, ADMISSION, AND DISCIPLINARY MATTERS; LLLT RPC 8.4 - MISCONDUCT	The Washington State Bar Association Limited License Legal Technician Board recommended amendments to APR 28—Limited Practice Rule for Limited License Legal Technicians; APR 28 Appendix; Rules of Professional Conduct (RPC); and LLLT Rules of Professional Conduct (LLLTPCs).	1/19/18: Submitted to BOG as Information.	6/7/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than September 14, 2018. 11/1/18: The Court adopted the rules. 11/26/18: Amended Order: Rescinding Order and republishing for comment due to formatting errors, with comments to be submitted no later than February 1, 2019
RPC 1.7, RPC 1.15A, RPC 4.2¹	Proposed amendments to RPC 1.7 – Conflict of Interest: Current	9/6/17: Approved submission to	11/8/17: The Court entered an order to publish

¹ The Court has not taken an action on [RPC 4.2](#).



SUGGESTED RULE AMENDMENTS SUBMITTED BY <u>WSBA</u> TO SUPREME COURT			
RULE	SUBJECT	BOG ACTION	COURT ACTION
	Clients; RPC 1.15A – Safeguarding Property; and RPC 4.2 – Communication with Person Not Represented by a Lawyer.	Court.	the proposed amendments for comment, with comments to be submitted no later than April 30, 2018. 6/7/18: The Court adopted RPC 1.7 and RPC 1.15A.



SUGGESTED RULE AMENDMENTS SUBMITTED BY <u>OTHERS</u>		
GR 11.1 and GR 11.2	<i>The Interpreter Commission recommended the suggested amendments to GR 11.1 – Purpose and Scope of Interpreter Commission and GR 11.2 – Code of Professional Responsibility for Judiciary Interpreters.</i>	<i>2/6/19: Amended Order: Due to formatting error, the Court entered an amended order adopting the rule.</i>
CrR 3.1, CrRLJ 3.1, JuCR 9.3(a), GR 15	The Washington Defender Association recommended the suggested amendments to CrR 3.1 – Right to and Assignment of Lawyer; CrRLJ 3.1 – Right to and Assignment of Lawyer; JuCR 9.3(a) – Right to Appointment of Experts in Juvenile Offense Proceedings; and GR 15 – Destruction, Sealing, and Redaction of Court Records.	11/28/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than April 30, 2019.
CR 82.5	The Tribal State Court Consortium recommended the suggested amendment to CR 82.5 – Tribal Court Jurisdiction.	11/28/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than April 30, 2019.
APR 3	The Military Spouse J.D. Network (MSJDN) recommended the suggested amendment to APR 3 – Applications for Admission to Practice Law.	10/31/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than April 30, 2019.
CJC 2.9	The Superior Court Judges’ Association recommended the suggested amendment to CJC 2.9 – Ex Parte Communications.	10/10/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than December 24, 2018.
CrR 4.7, CrRLJ 4.7, CrR 3.7, CrR 3.8, CrR 3.9, CrR 4.11, CrRLJ 3.7, CrRLJ 3.8, CrRLJ 3.9, CrRLJ 4.11	The Washington Association of Criminal Defense Lawyers recommended the suggested amendments to CrR 4.7 – Discovery; CrRLJ 4.7 – Discovery; suggested New CrR 3.7 – Recording Interrogations; CrR 3.8 – Recording Eyewitness Identification Procedure; CrR 3.9 – In-Court Eyewitness Identification; CrR 4.11 – Recording Witness Interviews; CrRLJ 3.7 – Recording Interrogations; CrRLJ 3.8 – Recording Eyewitness Identification Procedure; CrRLJ 3.9 – In-Court Eyewitness Identification; and CrRLJ 4.11 – Recording	7/11/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than April 30, 2019.



SUGGESTED RULE AMENDMENTS SUBMITTED BY <u>OTHERS</u>		
	Witness Interviews.	
New GR 38²	The Superior Court Judges' Association recommended the suggested new GR 38 – Prohibition of Bias.	6/7/18: The Court entered an order to publish the proposed amendments for comment, with comments to be submitted no later than September 14, 2018.

² [The Court has not taken an action on GR 38.](#)



February 7, 2019

MEMORANDUM

TO: ***RULES COMMITTEE***
Johnson, J., Chairperson
Owens, J.
Wiggins, J.
Gordon McCloud, J.
Yu, J.

FROM: Mary Tracy
PRP Docket Clerk/Capital Case Manager

RE: Court Rules

The following AMENDED rule order was entered following the February 6, 2019, En Banc Conference:

AMENDED Order No. 25700-A-1250 – IN THE MATTER OF THE SUGGESTED AMENDMENTS TO GR 11.1—PURPOSE AND SCOPE OF INTERPRETER COMMISSION AND GR 11.2—CODE OF PROFESSIONAL RESPONSIBILITY FOR JUDICIARY INTERPRETERS

Effective upon publication

cc: Shannon Hinchcliffe, AOC, w/attachments
Commissioner w/attachments
Clerk w/attachments
Deputy Clerk w/attachments
Nicole Gustine, WSBA (w/attachments **AS ATTACHMENT TO EMAIL ONLY**)
Doug Ende, WSBA (w/attachments **AS ATTACHMENT TO EMAIL ONLY**)
Sherry Lindner, WSBA (w/attachments **AS ATTACHMENT TO EMAIL ONLY**)
Jean McElroy, WSBA (w/attachments **AS ATTACHMENT TO EMAIL ONLY**)
Jeanne Marie Clavere, WSBA (w/attachments **AS ATTACHMENT TO EMAIL ONLY**)
AOC, w/attachments (Web Page)

AMENDED ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO GR 11.1—PURPOSE AND SCOPE OF INTERPRETER COMMISSION AND GR 11.2—CODE OF PROFESSIONAL RESPONSIBILITY FOR JUDICIARY INTERPRETERS

DATED at Olympia, Washington this 6th day of February, 2019.

Johnson, J.
Madsen, J.
Owens, J.
Fairhurst, J.

Stephens, J.
Charlie Wagner
Conrater, J.
Bob M. Lee, J.
Jr., J.

1 **GR 11.1 PURPOSE AND SCOPE OF INTERPRETER COMMISSION**

2
3 (a) Purpose and Scope. This rule establishes the Interpreter Commission
4 (Commission) and prescribes the conditions of its activities. This rule does not modify or duplicate the statutory
5 process directing the Court Certified Interpreter Program as it is administered by the Administrative Office of the
6 Courts (AOC) (chapter 2.43 RCW). The Interpreter Commission will develop policies for the Interpreter Program
7 and the Program Policy Manual, published on the Washington Court's website at www.courts.wa.gov, which shall
8 constitute the official version of policies governing the Court Certified Interpreter Program.

9
0 (b) Jurisdiction and Powers.

1 ~~All court interpreters who are credentialed by the State of Washington AOC in either a certified or registered-~~
2 ~~language category are subject to the rules and regulations specified in the Interpreter Program Policy Manual.~~
3 Every interpreter serving in a legal proceeding must comply with GR 11.2, the Code of Professional Responsibility
4 for Judiciary Interpreters, and is subject to the rules and regulations specified in the Court Interpreter Disciplinary
5 Policy Manual. The Commission shall establish three committees to fulfill ongoing functions related to issues,
6 discipline, and judicial/court administration education. Each committee shall consist of at least three Commission
7 members and one member shall be identified as the chair.

8
9 (1) The Issues Committee is assigned issues, complaints, and/or requests from interpreters for review and
0 response. If the situation cannot be resolved at the Issues Committee level, the matter will be submitted by
1 written referral to the Disciplinary Committee.

2
3 (2) The Issues Committee will also address issues, complaints, and/or requests regarding access to interpreter
4 services in the courts, and may communicate with individual courts in an effort to assist in complying with
5 language access directives required by law.

6
7 (3) The Disciplinary Committee may sanction any interpreter serving in a legal proceeding for a violation of GR
8 11.2, the Code of Professional Responsibility for Judiciary Interpreters, and has the authority to decertify or deny
9 certification of credentials to interpreters based on the disciplinary procedures for: (a) violations of continuing
0 education/court hour requirements, (b) failure to comply with ~~Interpreter Code of Conduct~~ Professional
1 Responsibility for Judiciary Interpreters (GR 11.2) or professional standards, or (c) violations of law that may
2 interfere with their duties as an interpreter in a legal proceeding ~~a certified court interpreter~~. The Disciplinary
3 Committee will decide on appeal any issues submitted by the Issues Committee.

4
5 (4) [Unchanged.]

6
7 (c) Establishment. The Supreme Court shall appoint no more than 15 members to the Interpreter Commission,
8 and shall designate the chair of the Commission. The Commission shall include representatives from the following
9 areas of expertise: judicial officers from the appellate and each trial court level (3), spoken language interpreter
0 (2), sign language interpreter (1), court administrator (1), attorney (1), public member (2), representative from
1 ethnic organization (1), an AOC representative (1), and other representatives as needed. The term for a member
2 of the Commission shall be three years. Members are eligible to serve a subsequent 3-year term. Members shall
3 serve on at least one committee and committees may be supplemented by ad hoc professionals as designated by
4 the chair. Ad hoc members may not serve as the chair of a committee.

5
6 (d) Regulations. Policies outlining rules and regulations directing the interpreter program are specified in the
7 Interpreter Program Manual. The Commission, through the Issues Committee and Disciplinary Committee, shall
8 enforce the policies of the interpreter program. Interpreter program policies may be modified at any time by the
9 Commission and AOC.

1 (e) Existing Law Unchanged. This rule shall not expand, narrow, or otherwise affect existing law, including but not
2 limited to chapter 2.43 RCW.

3
4 (f) Meetings. The Commission shall hold meetings as determined necessary by the chair. Meetings of the
5 Commission are open to the public except for executive sessions and disciplinary meetings related to action
6 against a ~~certified~~ an interpreter.

7
8 (g) Immunity from Liability. No cause of action against the Commission, its standing members or ad hoc members
9 appointed by the Commission, shall accrue in favor of a ~~certified~~ court interpreter or any other person arising
0 from any act taken pursuant to this rule, provided that the Commission members or ad hoc members acted in
1 good faith. The burden of proving that the acts were not taken in good faith shall be on the party asserting it.
2

GR 11.2

CODE OF CONDUCT FOR COURT INTERPRETERS PROFESSIONAL RESPONSIBILITY FOR JUDICIARY
INTERPRETERS

(a) PREAMBLE

As officers of the court, interpreters must maintain high standards of professional conduct that promote public trust and confidence in the administration of justice. The purpose of this code is to establish standards of conduct that interpreters must abide by in order to preserve the integrity and independence of the judicial system. It establishes core ethical principles of interpreter conduct in all aspects of their profession.

~~PREAMBLE. All language interpreters serving in a legal proceeding, whether certified or uncertified, shall abide by the following Code of Conduct:~~

(b) SCOPE

The text of each rule is authoritative, while the comments provide important guidance in understanding the rules.

(c) APPLICABILITY

All interpreters serving in the judicial system must abide by this Code of Professional Responsibility.

(d) COMPLIANCE

~~—A language interpreters who violates any of the provisions of this code is are subject to a citation for contempt, disciplinary action and/or any other sanction that may be imposed by law. The purpose of this Code of Conduct is to establish and maintain high standards of conduct to preserve the integrity and independence of the adjudicative system.~~

~~(a) A language interpreter, as an officer of the court, shall maintain high standards of personal and professional conduct that promote public confidence in the administration of justice.~~

(e) DEFINITIONS

(1) Source language – the original language of the writer or speaker.

(2) Target language – the language of the receiving reader or listener.

(3) Register – the degree of formality of language.

(4) Sight translation – the rendering of a written document directly into a spoken or signed language, not for purposes of producing a written document.

(f) CANONS

~~—(b) A language interpreter shall interpret or translate the material thoroughly and precisely, adding or omitting nothing, and stating as nearly as possible what has been~~

Supporting Documentation; Page 1 of 6

stated in the language of the speaker, giving consideration to variations in grammar and syntax for both languages involved. A language interpreter shall use the level of communication that best conveys the meaning of the source, and shall not interject the interpreter's personal moods or attitudes.

(1) ACCURACY

Interpreters must reproduce in the target language the closest natural equivalent of the source language message without altering it by means of addition, omission, or explanation.

Comment

(1)[1] Interpreters are obligated to conserve every element of information contained in the source and target languages. In doing so, they fulfill a twofold duty: (1) to ensure that legal proceedings reflect in English precisely what is said or signed by limited English proficient individuals and (2) to place limited English proficient individuals on an equal linguistic footing with those who are fully proficient in English.

(1)[2] Interpreters are required to apply their best skills and judgment to render, as faithfully as reasonably possible, the meaning of what is said or signed, preserving the style and register of speech, and the ambiguities and nuances of the source statement.

Everything must be interpreted, even if it appears nonresponsive, obscene, rambling, or incoherent. This includes false starts and apparent misstatements. However, verbatim, "word for word," or literal interpretation is inappropriate if it distorts the meaning of what is said or signed.

Spoken language interpreters should convey the speaker's tone without reenacting or mimicking the speaker's emotions or dramatic gestures. Sign language interpreters, on the other hand, should employ visual cues, including facial expressions, body language, and hand gestures, which are structural elements of sign languages.

(1)[3] Interpreters have the duty to immediately address any situation or condition that impedes their ability to accurately interpret. Examples include, but are not limited to, linguistic ambiguities, unfamiliar terms, inaudible speech, inability to see a speaker, background noise or distraction, and pace of speech.

(1)[4] The obligation to preserve accuracy includes the interpreter's duty to correct any substantive errors of interpretation as soon as possible. Interpreters should be prepared to accept feedback, including challenges to their interpretation, in a professional and impersonal manner.

(1)[5] Due to the difficulty of extemporaneously interpreting recordings (such as 911 calls), the practice of doing so in court should be discouraged at all times. Rather, proper transcripts and corresponding written translations should be prepared in advance. If ordered by the presiding officer to interpret a recording in court, interpreters should comply but state, on the record, that they cannot guarantee the accuracy of the interpretation.

(1)[6] Interpreters should refrain from sight translating documents for the record. Rather, written

Supporting Documentation; Page 2 of 6

translations of documents offered in an evidentiary hearing should be prepared in advance. If ordered by the presiding officer to sight translate such documents, interpreters should comply but state, on the record, that they cannot guarantee the accuracy of the sight translation.

(1)[7] The ethical responsibility to interpret accurately includes being prepared for assignments. Interpreters are encouraged to obtain documents and other information necessary to familiarize themselves with the nature and purpose of an assignment. Prior preparation is described below; it is especially important when testimony or documents include highly specialized terminology and subject matter.

Preparation may include but is not limited to:

- (i) reviewing relevant documents, such as criminal complaints, police reports, briefs, witness lists, jury instructions, prior depositions, etc.;
- (ii) asking interpreters previously involved in the case for information on language use or style; or
- (iii) asking attorneys involved in the case for additional relevant information.

(2) COMPETENCE

Interpreters must not knowingly accept any assignment beyond their skill level. If at any point, before or during an assignment, they have ~~(c) When a language interpreter has any reservations about their ability~~ to satisfy an assignment competently, ~~they must~~ the interpreter shall immediately disclose this convey that reservation to all the parties and, if applicable, to the court. ~~If the communication mode or language of the non-English speaking person cannot be readily interpreted, the interpreter shall notify the appointing authority or the court.~~

In their professional capacity, interpreters must not give legal or other advice or engage in any activity that may be construed as a service other than interpreting or translating.

Comment

(2)[1] Interpreters are duty bound to inquire about the assignment in advance and assess their competence to render services.

(2)[2] Interpreters are not qualified to give written or oral counsel about a legal matter that could affect the rights and responsibilities of the person receiving the advice. GR 24 sets forth what constitutes the practice of law.

(2)[3] Interpreters should maintain and expand competence in their field through professional development. Professional development includes steady practice, professional training, ongoing education, terminology research, regular and frequent interaction with colleagues and specialists in related fields, and staying abreast of new technologies, current issues, laws, policies, rules, and regulations that affect their profession.

(2)[4] Interpreters should know and follow established protocols for delivering interpreting services. When speaking in English, interpreters should speak at a volume that enables them to be heard throughout the courtroom. They should interpret in the first person and refer to themselves in the third person.

(3) HONESTY AND INTEGRITY

Interpreters have an inviolable duty to provide honest services in which their behavior upholds the values outlined in this code. They must accurately represent their credentials, training, and relevant experience. Interpreters must not engage in conduct that impedes their compliance with this code or allow another to induce or encourage them to violate the law or this code.

Comment

(3)[1] It is essential that interpreters present a complete and truthful account of their credentials, training, and relevant experience prior to an assignment so that their ability to satisfy it competently can be fairly evaluated.

(4) IMPARTIALITY AND NEUTRALITY

Interpreters must faithfully render the source message without allowing their own views to interfere. They must refrain from conduct that may give an appearance of bias and must disclose any real or potential conflict of interest to all parties and the court, if applicable, as soon as they become aware of it.

Comment

(4)[1] Interpreters should strive for professional detachment. They should uphold impartiality by avoiding verbal and nonverbal displays of personal attitudes, prejudices, emotions, or opinions. Interpreters must faithfully render all statements, even those they find personally objectionable, without allowing their own views or opinions to interfere.

(4)[2] As officers of the court, interpreters serve the court and the public, regardless of whether publicly or privately retained. Interpreters must uphold neutrality by avoiding any behavior that creates the appearance of favoritism toward anyone. Interpreters should maintain professional relationships with persons using their services, discourage personal dependence on the interpreter, and avoid participation in the proceedings in any capacity other than providing interpreter services. During the course of the proceedings, interpreters should not converse with parties, witnesses, jurors, attorneys, or friends or relatives of any party, except in the discharge of their official functions.

(4)[3] Interpreters must not serve in any matter in which they have an interest, financial or otherwise, in the outcome, unless a specific exception is allowed by the judicial officer for good cause and noted on the record. Interpreters must not solicit or accept gifts or gratuities from any of the parties, even as a social courtesy, in order to maintain the appearance of neutrality. Interpreters must disclose to the

Supporting Documentation; Page 4 of 6

parties and/or the court any circumstance that creates a potential conflict of interest, including but not limited to the following:

- (i) the interpreter is a friend, associate, or relative of a party, witness, victim, or counsel;
- (ii) the interpreter or the interpreter's friend, associate, or relative has a financial interest in the case at issue, a shared financial interest with a party to the proceeding, or any other interest that might be affected by the outcome of the case;
- (iii) the interpreter has served in an investigative capacity for any party involved in the case;
- (iv) the interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue;
- (v) the interpreter is an attorney in the case at issue; or
- (vi) the interpreter has previously been retained for employment by one of the parties.

The existence of any one of the abovementioned circumstances should be evaluated by the parties and the court but should not automatically disqualify an interpreter from providing services. If an actual or perceived conflict of interest exists, the appropriate authorities should determine whether it is appropriate for the interpreter to withdraw based on the totality of the circumstances.

~~—(d) No language interpreter shall render services in any matter in which the interpreter is a potential witness, associate, friend, or relative of a contending party, unless a specific exception is allowed by the appointing authority for good cause noted on the record. Neither shall the interpreter serve in any matter in which the interpreter has an interest, financial or otherwise, in the outcome. Nor shall any language interpreter serve in a matter where the interpreter has participated in the choice of counsel.~~

(5) CONFIDENTIALITY Interpreters must not divulge privileged or other confidential information obtained in their professional capacity. They must refrain from making any public statement on matters in which they serve.

~~—(e) Except in the interpreter's official capacity, no language interpreter shall discuss, report, or comment upon a matter in which the person serves as interpreter. Interpreters shall not disclose any communication that is privileged by law without the written consent of the parties to the communication, or pursuant to court order.~~

Comment

(5)[1] Privileged communications take place within the context of a protected relationship, such as that between an attorney and client, a husband and wife, a priest and penitent, and a doctor and patient. The law often protects against forced disclosure of such conversations. Interpreters are bound to maintain the confidentiality of all privileged communications.

(5)[2] Interpreters are also routinely privy to communications that, while not necessarily privileged by law, are conveyed in confidence. In order to preserve the integrity of the judicial process, interpreters have an ongoing duty to refrain from disclosing information obtained in their professional capacity. This

duty is consistent with CJC 2.10.

~~—(f) A language interpreter shall report immediately to the appointing authority in the proceeding any solicitation or effort by another to induce or encourage the interpreter to violate any law, any provision of the rules which may be approved by the courts for the practice of language interpreting, or any provisions of this Code of Conduct.~~

~~—(g) Language interpreters shall not give legal advice and shall refrain from the unauthorized practice of law.~~

[Adopted effective November 17, 1989. Original Rule 11.1 was renumbered as Rule 11.2 effective September 1, 2005; amended effective April 26, 2016.]

WASHINGTON STATE BAR ASSOCIATION

TO: Board of Governors
FROM: Joy Williams, WSBA Diversity and Public Service Programs Manager
 Robin Nussbaum, WSBA Inclusion & Equity Specialist
RE: Diversity and Inclusion Events
DATE: February 21, 2019

WSBA Diversity and Inclusion Events

Education, Collaboration, and Partnership

Working closely with staff, volunteers and community partners throughout the legal community is foundational to the successful implementation of the diversity plan. WSBA participates in and provides a variety of opportunities to increase cross-cultural competency, awareness and engagement. Your participation communicates WSBA's commitment to representation and involvement in advancing inclusion.

Diversity & Inclusion Events for WSBA Staff and Volunteers			
When	What	How You Can Help	Who To Contact for More Info
Friday, March 1	Presentation: Diversity in Decision-Making Disciplinary Board	FYI only	Robin N.
Tuesday, March 5	Presentation: Diversity in Decision-Making Pro Bono and Public Service Committee	FYI only	Robin N.
Monday, March 18	Continuing the Conversation The role of art in healing	FYI only	Robin N.
Wednesday, April 10	Continuing the Conversation The effects of trauma and retraumatization	FYI only	Robin N.
Tuesday, May 7	Presentation: Diversity in Decision-Making Editorial Advisory Committee	FYI only	Robin N.

Washington State Minority Bar Association and other Diversity Events			
When	What	How You Can Help	Who To Contact for More Info
Friday, March 1	LBAW Annual Banquet	Attend if in the area	Joy or Dana



Tuesday, March 12	MBA Presidents Meeting	FYI	Joy or Dana
Tuesday, March 26	Legal Lunchbox Diversity themed CLE: Micro-aggressions	View Webcast	Joy or Dana
Friday, March 29	QLAW Annual Banquet	Attend if in the area	Joy or Dana
Thursday, April 19	Equity and Justice Mixer – Tri Cities	Attend if in the area	Joy or Dana
Tuesday, April 23	WSBA Presents CLE: Leadership, Bias and Difficult Conversations	View Webcast	Joy
Mon - Tuesday, April 29-30	Van Ness Feldman - Half Day CLE: Leadership for Equitable Outcomes	FYI	Joy

Contact Information

Joy: joyw@wsba.org or 206.733.5952

Dana: danab@wsba.org or 206.733.5945

Robin: robinn@wsba.org or 206.727.8322

Margaret: margarets@wsba.org or 206.727.8244

Frances: francesd@wsba.org or 206.727.8222

Terra: terran@wsba.org or 206.727.8282

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Tiffany Lynch, Associate Director of Finance
Ann Holmes, Chief Operations Officer

Re: Results through December 31, 2018 (25% of fiscal year)

Date: February 27, 2019

Attached are the year-to-date financial statements through December 2018, which show that most revenue and expenses are within acceptable ranges of the budgeted amounts. Below is a summary of revenue and expense highlights through December 31, 2018, 25% of the fiscal year completed.

REVENUE AND EXPENSE ANALYSIS

General Fund Revenues

- *Licensing revenue* is slightly under budget at 24.51%. The license fees to date include fees of \$449 for the 4th quarter of the 2018 calendar year. The last three quarters of fiscal year 2019 will reflect the 2019 calendar year annual license fee of \$453. A majority of the 2019 license fee revenue is collected in January and February; after that time, we will have a better idea of how license fee revenue is trending to budget. Collection trends through January are consistent with prior years.
- *Gain/Loss on Investments and Interest Income* is currently higher than budget at 31.52%. The majority of our investment portfolio is in bonds, which are performing well based on our conservative budget. Interest income return on cash balances are higher than expected at this time.
- *Bar Exam and LPO Examination Fees* are currently higher than budget at 32.84% due to timing of fees collected for the February exam.
- *Diversity and Public Service Programs Grant revenue* is over budget at 125.0%. We receive monies from the Washington State Bar Foundation at the beginning of each year so we can fund WSBA programs and events. This year we received \$55,000 more than budgeted.
- *Pro Hac Vice Revenue* continues to be a solid source of revenue for WSBA, coming in at 34.33% of budget. This is on par with the revenue collection pattern in FY18.
- *Mandatory CLE Revenue (aggregate)* is higher than budget at 30.38%. As of December, 100% of the budget Annual Accredited Sponsor Fees have been collected, as well as higher collections on almost all other MCLE fees. FY19 fees are based on an updated fee schedule and we expect collections to continue to come in strong over the remaining months of the year.

- *New Member Product Sales Revenue* is higher than budget at 64.42%. Revenue collection is typically higher in Q1, as members look to fulfill their annual CLE obligations by the end of the calendar year. The majority of sales is derived from WSBA programs focused on Business Law and Estate Planning, as well as the Trial Advocacy Program recordings.
- *NW Lawyer Display Advertising Revenue* is under budget with nothing collected as of December 31st. This is mainly due to timing of collection. The revenue for the October issue of NW Lawyer (which was published in November) will be collected in January from the WSBA's contracted advertising agency.
- *Reimbursement from Sections* revenue for the WSBA Per-Member charge is at 0.91%. Section dues are generally collected during January and February and the corresponding Per-Member Charge allocation will follow suit.

Indirect Expenses

Salaries for regular employees are on budget at 24.93%. *Overall salary expense (regular staff and temps)* are slightly over budget at 25.65% due to higher expenses from seasonal temporary employees and lower capital labor expense offset which is dependent upon project timing. We anticipate will come in at budget for the year. *Employee benefits* are slightly under budget at 24.67%, which is in line with salary expense.

Other Indirect Expenses are slightly over budget at 26.79%. Expenses such as *rent, insurance, bank fees, depreciation, postage, staff training*, etc. are at or below budget. Areas that are higher than budget include: *Personal Property Tax* at 34.58% due to higher than anticipated property tax rates; *Office Supplies and Equipment* at 32.98% due to annual fees paid for mailing equipment; *Professional Fees- Audit* at 83.77% as a result of payments for our recently completed annual audit; *Professional Fees- Legal* at 37.27% from ongoing litigation of WSBA matters; and *Computer Pooled Expenses* at 37.32% resulting from the annual renewal of a number of software licenses, hardware maintenance agreements, and third party service contract renewals that took place in Q1.

General Fund Direct Expenses

Direct expenses are under budget in a variety of areas. However, it is too soon to predict whether this overall trend will carry through the remainder of the year. Some key areas follow:

- *Admission/Bar Exam* expenses are under budget at 4.21%, which is driven by the timing of the bar exams. These direct expenses will pick up over the course of the year and we expect them to approach budget.
- *Washington Leadership Institute* expense of \$60,000 has been paid in full. No further payment is expected for the year.
- *Communication Strategies* expense is under budget at 16.62%; however, 60% of the \$104,800 direct expense budget is for the annual awards dinner, which will take place toward the end of the fiscal year.
- *Human Resources direct expenses* are under budget at 14.74% mainly due to timing and need for spending for items such as staff training, consulting services, and recruiting and advertising.

- *Legislative Committee* expense is higher than budget at 79.09%; however, the majority of Committee activity occurs between October and December, ahead of the legislative session. It is unlikely that there will be additional expenses for the rest of the fiscal year.
- *Public Service* expenses are lower than budget at .31%; however, the majority of expenses is related to the Moderate Means Program funding to the three law schools in Washington. Those payments will likely be made in January and February.

Continuing Legal Education (CLE)

Total CLE revenue of \$777,378 came in above budget at 38.12%. Historically, Q1 is a strong revenue quarter for CLE as members are fulfilling their annual CLE obligation. Seminar registration revenue is at 28.07% and product revenue came in at 52.04 % driven by online MP3 and video sales. Overall Deskbook revenue is under budget at 18.97%, mainly due to lower Casemaker Royalty payments received as of December. Deskbook Sales and Section Publication Sales are higher than budget at 25.76% and 37.50% respectively.

CLE Indirect expenses are slightly over budget at 25.71%. CLE Direct expenses are below budget at 13.98%. It is early in the year, and direct expenses are lower than budget because programming costs have yet to be incurred. Deskbook Direct Expenses are higher than budget at 29.30%, because they are predominately tied to deskbook sales.

Client Protection Fund (CPF)

CPF revenues are slightly higher than budget at 36.16% collected. We expect to see the majority of revenues come in over January and February with annual licensing payments. Based on the known fees collected so far, it is likely that the CPF assessment revenue will come in on budget at the end of the year. Currently, total CPF direct expenses are below budget at 10.18% due to the time of payments of gifts to injured clients, which are typically paid at the end of the fiscal year. Indirect expenses are slightly under budget at 22.96%, and are expected to trend to budget throughout the year.

WASHINGTON STATE
BAR ASSOCIATION

Financial Reports

(Unaudited)

Year to Date December 31, 2018

Prepared by Tiffany Lynch, Associate Director for Finance

Submitted by

Ann Holmes, Chief Operations Officer

January 25, 2019

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Tiffany Lynch, Associate Director for Finance

Re: Key Financial Benchmarks for the Fiscal Year to Date (YTD) through December 31, 2018

Date: January 23, 2019

	% of Year	Current Year % YTD	Current Year \$ Difference ¹	Prior Year YTD	Comments
Salaries	25.00%	24.93%/25.65% ²	\$8,417/\$75,012 ² (Under/Over budget)	25.21%	Slightly higher due to timing of expenses, expected to be on budget
Benefits	25.00%	24.67%	\$14,157 (Under budget)	25.59%	Expected to be on budget
Other Indirect Expenses	25.00%	26.79%	\$62,192 (Over budget)	23.25%	Slightly higher due to timing of expenses, expected to be on budget
Total Indirect Expenses	25.00%	25.64%	\$123,048 (Over budget)	24.93%	Expected to be on budget

General Fund Revenues	25.00%	25.91%	\$184,837 (Over budget)	24.00%	Expected to be on budget
General Fund Direct Expenses	25.00%	15.67%	\$235,640 (Under budget)	14.09%	Expected to be on or slightly under budget

CLE Revenue	25.00%	38.12%	\$267,503 (Over budget)	24.00%	Expected to be on budget
CLE Direct Expenses	25.00%	16.28%	\$40,392 (Under budget)	14.09%	Expected to be on budget
CLE Indirect Expenses	25.00%	25.71%	\$9,704 (Over budget)	24.00%	Expected to be on budget

¹ Dollar difference is calculated based on pro-rated budget figures (total annual budget figures divided by 12 months) minus actual revenue and expense amounts as of November 30, 2018 (2 months into the fiscal year).

² The first figure represents salaries expense for regular employees. The second figure represents salaries expense for regular and temporary staff with offsets from allowance for open positions and capital labor & overhead.

Washington State Bar Association Financial Summary
Year to Date as of December 31, 2018 25% of Year
Compared to Fiscal Year 2019 Budget

Category	Actual Revenues	Budgeted Revenues	Actual Indirect Expenses	Budgeted Indirect Expenses	Actual Direct Expenses	Budgeted Direct Expenses	Actual Total Expenses	Budgeted Total Expenses	Actual Net Result	Budgeted Net Result
Access to Justice	-	7,500	69,438	271,867	3,617	62,957	73,054	334,824	(73,054)	(327,324)
Administration	32,966	100,000	289,577	1,138,769	(2,099)	4,885	287,478	1,143,654	(254,512)	(1,043,654)
Admissions/Bar Exam	412,545	1,327,400	213,677	841,048	17,558	416,931	231,235	1,257,979	181,310	69,421
Board of Governors	-	-	135,232	530,178	83,434	304,531	218,666	834,709	(218,666)	(834,709)
Communications Strategies	860	50,750	148,569	550,782	17,413	104,800	165,982	655,582	(165,122)	(604,832)
Conference & Broadcast Services	-	-	197,952	780,393	1,418	3,500	199,370	783,893	(199,370)	(783,893)
Discipline	18,188	96,200	1,435,632	5,664,008	38,742	220,267	1,474,373	5,884,275	(1,456,185)	(5,786,075)
Diversity	138,865	120,374	137,871	544,641	-4,141	21,550	142,012	566,191	(3,147)	(445,817)
Foundation	-	-	38,867	150,663	573	14,200	39,440	164,863	(39,440)	(164,863)
Human Resources	-	-	99,945	204,958	-	-	99,945	204,958	(99,945)	(204,958)
Law Clerk Program	38,449	166,000	36,320	142,665	843	11,350	37,165	154,015	1,280	11,985
Legislative	-	-	34,665	135,416	3,863	18,650	38,529	154,066	(38,529)	(154,066)
Licensing and Membership Records	94,943	304,350	160,833	636,327	11,467	45,812	172,300	682,139	(77,357)	(377,780)
Licensing Fees	3,911,520	15,958,200	-	-	-	-	-	-	3,911,520	15,958,200
Limited License Legal Technician	-	-	56,092	215,591	6,035	25,600	62,127	241,191	(62,127)	(241,191)
Limited Practice Officers	-	-	41,484	168,653	753	3,000	42,237	156,182	(42,237)	(171,653)
Mandatory CLE	318,971	1,050,000	169,817	620,981	62,279	252,448	232,096	873,429	88,875	176,571
Member Assistance Program	2,267	10,000	36,060	141,224	0	1,275	36,060	142,499	(33,793)	(132,499)
Member Benefits	10,045	17,000.00	22,789	92,611	35,801	185,096	58,570	277,707	(48,525)	(260,707)
Member Services & Engagement	56,838	141,200.00	121,822	505,614	4,570	56,085	126,391	561,679	(69,553)	(420,479)
NW Lawyer	62,089	461,350	73,589	302,818	67,725	355,635	141,313	658,453	(79,224)	(197,103)
Office of General Counsel	330	-	211,315	928,680	748	13,076	212,063	941,756	(211,733)	(941,756)
OGC-Disciplinary Board	-	-	43,548	187,073	17,912	103,500	61,459	290,573	(61,459)	(290,573)
Outreach and Engagement	-	-	94,827	371,046	2,913	30,852	97,740	401,898	(97,740)	(401,898)
Practice of Law Board	-	-	11,779	74,063	2,628	16,000	14,400	90,063	(14,400)	(90,063)
Professional Responsibility Program	-	-	66,082	258,870	1,935	6,700	68,018	265,570	(68,018)	(265,570)
Public Service Programs	138,805	112,000	31,085	142,504	801	232,415	31,887	374,919	108,918	(282,919)
Publication and Design Services	-	-	40,178	141,602	4,100	5,283	44,278	146,865	(44,278)	(146,865)
Sections Administration	2,738	300,000	129,568	515,018	6,803	9,297	136,171	524,315	(133,433)	(224,315)
Technology	-	-	417,495	1,540,222	-	-	417,495	1,540,222	(417,495)	(1,540,222)
Subtotal General Fund	5,240,418	20,222,324	4,566,091	17,798,285	395,774	2,525,655	4,981,864	20,323,940	278,554	(101,818)
Expenses using reserve funds	-	-	-	-	-	-	4,981,864	-	-	-
Total General Fund - Net Result from Operations	25.91%		25.65%		15.67%		24.41%		278,554	(101,818)
Percentage of Budget										
CLE-Seminars and Products	747,022	1,879,500	295,814	1,150,797	55,068	393,776	350,692	1,544,573	396,340	334,927
CLE - Deskbooks	30,356	160,000	56,286	217,303	20,332	69,360	76,618	286,693	(46,263)	(126,693)
Total CLE	777,378	2,039,500	351,900	1,368,100	75,400	463,166	427,300	1,831,266	350,078	208,234
Percentage of Budget	38.12%		25.72%		16.28%		23.33%			
Total All Sections	22,718	544,140	-	-	54,376	841,025	54,376	841,025	(31,658)	(296,885)
Client Protection Fund-Restricted	358,860	992,500	37,706	164,210	51,314	504,000	80,020	668,210	269,840	324,290
Management of Western States Bar Conference (No WSBA Funds)	200	68,200	-	-	909	62,800	909	62,800	(709)	5,400
Totals	6,999,573	23,866,864	4,955,697	19,330,595	577,772	4,396,646	5,533,469	23,727,241	866,104	139,423
Percentage of Budget	28.61%		25.64%		19.14%		23.32%			

Summary of Fund Balances:	Fund Balances Sept. 30, 2018	2019 Budgeted Fund Balances	Fund Balances Year to date
Restricted Funds:			
Client Protection Fund	3,227,988	3,652,278	3,497,828
Western States Bar Conference	8,340	13,740	7,630,96
Board-Designated Funds (Non-General Fund):			
CLE Fund Balance	604,125	812,359	954,203
Section Funds	1,160,343	863,458	1,128,885
Board-Designated Funds (General Fund):			
Operating Reserve Fund	1,500,000	1,500,000	1,500,000
Facilities Reserve Fund	450,000	450,000	450,000
Unrestricted Funds (General Fund):			
Unrestricted General Fund	1,845,858	1,744,242	2,124,412
Total General Fund Balance	3,795,858	3,694,242	4,074,412
Net Change in general Fund Balance		(101,616)	278,554
Total Fund Balance	8,796,854	8,936,077	9,662,758
Net Change in Fund Balance		139,423	866,104

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2018 to December 31, 2018

25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LICENSE FEES					
REVENUE:					
LICENSE FEES	15,778,000.00	1,301,048.22	3,882,498.68	11,895,501.32	24.61%
LLLT LICENSE FEES	5,800.00	676.00	2,049.45	3,750.55	35.34%
LPO LICENSE FEES	174,400.00	9,034.40	26,972.04	147,427.96	15.47%
TOTAL REVENUE:	15,958,200.00	1,310,758.62	3,911,520.17	12,046,679.83	24.51%

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2018 to December 31, 2018
25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
ACCESS TO JUSTICE					
REVENUE:					
CONFERENCES & INSTITUTES	7,500.00	-	-	7,500.00	0%
TOTAL REVENUE:	7,500.00	-	-	7,500.00	0%
DIRECT EXPENSES:					
PRO BONO & LEGAL AID COMMITTEE	-	(78.81)	-	-	
ATJ BOARD RETREAT	2,000.00	-	-	2,000.00	0.00%
LEADERSHIP TRAINING	2,000.00	-	-	2,000.00	0.00%
ATJ BOARD EXPENSE	24,000.00	1,040.83	2,876.88	21,123.12	11.99%
STAFF TRAVEL/PARKING	3,500.00	82.40	126.92	3,373.08	3.63%
STAFF MEMBERSHIP DUES	120.00	100.00	100.00	20.00	83.33%
PUBLIC DEFENSE	7,000.00	197.46	512.97	6,487.03	7.33%
CONFERENCE/INSTITUTE EXPENSE	14,837.00	-	-	14,837.00	0.00%
RECEPTION/FORUM EXPENSE	9,500.00	-	-	9,500.00	0.00%
TOTAL DIRECT EXPENSES:	62,957.00	1,341.88	3,616.77	59,340.23	5.74%
INDIRECT EXPENSES:					
SALARY EXPENSE (2.10 FTE)	160,817.00	14,055.27	40,915.67	119,901.33	25.44%
BENEFITS EXPENSE	59,156.00	5,779.00	14,634.50	44,521.50	24.74%
OTHER INDIRECT EXPENSE	51,894.00	4,048.93	13,887.47	38,006.53	26.76%
TOTAL INDIRECT EXPENSES:	271,867.00	23,883.20	69,437.64	202,429.36	25.54%
TOTAL ALL EXPENSES:	334,824.00	25,225.08	73,054.41	261,769.59	21.82%
NET INCOME (LOSS):	(327,324.00)	(25,225.08)	(73,054.41)		

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2018 to December 31, 2018
25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
ADMINISTRATION					
REVENUE:					
INTEREST INCOME	70,000.00	11,501.50	23,367.34	46,632.66	33.38%
GAIN/LOSS ON INVESTMENTS	30,000.00	15,338.04	8,153.51	21,846.49	27.18%
MISCELLANEOUS	-	1,445.25	1,445.25	(1,445.25)	
TOTAL REVENUE:	100,000.00	28,284.79	32,966.10	67,033.90	32.97%
DIRECT EXPENSES:					
CREDIT CARD MERCHANT FEES	-	(515.44)	(5,775.39)	5,775.39	
STAFF TRAVEL/PARKING	4,200.00	350.00	1,050.00	3,150.00	25.00%
STAFF MEMBERSHIP DUES	685.00	-	294.17	390.83	42.94%
MISCELLANEOUS	-	2,332.20	2,332.20	(2,332.20)	
TOTAL DIRECT EXPENSES:	4,885.00	2,166.76	(2,099.02)	6,984.02	-42.97%
INDIRECT EXPENSES:					
SALARY EXPENSE (7.97 FTE)	700,100.00	62,707.74	176,718.25	523,381.75	25.24%
BENEFITS EXPENSE	241,718.00	23,898.14	60,105.17	181,612.83	24.87%
OTHER INDIRECT EXPENSE	196,951.00	15,380.58	52,753.88	144,197.12	26.79%
TOTAL INDIRECT EXPENSES:	1,138,769.00	101,986.46	289,577.30	849,191.70	25.43%
TOTAL ALL EXPENSES:	1,143,654.00	104,153.22	287,478.28	856,175.72	25.14%
NET INCOME (LOSS):	(1,043,654.00)	(75,868.43)	(254,512.18)		

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2018 to December 31, 2018
25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
ADMISSIONS					
REVENUE:					
EXAM SOFT REVENUE	35,000.00	-	-	35,000.00	0.00%
BAR EXAM FEES	1,200,000.00	31,425.00	387,875.00	812,125.00	32.32%
SPECIAL ADMISSIONS	60,000.00	3,685.00	8,610.00	51,390.00	14.35%
LLLT EXAM FEES	7,500.00	-	1,810.00	5,690.00	24.13%
LLLT WAIVER FEES	900.00	-	150.00	750.00	16.67%
LPO EXAMINATION FEES	24,000.00	300.00	14,100.00	9,900.00	58.75%
TOTAL REVENUE:	1,327,400.00	35,410.00	412,545.00	914,855.00	31.08%
DIRECT EXPENSES:					
DEPRECIATION	17,776.00	-	-	17,776.00	0.00%
POSTAGE	4,000.00	102.82	797.05	3,202.95	19.93%
STAFF TRAVEL/PARKING	13,000.00	350.00	1,050.00	11,950.00	8.08%
STAFF MEMBERSHIP DUES	400.00	-	-	400.00	0.00%
SUPPLIES	2,500.00	-	-	2,500.00	0.00%
FACILITY, PARKING, FOOD	70,000.00	-	5,750.00	64,250.00	8.21%
EXAMINER FEES	35,000.00	-	-	35,000.00	0.00%
UBE EXMINATIONS	130,000.00	-	-	130,000.00	0.00%
BOARD OF BAR EXAMINERS	25,000.00	(283.62)	-	25,000.00	0.00%
BAR EXAM PROCTORS	31,000.00	-	-	31,000.00	0.00%
CHARACTER & FITNESS BOARD	20,000.00	1,508.83	5,311.62	14,688.38	26.56%
DISABILITY ACCOMMODATIONS	20,000.00	-	-	20,000.00	0.00%
CHARACTER & FITNESS INVESTIGATIONS	900.00	-	-	900.00	0.00%
LAW SCHOOL VISITS	1,000.00	-	615.12	384.88	61.51%
EXAM WRITING	28,355.00	-	-	28,355.00	0.00%
COURT REPORTERS	18,000.00	1,953.40	4,034.10	13,965.90	22.41%
TOTAL DIRECT EXPENSES:	416,931.00	3,631.43	17,557.89	399,373.11	4.21%
INDIRECT EXPENSES:					
SALARY EXPENSE (6.30 FTE)	496,503.00	43,017.82	125,182.62	371,320.38	25.21%
BENEFITS EXPENSE	188,862.00	18,377.84	46,738.77	142,123.23	24.75%
OTHER INDIRECT EXPENSE	155,683.00	12,174.00	41,755.68	113,927.32	26.82%
TOTAL INDIRECT EXPENSES:	841,048.00	73,569.66	213,677.07	627,370.93	25.41%
TOTAL ALL EXPENSES:	1,257,979.00	77,201.09	231,234.96	1,026,744.04	18.38%
NET INCOME (LOSS):	69,421.00	(41,791.09)	181,310.04		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
BOG/OED					
REVENUE:	<u> </u>				
TOTAL REVENUE:	<u> </u>				
DIRECT EXPENSES:	<u> </u>				
STAFF TRAVEL/PARKING	5,400.00	450.00	1,350.00	4,050.00	25.00%
STAFF MEMBERSHIP DUES	2,131.00	-	400.00	1,731.00	18.77%
TELEPHONE	1,000.00	-	149.95	850.05	15.00%
WASHINGTON LEADERSHIP INSTITUTE	60,000.00	-	60,000.00	-	100.00%
BOG MEETINGS	117,000.00	2,113.64	5,599.20	111,400.80	4.79%
BOG COMMITTEES' EXPENSES	30,000.00	2,284.16	6,365.68	23,634.32	21.22%
BOG CONFERENCE ATTENDANCE	49,000.00	945.60	2,418.10	46,581.90	4.93%
BOG TRAVEL & OUTREACH	35,000.00	3,450.03	6,202.36	28,797.64	17.72%
ED TRAVEL & OUTREACH	5,000.00	94.12	948.50	4,051.50	18.97%
TOTAL DIRECT EXPENSES:	<u>304,531.00</u>	<u>9,337.55</u>	<u>83,433.79</u>	<u>221,097.21</u>	<u>27.40%</u>
INDIRECT EXPENSES:					
SALARY EXPENSE (2.45 FTE)	361,878.00	30,091.85	91,966.83	269,911.17	25.41%
BENEFITS EXPENSE	107,757.00	11,028.17	27,047.63	80,709.37	25.10%
OTHER INDIRECT EXPENSE	60,543.00	4,728.30	16,217.62	44,325.38	26.79%
TOTAL INDIRECT EXPENSES:	<u>530,178.00</u>	<u>45,848.32</u>	<u>135,232.08</u>	<u>394,945.92</u>	<u>25.51%</u>
TOTAL ALL EXPENSES:	<u>834,709.00</u>	<u>55,185.87</u>	<u>218,665.87</u>	<u>616,043.13</u>	<u>26.20%</u>
NET INCOME (LOSS):	<u>(834,709.00)</u>	<u>(55,185.87)</u>	<u>(218,665.87)</u>		

Washington State Bar Association
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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
COMMUNICATION STRATEGIES					
REVENUE:					
APEX LUNCH/DINNER	50,000.00	-	-	50,000.00	0.00%
50 YEAR MEMBER TRIBUTE LUNCH	750.00	-	300.00	450.00	40.00%
WSBA LOGO MERCHANDISE SALES	-	-	560.00	(560.00)	
TOTAL REVENUE:	50,750.00	-	860.00	49,890.00	1.69%
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	4,700.00	350.00	1,050.00	3,650.00	22.34%
STAFF MEMBERSHIP DUES	1,000.00	135.00	430.00	570.00	43.00%
SUBSCRIPTIONS	10,050.00	36.31	137.39	9,912.61	1.37%
DIGITAL/ONLINE DEVELOPMENT	1,450.00	-	10.00	1,440.00	0.69%
APEX DINNER	63,000.00	-	-	63,000.00	0.00%
50 YEAR MEMBER TRIBUTE LUNCH	8,000.00	584.85	8,458.95	(458.95)	105.74%
COMMUNICATIONS OUTREACH	15,000.00	3,205.08	6,882.46	8,117.54	45.88%
SPEAKERS & PROGRAM DEVELOP	1,600.00	-	-	1,600.00	0.00%
EQUIPMENT, HARDWARE & SOFTWARE	-	-	384.25	(384.25)	
TELEPHONE	-	26.68	53.36	(53.36)	
CONFERENCE CALLS	-	-	6.91	(6.91)	
TOTAL DIRECT EXPENSES:	104,800.00	4,337.92	17,413.32	87,386.68	16.62%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.62 FTE)	312,393.00	32,005.25	87,323.52	225,069.48	27.95%
BENEFITS EXPENSE	124,221.00	11,992.98	30,674.44	93,546.56	24.69%
OTHER INDIRECT EXPENSE	114,168.00	8,913.13	30,571.15	83,596.85	26.78%
TOTAL INDIRECT EXPENSES:	550,782.00	52,911.36	148,569.11	402,212.89	26.97%
TOTAL ALL EXPENSES:	655,582.00	57,249.28	165,982.43	489,599.57	25.32%
NET INCOME (LOSS):	(604,832.00)	(57,249.28)	(165,122.43)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
CONFERENCE & BROADCAST SERVICES					
REVENUE:	<u> </u>				
TOTAL REVENUE:	<u> </u>				
DIRECT EXPENSES:	<u> </u>				
TRANSLATION SERVICES	3,500.00	505.60	1,418.05	2,081.95	40.52%
TOTAL DIRECT EXPENSES:	<u>3,500.00</u>	<u>505.60</u>	<u>1,418.05</u>	<u>2,081.95</u>	<u>40.52%</u>
INDIRECT EXPENSES:					
SALARY EXPENSE (7.15 FTE)	429,625.00	41,044.57	109,281.78	320,343.22	25.44%
BENEFITS EXPENSE	174,080.00	15,897.12	41,322.28	132,757.72	23.74%
OTHER INDIRECT EXPENSE	<u>176,688.00</u>	<u>13,804.43</u>	<u>47,347.93</u>	<u>129,340.07</u>	<u>26.80%</u>
TOTAL INDIRECT EXPENSES:	<u>780,393.00</u>	<u>70,746.12</u>	<u>197,951.99</u>	<u>582,441.01</u>	<u>25.37%</u>
TOTAL ALL EXPENSES:	<u>783,893.00</u>	<u>71,251.72</u>	<u>199,370.04</u>	<u>584,522.96</u>	<u>25.43%</u>
NET INCOME (LOSS):	<u>(783,893.00)</u>	<u>(71,251.72)</u>	<u>(199,370.04)</u>		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
DISCIPLINE					
REVENUE:					
AUDIT REVENUE	3,200.00	106.25	340.00	2,860.00	10.63%
RECOVERY OF DISCIPLINE COSTS	80,000.00	5,095.00	14,131.22	65,868.78	17.66%
DISCIPLINE HISTORY SUMMARY	13,000.00	1,175.84	3,717.01	9,282.99	28.59%
TOTAL REVENUE:	96,200.00	6,377.09	18,188.23	78,011.77	18.91%
DIRECT EXPENSES:					
DEPRECIATION-SOFTWARE	7,123.00	859.00	2,576.00	4,547.00	36.16%
PUBLICATIONS PRODUCTION	444.00	-	211.25	232.75	47.58%
STAFF TRAVEL/PARKING	35,000.00	2,013.89	6,522.25	28,477.75	18.64%
STAFF MEMBERSHIP DUES	3,900.00	-	1,425.00	2,475.00	36.54%
TELEPHONE	2,300.00	186.46	558.84	1,741.16	24.30%
COURT REPORTERS	55,000.00	1,882.80	5,414.43	49,585.57	9.84%
OUTSIDE COUNSEL/AIC	2,000.00	-	-	2,000.00	0.00%
LITIGATION EXPENSES	25,000.00	1,731.95	5,129.71	19,870.29	20.52%
DISABILITY EXPENSES	7,500.00	-	2,500.00	5,000.00	33.33%
ONLINE LEGAL RESEARCH	68,000.00	5,583.92	11,273.63	56,726.37	16.58%
LAW LIBRARY	12,500.00	2,430.28	2,878.39	9,621.61	23.03%
TRANSLATION SERVICES	1,500.00	247.89	247.89	1,252.11	16.53%
CONFERENCE CALLS	-	-	4.16	(4.16)	
TOTAL DIRECT EXPENSES:	220,267.00	14,936.19	38,741.55	181,525.45	17.59%
INDIRECT EXPENSES:					
SALARY EXPENSE (36.88 FTE)	3,556,329.00	307,299.92	893,282.65	2,663,046.35	25.12%
BENEFITS EXPENSE	1,196,316.00	119,254.32	298,246.21	898,069.79	24.93%
OTHER INDIRECT EXPENSE	911,363.00	71,169.01	244,103.03	667,259.97	26.78%
TOTAL INDIRECT EXPENSES:	5,664,008.00	497,723.25	1,435,631.89	4,228,376.11	25.35%
TOTAL ALL EXPENSES:	5,884,275.00	512,659.44	1,474,373.44	4,409,901.56	25.06%
NET INCOME (LOSS):	(5,788,075.00)	(506,282.35)	(1,456,185.21)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
DIVERSITY					
REVENUE:					
DONATIONS	110,000.00	-	137,500.00	(27,500.00)	125.00%
WORK STUDY GRANTS	10,374.00	682.50	1,365.00	9,009.00	13.16%
TOTAL REVENUE:	120,374.00	682.50	138,865.00	(18,491.00)	115.36%
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	6,000.00	36.56	992.30	5,007.70	16.54%
STAFF MEMBERSHIP DUES	350.00	-	-	350.00	0.00%
COMMITTEE FOR DIVERSITY	5,000.00	89.28	1,144.27	3,855.73	22.89%
DIVERSITY EVENTS & PROJECTS	10,000.00	-	2,004.42	7,995.58	20.04%
INTERNAL DIVERSITY OUTREACH	200.00	-	-	200.00	0.00%
TOTAL DIRECT EXPENSE:	21,550.00	125.84	4,140.99	17,409.01	19.22%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.05 FTE)	328,835.00	28,609.47	82,297.69	246,537.31	25.03%
BENEFITS EXPENSE	115,724.00	11,364.77	28,730.25	86,993.75	24.83%
OTHER INDIRECT EXPENSE	100,082.00	7,826.16	26,842.98	73,239.02	26.82%
TOTAL INDIRECT EXPENSES:	544,641.00	47,800.40	137,870.92	406,770.08	25.31%
TOTAL ALL EXPENSES:	566,191.00	47,926.24	142,011.91	424,179.09	25.08%
NET INCOME (LOSS):	(445,817.00)	(47,243.74)	(3,146.91)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
FOUNDATION					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
CONSULTING SERVICES	3,000.00	-	-	3,000.00	0.00%
PRINTING & COPYING	800.00	-	494.90	305.10	61.86%
STAFF TRAVEL/PARKING	1,400.00	11.99	11.99	1,388.01	0.86%
SUPPLIES	500.00	-	-	500.00	0.00%
SPECIAL EVENTS	5,000.00	-	-	5,000.00	0.00%
BOARD OF TRUSTEES	3,000.00	66.29	66.29	2,933.71	2.21%
POSTAGE	500.00	-	-	500.00	0.00%
TOTAL DIRECT EXPENSES:	14,200.00	78.28	573.18	13,626.82	4.04%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.15 FTE)	89,538.00	7,862.32	23,130.10	66,407.90	25.83%
BENEFITS EXPENSE	32,707.00	3,199.62	8,093.66	24,613.34	24.75%
OTHER INDIRECT EXPENSE	28,418.00	2,228.26	7,642.75	20,775.25	26.89%
TOTAL INDIRECT EXPENSES:	150,663.00	13,290.20	38,866.51	111,796.49	25.80%
TOTAL ALL EXPENSES:	164,863.00	13,368.48	39,439.69	125,423.31	23.92%
NET INCOME (LOSS):	(164,863.00)	(13,368.48)	(39,439.69)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
HUMAN RESOURCES					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	150.00	-	220.00	(70.00)	146.67%
STAFF MEMBERSHIP DUES	1,250.00	219.00	438.00	812.00	35.04%
SUBSCRIPTIONS	2,100.00	-	154.80	1,945.20	7.37%
STAFF TRAINING- GENERAL	30,000.00	804.71	1,808.71	28,191.29	6.03%
RECRUITING AND ADVERTISING	7,000.00	1,022.03	1,396.49	5,603.51	19.95%
PAYROLL PROCESSING	49,000.00	3,462.56	10,529.42	38,470.58	21.49%
SALARY SURVEYS	2,900.00	545.00	545.00	2,355.00	18.79%
CONSULTING SERVICES	10,000.00	-	-	10,000.00	0.00%
TRANSFER TO INDIRECT EXPENSE	(102,400.00)	(6,053.30)	(15,092.42)	(87,307.58)	14.74%
TOTAL DIRECT EXPENSES:	-	-	-	-	
INDIRECT EXPENSES:					
SALARY EXPENSE (2.45 FTE)	260,398.00	21,340.39	62,765.98	197,632.02	24.10%
ALLOWANCE FOR OPEN POSITIONS	(200,000.00)	-	-	(200,000.00)	0.00%
BENEFITS EXPENSE	84,017.00	8,411.72	20,961.75	63,055.25	24.95%
OTHER INDIRECT EXPENSE	60,543.00	4,728.28	16,217.59	44,325.41	26.79%
TOTAL INDIRECT EXPENSES:	204,958.00	34,480.39	99,945.32	105,012.68	48.76%
TOTAL ALL EXPENSES:	204,958.00	34,480.39	99,945.32	105,012.68	48.76%
NET INCOME (LOSS):	(204,958.00)	(34,480.39)	(99,945.32)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LAW CLERK PROGRAM					
REVENUE:					
LAW CLERK FEES	162,000.00	35,224.00	37,849.00	124,151.00	23.36%
LAW CLERK APPLICATION FEES	4,000.00	200.00	600.00	3,400.00	15.00%
TOTAL REVENUE:	166,000.00	35,424.00	38,449.00	127,551.00	23.16%
DIRECT EXPENSES:					
SUBSCRIPTIONS	250.00	-	-	250.00	0.00%
CHARACTER & FITNESS INVESTIGATIONS	100.00	-	-	100.00	0.00%
LAW CLERK BOARD EXPENSE	6,000.00	424.48	842.81	5,157.19	14.05%
LAW CLERK OUTREACH	5,000.00	-	-	5,000.00	0.00%
TOTAL DIRECT EXPENSES:	11,350.00	424.48	842.81	10,507.19	7.43%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.10 FTE)	84,449.00	7,341.72	21,367.68	63,081.32	25.30%
BENEFITS EXPENSE	31,033.00	3,034.23	7,688.41	23,344.59	24.77%
OTHER INDIRECT EXPENSE	27,183.00	2,119.57	7,269.96	19,913.04	26.74%
TOTAL INDIRECT EXPENSES:	142,665.00	12,495.52	36,326.05	106,338.95	25.46%
TOTAL ALL EXPENSES:	154,015.00	12,920.00	37,168.86	116,846.14	24.13%
NET INCOME (LOSS):	11,985.00	22,504.00	1,280.14	-	

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LEGISLATIVE					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	4,550.00	-	(95.61)	4,645.61	-2.10%
STAFF MEMBERSHIP DUES	450.00	-	-	450.00	0.00%
SUBSCRIPTIONS	2,000.00	1,981.80	1,981.80	18.20	99.09%
TELEPHONE	400.00	-	-	400.00	0.00%
OLYMPIA RENT	2,500.00	-	-	2,500.00	0.00%
CONTRACT LOBBYIST	5,000.00	-	-	5,000.00	0.00%
LOBBYIST CONTACT COSTS	1,000.00	-	-	1,000.00	0.00%
LEGISLATIVE COMMITTEE	2,500.00	718.94	1,977.30	522.70	79.09%
BOG LEGISLATIVE COMMITTEE	250.00	-	-	250.00	0.00%
TOTAL DIRECT EXPENSES:	18,650.00	2,700.74	3,863.49	14,786.51	20.72%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.10 FTE)	80,340.00	7,020.61	20,432.13	59,907.87	25.43%
BENEFITS EXPENSE	27,893.00	2,775.14	6,963.28	20,929.72	24.96%
OTHER INDIRECT EXPENSE	27,183.00	2,119.61	7,269.98	19,913.02	26.74%
TOTAL INDIRECT EXPENSES:	135,416.00	11,915.36	34,665.39	100,750.61	25.60%
TOTAL ALL EXPENSES:	154,066.00	14,616.10	38,528.88	115,537.12	25.01%
NET INCOME (LOSS):	(154,066.00)	(14,616.10)	(38,528.88)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LICENSING & MEMBERSHIP RECORDS					
REVENUE:					
STATUS CERTIFICATE FEES	22,000.00	1,152.09	4,344.63	17,655.37	19.75%
RULE 9/LEGAL INTERN FEES	11,000.00	400.00	1,000.00	10,000.00	9.09%
INVESTIGATION FEES	22,000.00	2,900.00	7,400.00	14,600.00	33.64%
PRO HAC VICE	230,000.00	22,450.00	78,960.00	151,040.00	34.33%
MEMBER CONTACT INFORMATION	19,000.00	993.05	3,201.94	15,798.06	16.85%
PHOTO BAR CARD SALES	350.00	24.00	36.00	314.00	10.29%
TOTAL REVENUE:	304,350.00	27,919.14	94,942.57	209,407.43	31.20%
DIRECT EXPENSES:					
DEPRECIATION	13,812.00	1,151.00	3,452.00	10,360.00	24.99%
POSTAGE	29,000.00	(3,783.83)	5,635.72	23,364.28	19.43%
LICENSING FORMS	3,000.00	213.57	2,379.11	620.89	79.30%
TOTAL DIRECT EXPENSES:	45,812.00	(2,419.26)	11,466.83	34,345.17	25.03%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.35 FTE)	395,080.00	34,795.69	98,775.97	296,304.03	25.00%
BENEFITS EXPENSE	133,752.00	13,233.87	33,256.63	100,495.37	24.86%
OTHER INDIRECT EXPENSE	107,495.00	8,396.75	28,800.22	78,694.78	26.79%
TOTAL INDIRECT EXPENSES:	636,327.00	56,426.31	160,832.82	475,494.18	25.28%
TOTAL ALL EXPENSES:	682,139.00	54,007.05	172,299.65	509,839.35	25.26%
NET INCOME (LOSS):	(377,789.00)	(26,087.91)	(77,357.08)		

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2018 to December 31, 2018
25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LIMITED LICENSE LEGAL TECHNICIAN PROGRAM					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	600.00	22.00	82.33	517.67	13.72%
LLLT BOARD	17,000.00	1,495.99	3,750.49	13,249.51	22.06%
LLLT OUTREACH	8,000.00	650.00	2,201.97	5,798.03	27.52%
TOTAL DIRECT EXPENSES:	25,600.00	2,167.99	6,034.79	19,565.21	23.57%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.55 FTE)	135,526.00	11,704.08	34,056.56	101,469.44	25.13%
BENEFITS EXPENSE	41,762.00	4,689.54	11,782.96	29,979.04	28.21%
OTHER INDIRECT EXPENSE	38,303.00	2,989.18	10,252.53	28,050.47	26.77%
TOTAL INDIRECT EXPENSES:	215,591.00	19,382.80	56,092.05	159,498.95	26.02%
TOTAL ALL EXPENSES:	241,191.00	21,550.79	62,126.84	179,064.16	25.76%
NET INCOME (LOSS):	(241,191.00)	(21,550.79)	(62,126.84)		

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2018 to December 31, 2018
25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LIMITED PRACTICE OFFICERS					
REVENUE:	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
TOTAL REVENUE:	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
DIRECT EXPENSES:	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
LPO BOARD	3,000.00	41.64	753.38	2,246.62	25.11%
TOTAL DIRECT EXPENSES:	<u style="text-align: right;">3,000.00</u>	<u style="text-align: right;">41.64</u>	<u style="text-align: right;">753.38</u>	<u style="text-align: right;">2,246.62</u>	<u style="text-align: right;">25.11%</u>
INDIRECT EXPENSES:					
SALARY EXPENSE (1.17 FTE)	99,089.00	8,611.11	25,064.71	74,024.29	25.30%
BENEFITS EXPENSE	40,651.00	3,444.48	8,683.37	31,967.63	21.36%
OTHER INDIRECT EXPENSE	28,913.00	2,255.46	7,735.98	21,177.02	26.76%
TOTAL INDIRECT EXPENSES:	<u style="text-align: right;">168,653.00</u>	<u style="text-align: right;">14,311.05</u>	<u style="text-align: right;">41,484.06</u>	<u style="text-align: right;">127,168.94</u>	<u style="text-align: right;">24.60%</u>
TOTAL ALL EXPENSES:	<u style="text-align: right;">171,653.00</u>	<u style="text-align: right;">14,352.69</u>	<u style="text-align: right;">42,237.44</u>	<u style="text-align: right;">129,415.56</u>	<u style="text-align: right;">24.61%</u>
NET INCOME (LOSS):	<u style="text-align: right;">(171,653.00)</u>	<u style="text-align: right;">(14,352.69)</u>	<u style="text-align: right;">(42,237.44)</u>		

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2018 to December 31, 2018
25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MANDATORY CONTINUING LEGAL EDUCATION					
REVENUE:					
ACCREDITED PROGRAM FEES	540,000.00	45,050.00	166,750.00	373,250.00	30.88%
FORM 1 LATE FEES	150,000.00	21,165.00	63,890.00	86,110.00	42.59%
MEMBER LATE FEES	203,000.00	-	700.00	202,300.00	0.34%
ANNUAL ACCREDITED SPONSOR FEES	43,000.00	250.00	43,000.00	-	100.00%
ATTENDANCE LATE FEES	85,000.00	10,600.00	28,180.00	56,820.00	33.15%
COMITY CERTIFICATES	29,000.00	9,450.07	16,450.64	12,549.36	56.73%
TOTAL REVENUE:	1,050,000.00	86,515.07	318,970.64	731,029.36	30.38%
DIRECT EXPENSES:					
DEPRECIATION	249,948.00	20,674.00	62,023.00	187,925.00	24.81%
STAFF MEMBERSHIP DUES	500.00	-	-	500.00	0.00%
MCLE BOARD	2,000.00	66.41	256.12	1,743.88	12.81%
TOTAL DIRECT EXPENSES:	252,448.00	20,740.41	62,279.12	190,168.88	24.67%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.90 FTE)	374,898.00	47,698.39	106,467.70	268,430.30	28.40%
BENEFITS EXPENSE	124,996.00	12,097.05	30,913.66	94,082.34	24.73%
OTHER INDIRECT EXPENSE	121,087.00	9,456.57	32,435.20	88,651.80	26.79%
TOTAL INDIRECT EXPENSES:	620,981.00	69,252.01	169,816.56	451,164.44	27.35%
TOTAL ALL EXPENSES:	873,429.00	89,992.42	232,095.68	641,333.32	26.57%
NET INCOME (LOSS):	176,571.00	(3,477.35)	86,874.96		

Washington State Bar Association
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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MEMBER ASSISTANCE PROGRAM					
REVENUE:					
DIVERSIONS	10,000.00	750.00	2,266.80	7,733.20	22.67%
TOTAL REVENUE:	10,000.00	750.00	2,266.80	7,733.20	22.67%
DIRECT EXPENSES:					
PUBLICATIONS PRODUCTION	200.00	-	-	200.00	0.00%
STAFF MEMBERSHIP DUES	225.00	-	-	225.00	0.00%
PROF LIAB INSURANCE	850.00	-	-	850.00	0.00%
TOTAL DIRECT EXPENSES:	1,275.00	-	-	1,275.00	0.00%
INDIRECT EXPENSES:					
SALARY EXPENSE (0.90 FTE)	84,582.00	7,424.00	21,632.30	62,949.70	25.58%
BENEFITS EXPENSE	34,402.00	3,304.28	8,462.44	25,939.56	24.60%
OTHER INDIRECT EXPENSE	22,240.00	1,739.15	5,965.11	16,274.89	26.82%
TOTAL INDIRECT EXPENSES:	141,224.00	12,467.43	36,059.85	105,164.15	25.53%
TOTAL ALL EXPENSES:	142,499.00	12,467.43	36,059.85	106,439.15	25.31%
NET INCOME (LOSS):	(132,499.00)	(11,717.43)	(33,793.05)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MEMBER SERVICES & ENGAGEMENT					
REVENUE:					
ROYALTIES	30,000.00	277.81	11,743.53	18,256.47	39.15%
NMP PRODUCT SALES	70,000.00	25,646.00	45,094.64	24,905.36	64.42%
SPONSORSHIPS	1,200.00	-	-	1,200.00	0.00%
SEMINAR REGISTRATIONS	30,000.00	-	-	30,000.00	0.00%
TRIAL ADVOCACY PROGRAM	10,000.00	-	-	10,000.00	0.00%
TOTAL REVENUE:	141,200.00	25,923.81	56,838.17	84,361.83	40.25%
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	4,500.00	100.85	193.93	4,306.07	4.31%
SUBSCRIPTIONS	480.00	-	769.60	(289.60)	160.33%
CONFERENCE CALLS	200.00	-	-	200.00	0.00%
YLL SECTION PROGRAM	1,100.00	-	-	1,100.00	0.00%
WYLC CLE COMPS	1,000.00	-	-	1,000.00	0.00%
WYLC OUTREACH EVENTS	2,500.00	13.15	13.15	2,486.85	0.53%
WYL COMMITTEE	15,000.00	319.74	767.86	14,232.14	5.12%
OPEN SECTIONS NIGHT	4,400.00	-	-	4,400.00	0.00%
RURAL PLACEMENT PROGRAM	10,500.00	-	-	10,500.00	0.00%
TRIAL ADVOCACY EXPENSES	2,500.00	-	-	2,500.00	0.00%
RECEPTION/FORUM EXPENSE	4,000.00	1,204.78	1,204.78	2,795.22	30.12%
WYLC SCHOLARSHIPS/DONATIONS/GRANT	2,500.00	-	-	2,500.00	0.00%
STAFF MEMBERSHIP DUES	385.00	-	-	385.00	0.00%
LENDING LIBRARY	5,500.00	29.19	1,612.74	3,887.26	29.32%
NMP SPEAKERS & PROGRAM DEVELOPMENT	1,500.00	3.61	7.77	1,492.23	0.52%
TOTAL DIRECT EXPENSES:	56,065.00	1,671.32	4,569.83	51,495.17	8.15%
INDIRECT EXPENSES:					
SALARY EXPENSE (3.98 FTE)	296,941.00	22,165.35	68,115.11	228,825.89	22.94%
BENEFITS EXPENSE	110,321.00	10,780.06	27,329.54	82,991.46	24.77%
OTHER INDIRECT EXPENSE	98,352.00	7,690.29	26,376.94	71,975.06	26.82%
TOTAL INDIRECT EXPENSES:	505,614.00	40,635.70	121,821.59	383,792.41	24.09%
TOTAL ALL EXPENSES:	561,679.00	42,307.02	126,391.42	435,287.58	22.50%
NET INCOME (LOSS):	(420,479.00)	(16,383.21)	(69,553.25)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MEMBERSHIP BENEFITS					
REVENUE:					
SPONSORSHIPS	8,000.00	-	-	8,000.00	0.00%
INTERNET SALES	9,000.00	6,419.00	10,045.00	(1,045.00)	111.61%
TOTAL REVENUE:	17,000.00	6,419.00	10,045.00	6,955.00	59.09%
DIRECT EXPENSES:					
LEGAL LUNCHBOX COURSEBOOK PRODUCTION	500.00	-	-	500.00	0.00%
LEGAL LUNCHBOX SPEAKERS & PROGRAM	1,700.00	12.11	25.80	1,674.20	1.52%
WSBA CONNECTS	46,560.00	11,640.00	19,400.00	27,160.00	41.67%
CASEMAKER & FASTCASE	136,336.00	5,416.00	16,248.00	120,088.00	11.92%
CONFERENCE CALLS	-	-	127.69	(127.69)	
TOTAL DIRECT EXPENSES:	185,096.00	17,068.11	35,801.49	149,294.51	19.34%
INDIRECT EXPENSES:					
SALARY EXPENSE (0.73 FTE)	54,366.00	4,293.13	12,890.57	41,475.43	23.71%
BENEFITS EXPENSE	20,206.00	1,988.16	5,031.52	15,174.48	24.90%
OTHER INDIRECT EXPENSE	18,039.00	1,413.09	4,846.71	13,192.29	26.87%
TOTAL INDIRECT EXPENSES:	92,611.00	7,694.38	22,768.80	69,842.20	24.59%
TOTAL ALL EXPENSES:	277,707.00	24,762.49	58,570.29	219,136.71	21.09%
NET INCOME (LOSS):	(260,707.00)	(18,343.49)	(48,525.29)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
NORTHWEST LAWYER					
REVENUE:					
ROYALTIES	-	-	1,267.59	(1,267.59)	
DISPLAY ADVERTISING	297,500.00	-	-	297,500.00	0.00%
SUBSCRIPT/SINGLE ISSUES	350.00	(36.00)	36.00	314.00	10.29%
CLASSIFIED ADVERTISING	12,500.00	1,910.65	6,709.85	5,790.15	53.68%
GEN ANNOUNCEMENTS	17,500.00	-	-	17,500.00	0.00%
PROF ANNOUNCEMENTS	21,000.00	-	-	21,000.00	0.00%
JOB TARGET ADVERTISING	112,500.00	17,343.72	54,075.63	58,424.37	48.07%
TOTAL REVENUE:	461,350.00	19,218.37	62,089.07	399,260.93	13.46%
DIRECT EXPENSES:					
BAD DEBT EXPENSE	2,000.00	-	(1,950.00)	3,950.00	-97.50%
POSTAGE	89,000.00	-	10,235.96	78,764.04	11.50%
PRINTING, COPYING & MAILING	250,000.00	28,506.32	58,560.28	191,439.72	23.42%
DIGITAL/ONLINE DEVELOPMENT	10,200.00	-	700.00	9,500.00	6.86%
GRAPHICS/ARTWORK	3,500.00	-	-	3,500.00	0.00%
EDITORIAL ADVISORY COMMITTEE	800.00	42.01	178.27	621.73	22.28%
STAFF MEMBERSHIP DUES	135.00	-	-	135.00	0.00%
TOTAL DIRECT EXPENSES:	355,635.00	28,548.33	67,724.51	287,910.49	19.04%
INDIRECT EXPENSES:					
SALARY EXPENSE (2.25 FTE)	177,211.00	14,037.72	46,469.46	130,741.54	26.22%
BENEFITS EXPENSE	70,006.00	5,044.27	12,206.67	57,799.33	17.44%
OTHER INDIRECT EXPENSE	55,601.00	4,347.87	14,912.76	40,688.24	26.82%
TOTAL INDIRECT EXPENSES:	302,818.00	23,429.86	73,588.89	229,229.11	24.30%
TOTAL ALL EXPENSES:	658,453.00	51,978.19	141,313.40	517,139.60	21.46%
NET INCOME (LOSS):	(197,103.00)	(32,759.82)	(79,224.33)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
OFFICE OF GENERAL COUNSEL					
REVENUE:					
COPY FEES	-	-	330.00	(330.00)	
TOTAL REVENUE:	-	-	330.00	(330.00)	
DIRECT EXPENSES:					
DEPRECIATION	3,336.00	-	-	3,336.00	0.00%
STAFF TRAVEL/PARKING	3,240.00	-	-	3,240.00	0.00%
STAFF MEMBERSHIP DUES	1,500.00	-	200.00	1,300.00	13.33%
COURT RULES COMMITTEE	2,000.00	15.54	548.37	1,451.63	27.42%
DISCIPLINE ADVISORY ROUNDTABLE	500.00	-	-	500.00	0.00%
CUSTODIANSHIPS	2,500.00	-	-	2,500.00	0.00%
TOTAL DIRECT EXPENSES:	13,076.00	15.54	748.37	12,327.63	5.72%
INDIRECT EXPENSES:					
SALARY EXPENSE (5.75 FTE)	588,978.00	45,807.21	124,140.91	464,837.09	21.08%
BENEFITS EXPENSE	197,610.00	19,616.02	49,052.98	148,557.02	24.82%
OTHER INDIRECT EXPENSE	142,092.00	11,114.22	38,120.73	103,971.27	26.83%
TOTAL INDIRECT EXPENSES:	928,680.00	76,537.45	211,314.62	717,365.38	22.75%
TOTAL ALL EXPENSES:	941,756.00	76,552.99	212,062.99	729,693.01	22.52%
NET INCOME (LOSS):	(941,756.00)	(76,552.99)	(211,732.99)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSE:					
STAFF MEMBERSHIP DUES	500.00	-	-	500.00	0.00%
DISCIPLINARY BOARD EXPENSES	10,000.00	485.48	1,368.98	8,631.02	13.69%
CHIEF HEARING OFFICER	33,000.00	2,500.00	7,500.00	25,500.00	22.73%
HEARING OFFICER EXPENSES	3,000.00	42.72	42.72	2,957.28	1.42%
HEARING OFFICER TRAINING	2,000.00	-	-	2,000.00	0.00%
OUTSIDE COUNSEL	55,000.00	3,000.00	9,000.00	46,000.00	16.36%
TOTAL DIRECT EXPENSES:	103,500.00	6,028.20	17,911.70	85,588.30	17.31%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.45 FTE)	110,578.00	8,237.15	23,853.84	86,724.16	21.57%
BENEFITS EXPENSE	40,663.00	3,980.82	10,093.69	30,569.31	24.82%
OTHER INDIRECT EXPENSE	35,832.00	2,798.94	9,600.10	26,231.90	26.79%
TOTAL INDIRECT EXPENSES:	187,073.00	15,016.91	43,547.63	143,525.37	23.28%
TOTAL ALL EXPENSES:	290,573.00	21,045.11	61,459.33	229,113.67	21.15%
NET INCOME (LOSS):	(290,573.00)	(21,045.11)	(61,459.33)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
OUTREACH & ENGAGEMENT					
REVENUE:	_____	_____	_____	_____	_____
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSE:	_____	_____	_____	_____	_____
STAFF TRAVEL/PARKING	1,400.00	-	-	1,400.00	0.00%
STAFF MEMBERSHIP DUES	1,152.00	-	-	1,152.00	0.00%
CONFERENCE CALLS	200.00	-	-	200.00	0.00%
ABA DELEGATES	4,500.00	-	-	4,500.00	0.00%
ANNUAL CHAIR MEETINGS	600.00	-	496.74	103.26	82.79%
JUDICIAL RECOMMENDATIONS COMMITTEE	4,500.00	652.55	1,976.10	2,523.90	43.91%
BOG ELECTIONS	6,500.00	-	-	6,500.00	0.00%
BAR OUTREACH	10,000.00	-	440.27	9,559.73	4.40%
PROFESSIONALISM	2,000.00	-	-	2,000.00	0.00%
TOTAL DIRECT EXPENSES:	30,852.00	652.55	2,913.11	27,938.89	9.44%
INDIRECT EXPENSES:					
SALARY EXPENSE (2.73 FTE)	224,397.00	19,604.40	57,063.00	167,334.00	25.43%
BENEFITS EXPENSE	79,186.00	7,815.52	19,682.62	59,503.38	24.86%
OTHER INDIRECT EXPENSE	67,463.00	5,271.80	18,081.71	49,381.29	26.80%
TOTAL INDIRECT EXPENSES:	371,046.00	32,691.72	94,827.33	276,218.67	25.56%
TOTAL ALL EXPENSES:	401,898.00	33,344.27	97,740.44	304,157.56	24.32%
NET INCOME (LOSS):	(401,898.00)	(33,344.27)	(97,740.44)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
PRACTICE OF LAW BOARD					
REVENUE:	_____	_____	_____	_____	_____
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:	_____	_____	_____	_____	_____
PRACTICE OF LAW BOARD	16,000.00	104.03	2,628.08	13,371.92	16.43%
TOTAL DIRECT EXPENSES:	16,000.00	104.03	2,628.08	13,371.92	16.43%
INDIRECT EXPENSES:	_____	_____	_____	_____	_____
SALARY EXPENSE (0.40 FTE)	50,676.00	2,001.18	5,598.13	45,077.87	11.05%
BENEFITS EXPENSE	13,502.00	1,471.14	3,570.99	9,931.01	26.45%
OTHER INDIRECT EXPENSE	9,885.00	760.88	2,609.73	7,275.27	26.40%
TOTAL INDIRECT EXPENSES:	74,063.00	4,233.20	11,778.85	62,284.15	15.90%
TOTAL ALL EXPENSES:	90,063.00	4,337.23	14,406.93	75,656.07	16.00%
NET INCOME (LOSS):	(90,063.00)	(4,337.23)	(14,406.93)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
PROFESSIONAL RESPONSIBILITY PROGRAM					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	2,000.00	969.77	969.77	1,030.23	48.49%
STAFF MEMBERSHIP DUES	500.00	-	-	500.00	0.00%
CPE COMMITTEE	4,200.00	109.35	965.36	3,234.64	22.98%
TOTAL DIRECT EXPENSES:	6,700.00	1,079.12	1,935.13	4,764.87	28.88%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.65 FTE)	160,192.00	14,020.21	40,806.47	119,385.53	25.47%
BENEFITS EXPENSE	57,904.00	5,692.95	14,371.06	43,532.94	24.82%
OTHER INDIRECT EXPENSE	40,774.00	3,179.37	10,904.92	29,869.08	26.74%
TOTAL INDIRECT EXPENSES:	258,870.00	22,892.53	66,082.45	192,787.55	25.53%
TOTAL ALL EXPENSES:	265,570.00	23,971.65	68,017.58	197,552.42	25.61%
NET INCOME (LOSS):	(265,570.00)	(23,971.65)	(68,017.58)		

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2018 to December 31, 2018
25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
PUBLIC SERVICE PROGRAMS					
REVENUE:					
DONATIONS & GRANTS	110,000.00	-	137,500.00	(27,500.00)	125.00%
PSP PRODUCT SALES	2,000.00	1,069.00	1,305.00	695.00	65.25%
TOTAL REVENUE:	112,000.00	1,069.00	138,805.00	(26,805.00)	123.93%
DIRECT EXPENSES:					
DONATIONS/SPONSORSHIPS/GRANTS	207,915.00	-	-	207,915.00	0.00%
STAFF TRAVEL/PARKING	2,000.00	40.00	89.85	1,910.15	4.49%
PRO BONO & PUBLIC SERVICE COMMITTEE	2,000.00	237.80	549.16	1,450.84	27.46%
PUBLIC SERVICE EVENTS AND PROJECTS	20,500.00	(744.06)	162.27	20,337.73	0.79%
TOTAL DIRECT EXPENSES:	232,415.00	(466.26)	801.28	231,613.72	0.34%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.03 FTE)	87,057.00	6,369.71	16,844.07	70,212.93	19.35%
BENEFITS EXPENSE	29,994.00	2,943.74	7,437.24	22,556.76	24.80%
OTHER INDIRECT EXPENSE	25,453.00	1,983.74	6,803.98	18,649.02	26.73%
TOTAL INDIRECT EXPENSES:	142,504.00	11,297.19	31,085.29	111,418.71	21.81%
TOTAL ALL EXPENSES:	374,919.00	10,830.93	31,886.57	343,032.43	8.50%
NET INCOME (LOSS):	(262,919.00)	(9,761.93)	106,918.43		

Washington State Bar Association
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25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
PUBLICATION & DESIGN SERVICES					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
STAFF MEMBERSHIP DUES	500.00	-	-	500.00	0.00%
SUBSCRIPTIONS	83.00	-	-	83.00	0.00%
IMAGE LIBRARY	4,680.00	-	4,100.00	580.00	87.61%
TOTAL DIRECT EXPENSES:	5,263.00	-	4,100.00	1,163.00	77.90%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.22 FTE)	80,074.00	7,887.41	24,464.80	55,609.20	30.55%
BENEFITS EXPENSE	31,380.00	2,979.36	7,602.50	23,777.50	24.23%
OTHER INDIRECT EXPENSE	30,148.00	2,364.12	8,108.76	22,039.24	26.90%
TOTAL INDIRECT EXPENSES:	141,602.00	13,230.89	40,176.06	101,425.94	28.37%
TOTAL ALL EXPENSES:	146,865.00	13,230.89	44,276.06	102,588.94	30.15%
NET INCOME (LOSS):	<u>(146,865.00)</u>	<u>(13,230.89)</u>	<u>(44,276.06)</u>		

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2018 to December 31, 2018
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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
SECTIONS ADMINISTRATION					
REVENUE:					
REIMBURSEMENTS FROM SECTIONS	300,000.00	843.75	2,737.50	297,262.50	0.91%
TOTAL REVENUE:	300,000.00	843.75	2,737.50	297,262.50	0.91%
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	1,200.00	-	206.36	993.64	17.20%
SUBSCRIPTIONS	372.00	-	372.00	-	100.00%
CONFERENCE CALLS	300.00	-	78.70	221.30	26.23%
MISCELLANEOUS	300.00	-	-	300.00	0.00%
SECTION/COMMITTEE CHAIR MTGS	1,000.00	-	360.87	639.13	36.09%
DUES STATEMENTS	6,000.00	5,585.18	5,585.18	414.82	93.09%
STAFF MEMBERSHIP DUES	125.00	-	-	125.00	0.00%
TOTAL DIRECT EXPENSES:	9,297.00	5,585.18	6,603.11	2,693.89	71.02%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.25 FTE)	297,955.00	26,981.38	73,706.58	224,248.42	24.74%
BENEFITS EXPENSE	112,039.00	10,880.32	27,713.18	84,325.82	24.74%
OTHER INDIRECT EXPENSE	105,024.00	8,206.56	28,147.81	76,876.19	26.80%
TOTAL INDIRECT EXPENSES:	515,018.00	46,068.26	129,567.57	385,450.43	25.16%
TOTAL ALL EXPENSES:	524,315.00	51,653.44	136,170.68	388,144.32	25.97%
NET INCOME (LOSS):	(224,315.00)	(50,809.69)	(133,433.18)		

Washington State Bar Association
Statement of Activities
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25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
TECHNOLOGY					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
CONSULTING SERVICES	85,000.00	351.50	29,137.06	55,862.94	34.28%
STAFF TRAVEL/PARKING	2,500.00	-	-	2,500.00	0.00%
STAFF MEMBERSHIP DUES	110.00	-	-	110.00	0.00%
TELEPHONE	24,000.00	1,527.36	4,340.13	19,659.87	18.08%
COMPUTER HARDWARE	29,000.00	1,276.88	2,656.41	26,343.59	9.16%
COMPUTER SOFTWARE	29,000.00	734.83	734.83	28,265.17	2.53%
HARDWARE SERVICE & WARRANTIES	60,000.00	4,536.54	29,059.65	30,940.35	48.43%
SOFTWARE MAINTENANCE & LICENSING	270,000.00	10,272.46	107,152.81	162,847.19	39.69%
TELEPHONE HARDWARE & MAINTENANCE	10,000.00	137.35	137.35	9,862.65	1.37%
COMPUTER SUPPLIES	15,000.00	416.93	5,121.05	9,878.95	34.14%
THIRD PARTY SERVICES	143,000.00	22,955.90	70,797.65	72,202.35	49.51%
TRANSFER TO INDIRECT EXPENSES	(667,610.00)	(42,209.75)	(249,136.94)	(418,473.06)	37.32%
TOTAL DIRECT EXPENSES:	-	-	-	-	
INDIRECT EXPENSES:					
SALARY EXPENSE (12.10 FTE)	1,059,680.00	96,752.61	278,975.03	780,704.97	26.33%
BENEFITS EXPENSE	370,332.00	35,773.13	91,226.92	279,105.08	24.63%
CAPITAL LABOR & OVERHEAD	(188,800.00)	(9,006.48)	(32,862.93)	(155,937.07)	17.41%
OTHER INDIRECT EXPENSE	299,010.00	23,369.74	80,156.02	218,853.98	26.81%
TOTAL INDIRECT EXPENSES:	1,540,222.00	146,889.00	417,495.04	1,122,726.96	27.11%
TOTAL ALL EXPENSES:	1,540,222.00	146,889.00	417,495.04	1,122,726.96	27.11%
NET INCOME (LOSS):	(1,540,222.00)	(146,889.00)	(417,495.04)		

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2018 to December 31, 2018

25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
CONTINUING LEGAL EDUCATION (CLE)					
REVENUE:					
SEMINAR REGISTRATIONS	876,000.00	147,746.50	245,928.50	630,071.50	28.07%
SEMINAR-EXHIB/SPNSR/ETC	41,500.00	500.00	500.00	41,000.00	1.20%
SHIPPING & HANDLING	1,000.00	57.18	120.18	879.82	12.02%
COURSEBOOK SALES	11,000.00	1,981.00	3,946.00	7,054.00	35.87%
MP3 AND VIDEO SALES	950,000.00	300,177.75	496,527.44	453,472.56	52.27%
TOTAL REVENUE:	1,879,500.00	450,462.43	747,022.12	1,132,477.88	39.75%
DIRECT EXPENSES:					
COURSEBOOK PRODUCTION	3,000.00	88.50	135.96	2,864.04	4.53%
POSTAGE - FLIERS/CATALOGS	10,685.00	-	1,447.38	9,237.62	13.55%
POSTAGE - MISC./DELIVERY	2,500.00	70.00	140.00	2,360.00	5.60%
DEPRECIATION	5,540.00	633.00	1,898.00	3,642.00	34.26%
ONLINE EXPENSES	40,000.00	3,590.38	10,626.00	29,374.00	26.57%
ACCREDITATION FEES	4,696.00	2,202.00	2,170.00	2,526.00	46.21%
SEMINAR BROCHURES	20,770.00	-	4,328.29	16,441.71	20.84%
FACILITIES	223,500.00	7,750.00	26,080.10	197,419.90	11.67%
SPEAKERS & PROGRAM DEVELOP	68,100.00	1,375.29	6,859.39	61,240.61	10.07%
CLE SEMINAR COMMITTEE	500.00	-	37.85	462.15	7.57%
BAD DEBT EXPENSE	600.00	-	(523.00)	1,123.00	-87.17%
STAFF TRAVEL/PARKING	5,675.00	72.00	190.60	5,484.40	3.36%
STAFF MEMBERSHIP DUES	1,260.00	-	1,007.00	253.00	79.92%
SUPPLIES	3,650.00	-	186.17	3,463.83	5.10%
TELEPHONE	-	-	13.88	(13.88)	
COST OF SALES - DESKBOOKS	-	2,051.05	-	-	
COST OF SALES - COURSEBOOKS	1,200.00	175.48	354.16	845.84	29.51%
A/V DEVELOP COSTS (RECORDING)	1,500.00	-	-	1,500.00	0.00%
SHIPPING SUPPLIES	100.00	-	-	100.00	0.00%
POSTAGE & DELIVERY-COURSEBOOKS	500.00	58.83	115.81	384.19	23.16%
TOTAL DIRECT EXPENSES:	393,776.00	18,066.53	55,067.59	338,708.41	13.98%
INDIRECT EXPENSES:					
SALARY EXPENSE (9.72 FTE)	656,422.00	59,021.78	168,451.42	487,970.58	25.66%
BENEFITS EXPENSE	254,178.00	24,599.11	62,758.23	191,419.77	24.69%
OTHER INDIRECT EXPENSE	240,197.00	18,777.32	64,404.41	175,792.59	26.81%
TOTAL INDIRECT EXPENSES:	1,150,797.00	102,398.21	295,614.06	855,182.94	25.69%
TOTAL ALL EXPENSES:	1,544,573.00	120,464.74	350,681.65	1,193,891.35	22.70%
NET INCOME (LOSS):	334,927.00	329,997.69	396,340.47		

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25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
DESKBOOKS					
REVENUE:					
SHIPPING & HANDLING	2,000.00	500.82	662.82	1,337.18	33.14%
DESKBOOK SALES	80,000.00	12,070.90	20,605.90	59,394.10	25.76%
SECTION PUBLICATION SALES	3,000.00	450.00	1,125.00	1,875.00	37.50%
CASEMAKER ROYALTIES	75,000.00	2,260.66	7,961.82	67,038.18	10.62%
TOTAL REVENUE:	160,000.00	15,282.38	30,355.54	129,644.46	18.97%
DIRECT EXPENSES:					
COST OF SALES - DESKBOOKS	50,000.00	7,835.22	16,392.06	33,607.94	32.78%
COST OF SALES - SECTION PUBLICATION	750.00	117.06	234.12	515.88	31.22%
SPLITS TO SECTIONS	1,000.00	-	-	1,000.00	0.00%
DESKBOOK ROYALTIES	1,000.00	-	-	1,000.00	0.00%
SHIPPING SUPPLIES	150.00	-	-	150.00	0.00%
POSTAGE & DELIVER-DESKBOOKS	2,000.00	718.35	893.00	1,107.00	44.65%
FLIERS/CATALOGS	3,000.00	-	-	3,000.00	0.00%
POSTAGE - FLIERS/CATALOGS	1,500.00	-	-	1,500.00	0.00%
COMPLIMENTARY BOOK PROGRAM	2,000.00	-	-	2,000.00	0.00%
BAD DEBT EXPENSE	100.00	-	-	100.00	0.00%
RECORDS STORAGE - OFF SITE	7,440.00	1,350.00	2,645.00	4,795.00	35.55%
STAFF MEMBERSHIP DUES	250.00	-	168.00	82.00	67.20%
MISCELLANEOUS	200.00	-	-	200.00	0.00%
TOTAL DIRECT EXPENSES:	69,390.00	10,020.63	20,332.18	49,057.82	29.30%
INDIRECT EXPENSES:					
SALARY EXPENSE (2.05 FTE)	117,663.00	10,281.31	30,624.52	87,038.48	26.03%
BENEFITS EXPENSE	48,981.00	4,683.28	12,053.59	36,927.41	24.61%
OTHER INDIRECT EXPENSE	50,659.00	3,967.41	13,607.88	37,051.12	26.86%
TOTAL INDIRECT EXPENSES:	217,303.00	18,932.00	56,285.99	161,017.01	25.90%
TOTAL ALL EXPENSES:	286,693.00	28,952.63	76,618.17	210,074.83	26.72%
NET INCOME (LOSS):	(126,693.00)	(13,670.25)	(46,262.63)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
CLIENT PROTECTION FUND					
REVENUE:					
CPF RESTITUTION	3,000.00	335.51	695.26	2,304.74	23.18%
CPF MEMBER ASSESSMENTS	982,000.00	205,950.00	339,330.00	642,670.00	34.55%
INTEREST INCOME	7,500.00	6,611.38	18,834.31	(11,334.31)	251.12%
TOTAL REVENUE:	992,500.00	212,896.89	358,859.57	633,640.43	36.16%
DIRECT EXPENSES:					
BANK FEES - WELLS FARGO	1,000.00	(41.70)	(167.47)	1,167.47	-16.75%
GIFTS TO INJURED CLIENTS	500,000.00	50,000.00	51,200.00	448,800.00	10.24%
CPF BOARD EXPENSES	3,000.00	153.96	281.23	2,718.77	9.37%
TOTAL DIRECT EXPENSES:	504,000.00	50,112.26	51,313.76	452,686.24	10.18%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.25 FTE)	97,740.00	7,115.40	20,586.84	77,153.16	21.06%
BENEFITS EXPENSE	35,581.00	3,489.10	8,823.93	26,757.07	24.80%
OTHER INDIRECT EXPENSE	30,889.00	2,418.50	8,295.21	22,593.79	26.85%
TOTAL INDIRECT EXPENSES:	164,210.00	13,023.00	37,705.98	126,504.02	22.96%
TOTAL ALL EXPENSES:	668,210.00	63,135.26	89,019.74	579,190.26	13.32%
NET INCOME (LOSS):	324,290.00	149,761.63	269,839.83		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MANAGEMENT OF WESTERN STATES BAR CONFERENCE (NO WSBA FUNDS)					
REVENUE:					
REGISTRATION REVENUE	33,000.00	-	-	33,000.00	0.00%
OTHER ACTIVITIES REGISTRATION REVENUE	20,000.00	-	-	20,000.00	0.00%
WESTERN STATES BAR MEMBERSHIP DUES	3,200.00	200.00	200.00	3,000.00	6.25%
SPONSORSHIPS	12,000.00	-	-	12,000.00	0.00%
TOTAL REVENUE:	68,200.00	200.00	200.00	68,000.00	0.29%
DIRECT EXPENSES:					
FACILITIES	55,000.00	-	-	55,000.00	0.00%
SPEAKERS & PROGRAM DEVELOPMENT	1,000.00	-	-	1,000.00	0.00%
BANK FEES	-	-	1.00	(1.00)	
WSBC PRESIDENT TRAVEL	500.00	-	-	500.00	0.00%
OPTIONAL ACTIVITIES EXPENSE	3,500.00	78.15	78.15	3,421.85	2.23%
MARKETING EXPENSE	800.00	-	52.04	747.96	6.51%
STAFF TRAVEL/PARKING	2,000.00	-	777.87	1,222.13	38.89%
TOTAL DIRECT EXPENSES:	62,800.00	78.15	909.06	61,890.94	1.45%
INDIRECT EXPENSES:					
TOTAL INDIRECT EXPENSES:	-	-	-	-	
TOTAL ALL EXPENSES:	62,800.00	78.15	909.06	61,890.94	1.45%
NET INCOME (LOSS):	5,400.00	121.85	(709.06)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
SECTIONS OPERATIONS					
REVENUE:					
SECTION DUES	471,440.00	1,284.50	4,099.50	467,340.50	0.87%
SEMINAR PROFIT SHARE	15,000.00	7,034.41	7,034.41	7,965.59	46.90%
INTEREST INCOME	1,900.00	-	-	1,900.00	0.00%
PUBLICATIONS REVENUE	4,000.00	-	-	4,000.00	0.00%
OTHER	49,250.00	2,710.00	11,583.75	37,666.25	23.52%
TOTAL REVENUE:	541,590.00	11,028.91	22,717.66	518,872.34	4.19%
DIRECT EXPENSES:					
DIRECT EXPENSES OF SECTION ACTIVITIES	533,005.00	8,612.04	51,638.32	481,366.68	9.69%
REIMBURSEMENT TO WSBA FOR INDIRECT EXPENSES	308,232.00	843.75	2,737.50	305,494.50	0.89%
TOTAL DIRECT EXPENSES:	841,237.00	9,455.79	54,375.82	786,861.18	6.46%
NET INCOME (LOSS):	(299,647.00)	1,573.12	(31,658.16)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
INDIRECT EXPENSES:					
SALARIES	11,868,980.00	1,017,941.17	2,958,827.51	8,910,152.49	24.93%
ALLOWANCE FOR OPEN POSITIONS	(200,000.00)	-	-	(200,000.00)	0.00%
TEMPORARY SALARIES	141,330.00	39,264.98	54,425.38	86,904.62	38.51%
CAPITAL LABOR & OVERHEAD	(188,800.00)	(9,006.48)	(32,862.93)	(155,937.07)	17.41%
EMPLOYEE ASSISTANCE PLAN	4,800.00	-	1,200.00	3,600.00	25.00%
EMPLOYEE SERVICE AWARDS	2,230.00	32.60	1,392.60	837.40	62.45%
FICA (EMPLOYER PORTION)	879,000.00	62,791.72	197,514.20	681,485.80	22.47%
L&I INSURANCE	47,250.00	-	-	47,250.00	0.00%
MEDICAL (EMPLOYER PORTION)	1,590,000.00	122,770.21	364,461.10	1,225,538.90	22.92%
RETIREMENT (EMPLOYER PORTION)	1,494,000.00	121,622.29	367,472.17	1,126,527.83	24.60%
TRANSPORTATION ALLOWANCE	119,250.00	105,008.20	105,718.20	13,531.80	88.65%
UNEMPLOYMENT INSURANCE	87,500.00	1,294.23	5,501.80	81,998.20	6.29%
STAFF DEVELOPMENT-GENERAL	6,900.00	-	315.72	6,584.28	4.58%
TOTAL SALARY & BENEFITS EXPENSE:	15,852,440.00	1,461,718.92	4,023,965.75	11,828,474.25	25.38%
WORKPLACE BENEFITS	39,000.00	2,241.39	9,049.20	29,950.80	23.20%
HUMAN RESOURCES POOLED EXP	102,400.00	6,053.30	15,092.42	87,307.58	14.74%
MEETING SUPPORT EXPENSES	12,500.00	1,235.46	3,667.68	8,832.32	29.34%
RENT	1,802,000.00	141,497.13	439,830.78	1,362,169.22	24.41%
PERSONAL PROP TAXES-WSBA	14,000.00	1,613.92	4,841.78	9,158.22	34.58%
FURNITURE, MAINT, LH IMP	35,200.00	3,417.88	3,952.97	31,247.03	11.23%
OFFICE SUPPLIES & EQUIPMENT	46,000.00	2,442.01	15,168.76	30,831.24	32.98%
FURN & OFFICE EQUIP DEPRECIATION	51,300.00	3,435.00	10,834.78	40,465.22	21.12%
COMPUTER HARDWARE DEPRECIATION	51,800.00	3,452.00	10,358.00	41,442.00	20.00%
COMPUTER SOFTWARE DEPRECIATION	162,700.00	9,311.00	28,385.00	134,315.00	17.45%
INSURANCE	143,000.00	11,916.18	35,748.54	107,251.46	25.00%
PROFESSIONAL FEES-AUDIT	35,000.00	23,743.60	29,319.20	5,680.80	83.77%
PROFESSIONAL FEES-LEGAL	50,000.00	6,611.75	18,633.65	31,366.35	37.27%
TELEPHONE & INTERNET	47,000.00	3,535.89	11,302.75	35,697.25	24.05%
POSTAGE - GENERAL	36,000.00	1,785.69	5,920.76	30,079.24	16.45%
RECORDS STORAGE	40,000.00	2,791.16	13,832.61	26,167.39	34.58%
STAFF TRAINING	95,245.00	3,386.84	18,443.44	76,801.56	19.36%
BANK FEES	35,400.00	3,258.75	8,191.22	27,208.78	23.14%
PRODUCTION MAINTENANCE & SUPPLIES	12,000.00	(2,197.48)	20.53	11,979.47	0.17%
COMPUTER POOLED EXPENSES	667,610.00	42,209.75	249,136.94	418,473.06	37.32%
TOTAL OTHER INDIRECT EXPENSES:	3,478,155.00	271,741.22	931,731.01	2,546,423.99	26.79%
TOTAL INDIRECT EXPENSES:	19,330,595.00	1,733,460.14	4,955,696.76		

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2018 to December 31, 2018
25.00% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE
SUMMARY PAGE				
LICENSE FEES	15,958,200.00	1,310,758.62	3,911,520.17	12,046,679.83
ACCESS TO JUSTICE	(327,324.00)	(25,225.08)	(73,054.41)	(254,269.59)
ADMINISTRATION	(1,043,654.00)	(75,868.43)	(254,512.18)	(789,141.82)
ADMISSIONS/BAR EXAM	69,421.00	(41,791.09)	181,310.04	(111,889.04)
BOARD OF GOVERNORS	(834,709.00)	(55,185.87)	(218,665.87)	(616,043.13)
COMMUNICATIONS	(604,832.00)	(57,249.28)	(165,122.43)	(439,709.57)
CONFERENCE & BROADCAST SERVICES	(783,893.00)	(71,251.72)	(199,370.04)	(584,522.96)
DISCIPLINE	(5,788,075.00)	(506,282.35)	(1,456,185.21)	(4,331,889.79)
DIVERSITY	(445,817.00)	(47,243.74)	(3,146.91)	(442,670.09)
FOUNDATION	(164,863.00)	(13,368.48)	(39,439.69)	(125,423.31)
HUMAN RESOURCES	(204,958.00)	(34,480.39)	(99,945.32)	(105,012.68)
LAP	(132,499.00)	(11,717.43)	(33,793.05)	(98,705.95)
LEGISLATIVE	(154,066.00)	(14,616.10)	(38,528.88)	(115,537.12)
LICENSING AND MEMBERSHIP	(377,789.00)	(26,087.91)	(77,357.08)	(300,431.92)
LIMITED LICENSE LEGAL TECHNICIAN	(241,191.00)	(21,550.79)	(62,126.84)	(179,064.16)
LIMITED PRACTICE OFFICERS	(171,653.00)	(14,352.69)	(42,237.44)	(129,415.56)
MANDATORY CLE ADMINISTRATION	176,571.00	(3,477.35)	86,874.96	89,696.04
MEMBER BENEFITS	(260,707.00)	(18,343.49)	(48,525.29)	(212,181.71)
MEMBER SERVICES & ENGAGEMENT	(420,479.00)	(16,383.21)	(69,553.25)	(350,925.75)
NW LAWYER	(197,103.00)	(32,759.82)	(79,224.33)	(117,878.67)
OFFICE OF GENERAL COUNSEL	(941,756.00)	(76,552.99)	(211,732.99)	(730,023.01)
OGC-DISCIPLINARY BOARD	(290,573.00)	(21,045.11)	(61,459.33)	(229,113.67)
OUTREACH & ENGAGEMENT	(401,898.00)	(33,344.27)	(97,740.44)	(304,157.56)
PRACTICE OF LAW BOARD	(90,063.00)	(4,337.23)	(14,406.93)	(75,656.07)
PROFESSIONAL RESPONSIBILITY PROGRAM	(265,570.00)	(23,971.65)	(68,017.58)	(197,552.42)
PUBLICATION & DESIGN SERVICES	(146,865.00)	(13,230.89)	(44,276.06)	(102,588.94)
PUBLIC SERVICE PROGRAMS	(262,919.00)	(9,761.93)	106,918.43	(369,837.43)
LAW CLERK PROGRAM	11,985.00	22,504.00	1,280.14	10,704.86
SECTIONS ADMINISTRATION	(224,315.00)	(50,809.69)	(133,433.18)	(90,881.82)
TECHNOLOGY	(1,540,222.00)	(146,889.00)	(417,495.04)	(1,122,726.96)
CLE - PRODUCTS	733,919.00	280,016.88	441,651.15	292,267.85
CLE - SEMINARS	(398,992.00)	49,980.81	(45,310.68)	(353,681.32)
SECTIONS OPERATIONS	(299,647.00)	1,573.12	(31,658.16)	(267,988.84)
DESKBOOKS	(126,693.00)	(13,670.25)	(46,262.63)	(80,430.37)
CLIENT PROTECTION FUND	324,290.00	149,761.63	269,839.83	54,450.17
WESTERN STATES BAR CONFERENCE (No WSBA Funds)	5,400.00	121.85	(709.06)	6,109.06
INDIRECT EXPENSES	(19,330,595.00)	(1,733,460.14)	(4,955,696.76)	(14,374,898.24)
TOTAL OF ALL	19,193,934.00	1,399,591.46	4,089,592.34	15,104,341.66
NET INCOME (LOSS)	136,661.00	333,868.68	866,104.42	

**Washington State Bar Association
Analysis of Cash Investments
As of December 31, 2018**

Checking & Savings Accounts

General Fund

Checking

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
Wells Fargo	General	\$ 1,338,766

Total

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	2.34%	\$ 3,849,497
UBS Financial Money Market	2.37%	\$ 1,057,240
Morgan Stanley Money Market	2.35%	\$ 26,282
Merrill Lynch Money Market	2.20%	\$ 1,923,598
Long Term Investments	Varies	\$ 3,275,943
Short Term Investments	Varies	\$ -

General Fund Total \$ 11,471,325

Client Protection Fund

Checking

<u>Bank</u>	<u>Amount</u>
Wells Fargo	\$ 319,788

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	2.34%	\$ 3,304,977
Morgan Stanley Money Market	2.10%	\$ 104,413
Wells Fargo Investments	Varies	\$ -

Client Protection Fund Total \$ 3,729,178

Grand Total Cash & Investments \$ 15,200,504

**WASHINGTON STATE
BAR ASSOCIATION**

Financial Reports

(Unaudited)

Year to Date January 31, 2019

Prepared by Tiffany Lynch, Associate Director for Finance

Submitted by

Ann Holmes, Chief Operations Officer

February 25, 2019

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Tiffany Lynch, Associate Director for Finance

Re: Key Financial Benchmarks for the Fiscal Year to Date (YTD) through January 31, 2019

Date: February 25, 2019

	% of Year	Current Year % YTD	Current Year \$ Difference ¹	Prior Year YTD	Comments
Salaries	33.33%	33.37%/34.63% ²	\$4,504/\$150,764 ² (Over budget)	33.72%	Slightly higher due to timing of expenses, expected to be on budget
Benefits	33.33%	32.67%	\$28,139 (Under budget)	33.62%	Expected to be on budget
Other Indirect Expenses	33.33%	33.97%	\$22,146 (Over budget)	29.60%	Slightly higher due to timing of expenses, expected to be on budget
Total Indirect Expenses	33.33%	34.08%	\$144,772 (Over budget)	32.94%	Expected to be on budget

General Fund Revenues	33.33%	35.03%	\$342,169 (Over budget)	33.07%	Expected to be on budget
General Fund Direct Expenses	33.33%	27.26%	\$153,408 (Under budget)	20.60%	Expected to be on or slightly under budget

CLE Revenue	33.33%	41.64%	\$169,387 (Over budget)	41.22%	Expected to be on budget
CLE Direct Expenses	33.33%	20.43%	\$59,752 (Under budget)	15.32%	Expected to be on budget
CLE Indirect Expenses	33.33%	34.03%	\$9,471 (Over budget)	33.47%	Expected to be on budget

¹ Dollar difference is calculated based on pro-rated budget figures (total annual budget figures divided by 12 months) minus actual revenue and expense amounts as of November 30, 2018 (2 months into the fiscal year).

² The first figure represents salaries expense for regular employees. The second figure represents salaries expense for regular and temporary staff with offsets from allowance for open positions and capital labor & overhead.

Washington State Bar Association Financial Summary
Year to Date as of January 31, 2019 33.33% of Year
Compared to Fiscal Year 2019 Budget

Category	Actual Revenues	Budgeted Revenues	Actual Indirect Expenses	Budgeted Indirect Expenses	Actual Direct Expenses	Budgeted Direct Expenses	Actual Total Expenses	Budgeted Total Expenses	Actual Net Result	Budgeted Net Result
Access to Justice	-	7,500	91,353	271,867	5,193	62,957	96,546	334,824	(96,546)	(327,324)
Administration	67,132	100,000	393,966	1,138,769	(8,399)	4,885	375,577	1,143,654	(308,445)	(1,043,654)
Admissions/Bar Exam	468,790	1,327,400	282,781	841,048	54,000	416,831	335,781	1,257,979	132,009	69,421
Board of Governors	-	-	204,183	530,178	97,665	304,531	301,868	834,709	(301,868)	(834,709)
Communications Strategies	860	50,750	195,197	550,782	26,919	104,800	222,116	655,582	(221,256)	(604,832)
Conference & Broadcast Services	-	-	262,660	780,393	1,762	3,500	264,422	783,893	(264,422)	(783,893)
Discipline	26,306	96,200	1,892,860	5,064,008	57,815	220,267	1,950,695	5,884,275	(1,924,389)	(5,788,076)
Diversity	138,865	120,374	184,800	544,641	5,019	21,550	189,819	566,191	(50,954)	(445,817)
Foundation	-	-	51,065	150,663	2,634	14,200	53,699	164,863	(53,699)	(164,863)
Human Resources	-	-	133,753	204,958	-	-	133,753	204,958	(133,753)	(204,958)
Law Clerk Program	102,602	166,000	47,767	142,065	1,166	11,360	48,953	154,015	53,649	11,985
Legislative	-	-	45,566	135,416	5,731	18,650	51,317	154,066	(51,317)	(154,066)
Licensing and Membership Records	128,458	304,350	213,428	636,327	-12,924	45,812	226,353	682,139	(97,895)	(377,789)
Licensing Fees	5,113,914	15,958,200	-	-	-	-	-	-	5,113,914	15,958,200
Limited License Legal Technician	-	-	73,852	215,591	7,898	25,600	81,738	241,191	(81,738)	(241,191)
Limited Practice Officers	-	-	54,855	168,653	1,273	3,000	56,128	156,182	(56,128)	(171,653)
Mandatory CLE	460,613	1,050,000	236,074	620,981	83,101	252,448	319,175	873,429	141,438	176,571
Member Assistance Program	4,047	10,000	47,789	141,224	825	1,275	48,614	142,499	(44,567)	(132,499)
Member Benefits	10,927	17,000.00	30,115	92,611	110,993	185,095	141,112	277,707	(130,185)	(260,707)
Member Services & Engagement	65,327	141,200.00	162,284	505,614	7,213	56,065	169,497	561,679	(104,170)	(420,479)
NW Lawyer	97,408	461,350	93,320	302,818	117,551	355,635	210,871	658,453	(113,465)	(197,103)
Office of General Counsel	330	-	280,576	928,680	1,430	13,076	282,005	941,756	(281,675)	(941,756)
OGC-Disciplinary Board	-	-	58,149	187,073	26,267	103,500	84,416	290,573	(84,416)	(290,573)
Outreach and Engagement	-	-	124,659	371,046	2,913	30,852	127,572	401,898	(127,572)	(401,898)
Practice of Law Board	-	-	15,437	74,063	3,106	16,000	16,542	90,063	(18,542)	(90,063)
Professional Responsibility Program	-	-	87,079	258,870	2,663	6,700	89,742	265,570	(89,742)	(265,570)
Public Service Programs	138,962	112,000	41,373	142,504	49,801	232,415	91,773	374,919	47,769	(262,919)
Publication and Design Services	-	-	52,011	141,602	4,280	6,283	58,291	146,865	(56,291)	(146,865)
Sections Administration	258,406	300,000	175,131	515,018	6,719	9,287	181,850	524,315	76,557	(224,315)
Technology	-	-	551,115	1,540,222	-	-	551,115	1,540,222	(551,115)	(1,540,222)
Subtotal General Fund	7,082,944	20,222,324	6,073,262	17,798,285	688,477	2,525,655	6,761,739	20,323,940	321,205	(101,616)
Expenses using reserve funds	-	-	-	-	-	-	-	-	-	-
Total General Fund - Net Result from Operations									321,205	(101,616)
Percentage of Budget	35.03%		34.12%		27.26%		33.27%			
CLE-Seminars and Products	804,787	1,879,500	391,820	1,150,797	63,808	393,776	455,629	1,544,573	349,158	334,927
CLE - Deskbooks	44,433	160,000	73,684	217,303	30,829	69,390	104,513	286,693	(60,080)	(126,693)
Total CLE	849,220	2,039,500	465,504	1,368,100	94,637	463,166	560,141	1,831,266	289,079	208,234
Percentage of Budget	41.64%		34.03%		20.43%		30.59%			
Total All Sections	413,569	544,140	-	-	329,192	841,025	329,192	841,025	84,407	(296,885)
Client Protection Fund-Restricted	916,052	992,500	49,537	164,210	56,378	504,000	105,915	668,210	810,137	324,290
Management of Western States Bar Conference (M)	2,400	68,200	-	-	909	62,800	909	62,800	1,491	5,400
Totals	9,264,215	23,866,664	6,588,303	19,330,595	1,169,593	4,396,646	7,757,897	23,727,241	1,506,319	139,423
Percentage of Budget	38.82%		34.08%		26.60%		32.70%			

Summary of Fund Balances:	Fund Balances Sept. 30, 2018	2019 Budgeted Fund Balances	Fund Balances Year to date
Restricted Funds:			
Client Protection Fund	3,227,988	3,552,278	4,038,125
Western States Bar Conference	8,340	13,740	9,830.96
Board-Designated Funds (Non-General Fund):			
CLE Fund Balance	604,125	812,359	893,204
Section Funds	1,160,343	863,458	1,244,750
Board-Designated Funds (General Fund):			
Operating Reserve Fund	1,500,000	1,500,000	1,500,000
Facilities Reserve Fund	450,000	450,000	450,000
Unrestricted Funds (General Fund):			
Unrestricted General Fund	1,845,858	1,744,242	2,167,063
Total General Fund Balance	3,795,658	3,694,242	4,117,063
Net Change in general Fund Balance		(101,616)	321,205
Total Fund Balance	8,796,654	8,936,077	10,302,973
Net Change in Fund Balance		139,423	1,506,319

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LICENSE FEES					
REVENUE:					
LICENSE FEES	15,778,000.00	1,189,169.16	5,071,667.84	10,706,332.16	32.14%
LLLT LICENSE FEES	5,800.00	399.99	2,449.44	3,350.56	42.23%
LPO LICENSE FEES	174,400.00	12,824.96	39,797.00	134,603.00	22.82%
TOTAL REVENUE:	15,958,200.00	1,202,394.11	5,113,914.28	10,844,285.72	32.05%

Washington State Bar Association
Statement of Activities
For the Period from January 1, 2019 to January 31, 2019
33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
ACCESS TO JUSTICE					
REVENUE:					
CONFERENCES & INSTITUTES	7,500.00	-	-	7,500.00	0%
TOTAL REVENUE:	7,500.00	-	-	7,500.00	0%
DIRECT EXPENSES:					
ATJ BOARD RETREAT	2,000.00	-	-	2,000.00	0.00%
LEADERSHIP TRAINING	2,000.00	-	-	2,000.00	0.00%
ATJ BOARD EXPENSE	24,000.00	1,312.91	4,189.79	19,810.21	17.46%
STAFF TRAVEL/PARKING	3,500.00	39.72	166.64	3,333.36	4.76%
STAFF MEMBERSHIP DUES	120.00	-	100.00	20.00	83.33%
PUBLIC DEFENSE	7,000.00	223.90	736.87	6,263.13	10.53%
CONFERENCE/INSTITUTE EXPENSE	14,837.00	-	-	14,837.00	0.00%
RECEPTION/FORUM EXPENSE	9,500.00	-	-	9,500.00	0.00%
TOTAL DIRECT EXPENSES:	62,957.00	1,576.53	5,193.30	57,763.70	8.25%
INDIRECT EXPENSES:					
SALARY EXPENSE (2.10 FTE)	160,817.00	13,430.20	54,345.87	106,471.13	33.79%
BENEFITS EXPENSE	59,156.00	4,760.63	19,395.13	39,760.87	32.79%
OTHER INDIRECT EXPENSE	51,894.00	3,724.34	17,611.81	34,282.19	33.94%
TOTAL INDIRECT EXPENSES:	271,867.00	21,915.17	91,352.81	180,514.19	33.60%
TOTAL ALL EXPENSES:	334,824.00	23,491.70	96,546.11	238,277.89	28.83%
NET INCOME (LOSS):	(327,324.00)	(23,491.70)	(96,546.11)		

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
ADMINISTRATION					
REVENUE:					
INTEREST INCOME	70,000.00	9,318.11	32,685.45	37,314.55	46.69%
GAIN/LOSS ON INVESTMENTS	30,000.00	26,257.86	34,411.37	(4,411.37)	114.70%
MISCELLANEOUS	-	(1,410.25)	35.00	(35.00)	
TOTAL REVENUE:	100,000.00	34,165.72	67,131.82	32,868.18	67.13%
DIRECT EXPENSES:					
CREDIT CARD MERCHANT FEES	-	(7,383.77)	(13,159.16)	13,159.16	
STAFF TRAVEL/PARKING	4,200.00	350.00	1,400.00	2,800.00	33.33%
STAFF MEMBERSHIP DUES	685.00	-	294.17	390.83	42.94%
MISCELLANEOUS	-	743.65	3,075.85	(3,075.85)	
TOTAL DIRECT EXPENSES:	4,885.00	(6,290.12)	(8,389.14)	13,274.14	-171.73%
INDIRECT EXPENSES:					
SALARY EXPENSE (7.97 FTE)	700,100.00	60,695.94	237,414.19	462,685.81	33.91%
BENEFITS EXPENSE	241,718.00	19,545.73	79,650.90	162,067.10	32.95%
OTHER INDIRECT EXPENSE	196,951.00	14,147.43	66,901.31	130,049.69	33.97%
TOTAL INDIRECT EXPENSES:	1,138,769.00	94,389.10	383,966.40	754,802.60	33.72%
TOTAL ALL EXPENSES:	1,143,654.00	88,098.98	375,577.26	768,076.74	32.84%
NET INCOME (LOSS):	(1,043,654.00)	(53,933.26)	(308,445.44)		

Washington State Bar Association
Statement of Activities
For the Period from January 1, 2019 to January 31, 2019
33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
ADMISSIONS					
REVENUE:					
EXAM SOFT REVENUE	35,000.00	-	-	35,000.00	0.00%
BAR EXAM FEES	1,200,000.00	51,035.00	438,910.00	761,090.00	36.58%
SPECIAL ADMISSIONS	60,000.00	5,510.00	14,120.00	45,880.00	23.53%
LLLT EXAM FEES	7,500.00	-	1,810.00	5,690.00	24.13%
LLLT WAIVER FEES	900.00	-	150.00	750.00	16.67%
LPO EXAMINATION FEES	24,000.00	(300.00)	13,800.00	10,200.00	57.50%
TOTAL REVENUE:	1,327,400.00	56,245.00	468,790.00	858,610.00	35.32%
DIRECT EXPENSES:					
DEPRECIATION	17,776.00	-	-	17,776.00	0.00%
POSTAGE	4,000.00	243.89	1,040.94	2,959.06	26.02%
STAFF TRAVEL/PARKING	13,000.00	350.00	1,400.00	11,600.00	10.77%
STAFF MEMBERSHIP DUES	400.00	-	-	400.00	0.00%
SUPPLIES	2,500.00	265.78	265.78	2,234.22	10.63%
FACILITY, PARKING, FOOD	70,000.00	22,115.06	27,865.06	42,134.94	39.81%
EXAMINER FEES	35,000.00	10,000.00	10,000.00	25,000.00	28.57%
UBE EXMINATIONS	130,000.00	-	-	130,000.00	0.00%
BOARD OF BAR EXAMINERS	25,000.00	61.98	61.98	24,938.02	0.25%
BAR EXAM PROCTORS	31,000.00	-	-	31,000.00	0.00%
CHARACTER & FITNESS BOARD	20,000.00	1,982.96	7,294.58	12,705.42	36.47%
DISABILITY ACCOMMODATIONS	20,000.00	-	-	20,000.00	0.00%
CHARACTER & FITNESS INVESTIGATIONS	900.00	-	-	900.00	0.00%
LAW SCHOOL VISITS	1,000.00	44.00	659.12	340.88	65.91%
EXAM WRITING	28,355.00	-	-	28,355.00	0.00%
COURT REPORTERS	18,000.00	1,378.60	5,412.70	12,587.30	30.07%
TOTAL DIRECT EXPENSES:	416,931.00	36,442.27	54,000.16	362,930.84	12.95%
INDIRECT EXPENSES:					
SALARY EXPENSE (6.30 FTE)	496,503.00	42,692.88	167,875.50	328,627.50	33.81%
BENEFITS EXPENSE	188,862.00	15,213.16	61,951.93	126,910.07	32.80%
OTHER INDIRECT EXPENSE	155,683.00	11,197.92	52,953.60	102,729.40	34.01%
TOTAL INDIRECT EXPENSES:	841,048.00	69,103.96	282,781.03	558,266.97	33.62%
TOTAL ALL EXPENSES:	1,257,979.00	105,546.23	336,781.19	921,197.81	26.77%
NET INCOME (LOSS):	69,421.00	(49,301.23)	132,008.81		

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
BOG/OED					
REVENUE:	<u> </u>				
TOTAL REVENUE:	<u> </u>				
DIRECT EXPENSES:	<u> </u>				
STAFF TRAVEL/PARKING	5,400.00	450.00	1,800.00	3,600.00	33.33%
STAFF MEMBERSHIP DUES	2,131.00	200.00	600.00	1,531.00	28.16%
TELEPHONE	1,000.00	139.92	289.87	710.13	28.99%
WASHINGTON LEADERSHIP INSTITUTE	60,000.00	-	60,000.00	-	100.00%
BOG MEETINGS	117,000.00	6,355.21	11,954.41	105,045.59	10.22%
BOG COMMITTEES' EXPENSES	30,000.00	994.70	7,360.38	22,639.62	24.53%
BOG CONFERENCE ATTENDANCE	49,000.00	4,532.47	6,950.57	42,049.43	14.18%
BOG TRAVEL & OUTREACH	35,000.00	1,176.48	7,378.84	27,621.16	21.08%
ED TRAVEL & OUTREACH	5,000.00	401.98	1,350.48	3,649.52	27.01%
TOTAL DIRECT EXPENSES:	<u>304,531.00</u>	<u>14,250.76</u>	<u>97,684.55</u>	<u>206,846.45</u>	<u>32.08%</u>
INDIRECT EXPENSES:					
SALARY EXPENSE (2.45 FTE)	361,878.00	55,825.01	147,791.84	214,086.16	40.84%
BENEFITS EXPENSE	107,757.00	8,776.91	35,824.54	71,932.46	33.25%
OTHER INDIRECT EXPENSE	60,543.00	4,349.21	20,566.83	39,976.17	33.97%
TOTAL INDIRECT EXPENSES:	<u>530,178.00</u>	<u>68,951.13</u>	<u>204,183.21</u>	<u>325,994.79</u>	<u>38.51%</u>
TOTAL ALL EXPENSES:	<u>834,709.00</u>	<u>83,201.89</u>	<u>301,867.76</u>	<u>532,841.24</u>	<u>36.16%</u>
NET INCOME (LOSS):	<u>(834,709.00)</u>	<u>(83,201.89)</u>	<u>(301,867.76)</u>		

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
COMMUNICATION STRATEGIES					
REVENUE:					
APEX LUNCH/DINNER	50,000.00	-	-	50,000.00	0.00%
50 YEAR MEMBER TRIBUTE LUNCH	750.00	-	300.00	450.00	40.00%
WSBA LOGO MERCHANDISE SALES	-	-	560.00	(560.00)	
TOTAL REVENUE:	50,750.00	-	860.00	49,890.00	1.69%
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	4,700.00	350.00	1,400.00	3,300.00	29.79%
STAFF MEMBERSHIP DUES	1,000.00	630.00	1,060.00	(60.00)	106.00%
SUBSCRIPTIONS	10,050.00	203.06	340.45	9,709.55	3.39%
DIGITAL/ONLINE DEVELOPMENT	1,450.00	-	10.00	1,440.00	0.69%
APEX DINNER	63,000.00	6,562.50	6,562.50	56,437.50	10.42%
50 YEAR MEMBER TRIBUTE LUNCH	8,000.00	-	8,458.95	(458.95)	105.74%
COMMUNICATIONS OUTREACH	15,000.00	1,733.10	8,615.56	6,384.44	57.44%
SPEAKERS & PROGRAM DEVELOP	1,600.00	-	-	1,600.00	0.00%
EQUIPMENT, HARDWARE & SOFTWARE	-	-	384.25	(384.25)	
TELEPHONE	-	26.68	80.04	(80.04)	
CONFERENCE CALLS	-	-	6.91	(6.91)	
TOTAL DIRECT EXPENSES:	104,800.00	9,505.34	26,918.66	77,881.34	25.69%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.62 FTE)	312,393.00	28,438.51	115,762.03	196,630.97	37.06%
BENEFITS EXPENSE	124,221.00	9,991.26	40,665.70	83,555.30	32.74%
OTHER INDIRECT EXPENSE	114,168.00	8,198.52	38,769.67	75,398.33	33.96%
TOTAL INDIRECT EXPENSES:	550,782.00	46,628.29	195,197.40	355,584.60	35.44%
TOTAL ALL EXPENSES:	655,582.00	56,133.63	222,116.06	433,465.94	33.88%
NET INCOME (LOSS):	(604,832.00)	(56,133.63)	(221,256.06)		

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
CONFERENCE & BROADCAST SERVICES					
REVENUE:	_____	_____	_____	_____	_____
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:	_____	_____	_____	_____	_____
TRANSLATION SERVICES	3,500.00	343.65	1,761.70	1,738.30	50.33%
TOTAL DIRECT EXPENSES:	3,500.00	343.65	1,761.70	1,738.30	50.33%
INDIRECT EXPENSES:					
SALARY EXPENSE (7.15 FTE)	429,625.00	38,025.09	147,306.87	282,318.13	34.29%
BENEFITS EXPENSE	174,080.00	13,985.22	55,307.50	118,772.50	31.77%
OTHER INDIRECT EXPENSE	176,688.00	12,697.67	60,045.60	116,642.40	33.98%
TOTAL INDIRECT EXPENSES:	780,393.00	64,707.98	262,659.97	517,733.03	33.66%
TOTAL ALL EXPENSES:	783,893.00	65,051.63	264,421.67	519,471.33	33.73%
NET INCOME (LOSS):	(783,893.00)	(65,051.63)	(264,421.67)		

Washington State Bar Association

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
DISCIPLINE					
REVENUE:					
AUDIT REVENUE	3,200.00	63.75	403.75	2,796.25	12.62%
RECOVERY OF DISCIPLINE COSTS	80,000.00	6,545.22	20,676.44	59,323.56	25.85%
DISCIPLINE HISTORY SUMMARY	13,000.00	1,508.34	5,225.35	7,774.65	40.20%
TOTAL REVENUE:	96,200.00	8,117.31	26,305.54	69,894.46	27.34%
DIRECT EXPENSES:					
DEPRECIATION-SOFTWARE	7,123.00	858.00	3,434.00	3,689.00	48.21%
PUBLICATIONS PRODUCTION	444.00	-	211.25	232.75	47.58%
STAFF TRAVEL/PARKING	35,000.00	3,284.03	9,806.28	25,193.72	28.02%
STAFF MEMBERSHIP DUES	3,900.00	-	1,425.00	2,475.00	36.54%
TELEPHONE	2,300.00	186.46	745.30	1,554.70	32.40%
COURT REPORTERS	55,000.00	4,237.05	9,651.48	45,348.52	17.55%
OUTSIDE COUNSEL/AIC	2,000.00	-	-	2,000.00	0.00%
LITIGATION EXPENSES	25,000.00	1,957.76	7,087.47	17,912.53	28.35%
DISABILITY EXPENSES	7,500.00	-	2,500.00	5,000.00	33.33%
ONLINE LEGAL RESEARCH	68,000.00	5,642.00	16,915.63	51,084.37	24.88%
LAW LIBRARY	12,500.00	2,907.74	5,786.13	6,713.87	46.29%
TRANSLATION SERVICES	1,500.00	-	247.89	1,252.11	16.53%
CONFERENCE CALLS	-	-	4.16	(4.16)	
TOTAL DIRECT EXPENSES:	220,267.00	19,073.04	57,814.59	162,452.41	26.25%
INDIRECT EXPENSES:					
SALARY EXPENSE (36.88 FTE)	3,556,329.00	294,813.53	1,188,096.18	2,368,232.82	33.41%
BENEFITS EXPENSE	1,196,316.00	96,971.56	395,217.77	801,098.23	33.04%
OTHER INDIRECT EXPENSE	911,363.00	65,463.06	309,566.09	601,796.91	33.97%
TOTAL INDIRECT EXPENSES:	5,664,008.00	457,248.15	1,892,880.04	3,771,127.96	33.42%
TOTAL ALL EXPENSES:	5,884,275.00	476,321.19	1,950,694.63	3,933,580.37	33.15%
NET INCOME (LOSS):	(5,788,075.00)	(468,203.88)	(1,924,389.09)		

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
DIVERSITY					
REVENUE:					
DONATIONS	110,000.00	-	137,500.00	(27,500.00)	125.00%
WORK STUDY GRANTS	10,374.00	-	1,365.00	9,009.00	13.16%
TOTAL REVENUE:	120,374.00	-	138,865.00	(18,491.00)	115.36%
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	6,000.00	202.15	1,194.45	4,805.55	19.91%
STAFF MEMBERSHIP DUES	350.00	-	-	350.00	0.00%
COMMITTEE FOR DIVERSITY	5,000.00	665.59	1,809.86	3,190.14	36.20%
DIVERSITY EVENTS & PROJECTS	10,000.00	-	2,004.42	7,995.58	20.04%
INTERNAL DIVERSITY OUTREACH	200.00	10.25	10.25	189.75	5.13%
TOTAL DIRECT EXPENSE:	21,550.00	877.99	5,018.98	16,531.02	23.29%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.05 FTE)	328,835.00	30,384.68	112,682.37	216,152.63	34.27%
BENEFITS EXPENSE	115,724.00	9,345.80	38,076.05	77,647.95	32.90%
OTHER INDIRECT EXPENSE	100,082.00	7,198.67	34,041.65	66,040.35	34.01%
TOTAL INDIRECT EXPENSES:	544,641.00	46,929.15	184,800.07	359,840.93	33.93%
TOTAL ALL EXPENSES:	566,191.00	47,807.14	189,819.05	376,371.95	33.53%
NET INCOME (LOSS):	(445,817.00)	(47,807.14)	(50,954.05)		

Washington State Bar Association

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For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
FOUNDATION					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
CONSULTING SERVICES	3,000.00	2,000.00	2,000.00	1,000.00	66.67%
PRINTING & COPYING	800.00	-	494.90	305.10	61.86%
STAFF TRAVEL/PARKING	1,400.00	-	11.99	1,388.01	0.86%
SUPPLIES	500.00	-	-	500.00	0.00%
SPECIAL EVENTS	5,000.00	-	-	5,000.00	0.00%
BOARD OF TRUSTEES	3,000.00	60.89	127.18	2,872.82	4.24%
POSTAGE	500.00	-	-	500.00	0.00%
TOTAL DIRECT EXPENSES:	14,200.00	2,060.89	2,634.07	11,565.93	18.55%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.15 FTE)	89,538.00	7,515.06	30,645.16	58,892.84	34.23%
BENEFITS EXPENSE	32,707.00	2,634.14	10,727.80	21,979.20	32.80%
OTHER INDIRECT EXPENSE	28,418.00	2,049.64	9,692.39	18,725.61	34.11%
TOTAL INDIRECT EXPENSES:	150,663.00	12,198.84	51,065.35	99,597.65	33.89%
TOTAL ALL EXPENSES:	164,863.00	14,259.73	53,699.42	111,163.58	32.57%
NET INCOME (LOSS):	(164,863.00)	(14,259.73)	(53,699.42)		

Washington State Bar Association
Statement of Activities
For the Period from January 1, 2019 to January 31, 2019
33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
HUMAN RESOURCES					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	150.00	-	220.00	(70.00)	146.67%
STAFF MEMBERSHIP DUES	1,250.00	340.00	778.00	472.00	62.24%
SUBSCRIPTIONS	2,100.00	-	154.80	1,945.20	7.37%
STAFF TRAINING- GENERAL	30,000.00	805.00	2,613.71	27,386.29	8.71%
RECRUITING AND ADVERTISING	7,000.00	405.71	1,802.20	5,197.80	25.75%
PAYROLL PROCESSING	49,000.00	3,535.56	14,064.98	34,935.02	28.70%
SALARY SURVEYS	2,900.00	655.10	1,200.10	1,699.90	41.38%
CONSULTING SERVICES	10,000.00	-	-	10,000.00	0.00%
TRANSFER TO INDIRECT EXPENSE	(102,400.00)	(5,741.37)	(20,833.79)	(81,566.21)	20.35%
TOTAL DIRECT EXPENSES:	-	-	-	-	
INDIRECT EXPENSES:					
SALARY EXPENSE (2.45 FTE)	260,398.00	22,648.95	85,414.93	174,983.07	32.80%
ALLOWANCE FOR OPEN POSITIONS	(200,000.00)	-	-	(200,000.00)	0.00%
BENEFITS EXPENSE	84,017.00	6,809.23	27,770.98	56,246.02	33.05%
OTHER INDIRECT EXPENSE	60,543.00	4,349.20	20,566.79	39,976.21	33.97%
TOTAL INDIRECT EXPENSES:	204,958.00	33,807.38	133,752.70	71,205.30	65.26%
TOTAL ALL EXPENSES:	204,958.00	33,807.38	133,752.70	71,205.30	65.26%
NET INCOME (LOSS):	(204,958.00)	(33,807.38)	(133,752.70)		

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LAW CLERK PROGRAM					
REVENUE:					
LAW CLERK FEES	162,000.00	64,053.00	101,902.00	60,098.00	62.90%
LAW CLERK APPLICATION FEES	4,000.00	100.00	700.00	3,300.00	17.50%
TOTAL REVENUE:	166,000.00	64,153.00	102,602.00	63,398.00	61.81%
DIRECT EXPENSES:					
SUBSCRIPTIONS	250.00	-	-	250.00	0.00%
CHARACTER & FITNESS INVESTIGATIONS	100.00	-	-	100.00	0.00%
LAW CLERK BOARD EXPENSE	6,000.00	322.73	1,165.54	4,834.46	19.43%
LAW CLERK OUTREACH	5,000.00	-	-	5,000.00	0.00%
TOTAL DIRECT EXPENSES:	11,350.00	322.73	1,165.54	10,184.46	10.27%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.10 FTE)	84,449.00	7,012.98	28,380.66	56,068.34	33.61%
BENEFITS EXPENSE	31,033.00	2,498.79	10,187.20	20,845.80	32.83%
OTHER INDIRECT EXPENSE	27,183.00	1,949.66	9,219.62	17,963.38	33.92%
TOTAL INDIRECT EXPENSES:	142,665.00	11,461.43	47,787.48	94,877.52	33.50%
TOTAL ALL EXPENSES:	154,015.00	11,784.16	48,953.02	105,061.98	31.78%
NET INCOME (LOSS):	11,985.00	52,368.84	53,648.98		

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LEGISLATIVE					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	4,550.00	410.49	314.88	4,235.12	6.92%
STAFF MEMBERSHIP DUES	450.00	-	-	450.00	0.00%
SUBSCRIPTIONS	2,000.00	-	1,981.80	18.20	99.09%
TELEPHONE	400.00	-	-	400.00	0.00%
OLYMPIA RENT	2,500.00	207.03	207.03	2,292.97	8.28%
CONTRACT LOBBYIST	5,000.00	1,250.00	1,250.00	3,750.00	25.00%
LOBBYIST CONTACT COSTS	1,000.00	-	-	1,000.00	0.00%
LEGISLATIVE COMMITTEE	2,500.00	-	1,977.30	522.70	79.09%
BOG LEGISLATIVE COMMITTEE	250.00	-	-	250.00	0.00%
TOTAL DIRECT EXPENSES:	18,650.00	1,867.52	5,731.01	12,918.99	30.73%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.10 FTE)	80,340.00	6,705.76	27,137.89	53,202.11	33.78%
BENEFITS EXPENSE	27,893.00	2,265.46	9,228.74	18,664.26	33.09%
OTHER INDIRECT EXPENSE	27,183.00	1,949.67	9,219.65	17,963.35	33.92%
TOTAL INDIRECT EXPENSES:	135,416.00	10,920.89	45,586.28	89,829.72	33.66%
TOTAL ALL EXPENSES:	154,066.00	12,788.41	51,317.29	102,748.71	33.31%
NET INCOME (LOSS):	(154,066.00)	(12,788.41)	(51,317.29)		

Washington State Bar Association

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LICENSING & MEMBERSHIP RECORDS					
REVENUE:					
STATUS CERTIFICATE FEES	22,000.00	1,979.40	6,324.03	15,675.97	28.75%
RULE 9/LEGAL INTERN FEES	11,000.00	450.00	1,450.00	9,550.00	13.18%
INVESTIGATION FEES	22,000.00	4,100.00	11,500.00	10,500.00	52.27%
PRO HAC VICE	230,000.00	26,719.00	105,679.00	124,321.00	45.95%
MEMBER CONTACT INFORMATION	19,000.00	194.55	3,396.49	15,603.51	17.88%
PHOTO BAR CARD SALES	350.00	72.00	108.00	242.00	30.86%
TOTAL REVENUE:	304,350.00	33,514.95	128,457.52	175,892.48	42.21%
DIRECT EXPENSES:					
DEPRECIATION	13,812.00	1,150.00	4,602.00	9,210.00	33.32%
POSTAGE	29,000.00	245.53	5,881.25	23,118.75	20.28%
LICENSING FORMS	3,000.00	62.00	2,441.11	558.89	81.37%
TOTAL DIRECT EXPENSES:	45,812.00	1,457.53	12,924.36	32,887.64	28.21%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.35 FTE)	395,080.00	34,060.14	132,836.11	262,243.89	33.62%
BENEFITS EXPENSE	133,752.00	10,811.84	44,068.47	89,683.53	32.95%
OTHER INDIRECT EXPENSE	107,495.00	7,723.59	36,523.81	70,971.19	33.98%
TOTAL INDIRECT EXPENSES:	636,327.00	52,595.57	213,428.39	422,898.61	33.54%
TOTAL ALL EXPENSES:	682,139.00	54,053.10	226,352.75	455,786.25	33.18%
NET INCOME (LOSS):	(377,789.00)	(20,538.15)	(97,895.23)		

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LIMITED LICENSE LEGAL TECHNICIAN PROGRAM					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	600.00	-	82.33	517.67	13.72%
LLLT BOARD	17,000.00	1,699.45	5,449.94	11,550.06	32.06%
LLLT OUTREACH	8,000.00	151.65	2,353.62	5,646.38	29.42%
TOTAL DIRECT EXPENSES:	25,600.00	1,851.10	7,885.89	17,714.11	30.80%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.55 FTE)	135,526.00	11,176.24	45,232.80	90,293.20	33.38%
BENEFITS EXPENSE	41,762.00	3,834.27	15,617.23	26,144.77	37.40%
OTHER INDIRECT EXPENSE	38,303.00	2,749.51	13,002.04	25,300.96	33.95%
TOTAL INDIRECT EXPENSES:	215,591.00	17,760.02	73,852.07	141,738.93	34.26%
TOTAL ALL EXPENSES:	241,191.00	19,611.12	81,737.96	159,453.04	33.89%
NET INCOME (LOSS):	(241,191.00)	(19,611.12)	(81,737.96)		

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
LIMITED PRACTICE OFFICERS					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
LPO BOARD	3,000.00	519.32	1,272.70	1,727.30	42.42%
TOTAL DIRECT EXPENSES:	<u>3,000.00</u>	<u>519.32</u>	<u>1,272.70</u>	<u>1,727.30</u>	<u>42.42%</u>
INDIRECT EXPENSES:					
SALARY EXPENSE (1.17 FTE)	99,089.00	8,475.31	33,540.02	65,548.98	33.85%
BENEFITS EXPENSE	40,651.00	2,821.04	11,504.41	29,146.59	28.30%
OTHER INDIRECT EXPENSE	28,913.00	2,074.61	9,810.59	19,102.41	33.93%
TOTAL INDIRECT EXPENSES:	<u>168,653.00</u>	<u>13,370.96</u>	<u>54,855.02</u>	<u>113,797.98</u>	<u>32.53%</u>
TOTAL ALL EXPENSES:	<u>171,653.00</u>	<u>13,890.28</u>	<u>56,127.72</u>	<u>115,525.28</u>	<u>32.70%</u>
NET INCOME (LOSS):	<u>(171,653.00)</u>	<u>(13,890.28)</u>	<u>(56,127.72)</u>		

Washington State Bar Association
Statement of Activities
For the Period from January 1, 2019 to January 31, 2019
33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MANDATORY CONTINUING LEGAL EDUCATION					
REVENUE:					
ACCREDITED PROGRAM FEES	540,000.00	47,795.00	214,545.00	325,455.00	39.73%
FORM 1 LATE FEES	150,000.00	12,197.50	76,087.50	73,912.50	50.73%
MEMBER LATE FEES	203,000.00	60,550.00	61,250.00	141,750.00	30.17%
ANNUAL ACCREDITED SPONSOR FEES	43,000.00	-	43,000.00	-	100.00%
ATTENDANCE LATE FEES	85,000.00	8,100.00	36,280.00	48,720.00	42.68%
COMITY CERTIFICATES	29,000.00	13,000.00	29,450.64	(450.64)	101.55%
TOTAL REVENUE:	1,050,000.00	141,642.50	460,613.14	589,386.86	43.87%
DIRECT EXPENSES:					
DEPRECIATION	249,948.00	20,676.00	82,699.00	167,249.00	33.09%
STAFF MEMBERSHIP DUES	500.00	-	-	500.00	0.00%
MCLE BOARD	2,000.00	145.88	402.00	1,598.00	20.10%
TOTAL DIRECT EXPENSES:	252,448.00	20,821.88	83,101.00	169,347.00	32.92%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.90 FTE)	374,898.00	47,492.72	153,960.42	220,937.58	41.07%
BENEFITS EXPENSE	124,996.00	10,066.74	40,980.40	84,015.60	32.79%
OTHER INDIRECT EXPENSE	121,087.00	8,698.44	41,133.64	79,953.36	33.97%
TOTAL INDIRECT EXPENSES:	620,981.00	66,257.90	236,074.46	384,906.54	38.02%
TOTAL ALL EXPENSES:	873,429.00	87,079.78	319,175.46	554,253.54	36.54%
NET INCOME (LOSS):	176,571.00	54,562.72	141,437.68		

Washington State Bar Association
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For the Period from January 1, 2019 to January 31, 2019
33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MEMBER ASSISTANCE PROGRAM					
REVENUE:					
DIVERSIONS	10,000.00	1,500.00	3,766.80	6,233.20	37.67%
LAP GROUPS REVENUE	-	280.00	280.00	(280.00)	
TOTAL REVENUE:	10,000.00	1,780.00	4,046.80	5,953.20	40.47%
DIRECT EXPENSES:					
PUBLICATIONS PRODUCTION	200.00	-	-	200.00	0.00%
STAFF MEMBERSHIP DUES	225.00	-	-	225.00	0.00%
PROF LIAB INSURANCE	850.00	825.00	825.00	25.00	97.06%
TOTAL DIRECT EXPENSES:	1,275.00	825.00	825.00	450.00	64.71%
INDIRECT EXPENSES:					
SALARY EXPENSE (0.90 FTE)	84,582.00	7,367.22	28,999.52	55,582.48	34.29%
BENEFITS EXPENSE	34,402.00	2,762.38	11,224.82	23,177.18	32.63%
OTHER INDIRECT EXPENSE	22,240.00	1,599.71	7,564.82	14,675.18	34.01%
TOTAL INDIRECT EXPENSES:	141,224.00	11,729.31	47,789.16	93,434.84	33.84%
TOTAL ALL EXPENSES:	142,499.00	12,554.31	48,614.16	93,884.84	34.12%
NET INCOME (LOSS):	(132,499.00)	(10,774.31)	(44,567.36)		

Washington State Bar Association
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For the Period from January 1, 2019 to January 31, 2019
33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MEMBER SERVICES & ENGAGEMENT					
REVENUE:					
ROYALTIES	30,000.00	39.38	11,782.91	18,217.09	39.28%
NMP PRODUCT SALES	70,000.00	7,724.00	52,818.64	17,181.36	75.46%
SPONSORSHIPS	1,200.00	725.00	725.00	475.00	60.42%
SEMINAR REGISTRATIONS	30,000.00	-	-	30,000.00	0.00%
TRIAL ADVOCACY PROGRAM	10,000.00	-	-	10,000.00	0.00%
TOTAL REVENUE:	141,200.00	8,488.38	65,326.55	75,873.45	46.27%
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	4,500.00	-	193.93	4,306.07	4.31%
SUBSCRIPTIONS	480.00	-	769.60	(289.60)	160.33%
CONFERENCE CALLS	200.00	-	-	200.00	0.00%
YLL SECTION PROGRAM	1,100.00	705.00	705.00	395.00	64.09%
WYLC CLE COMPS	1,000.00	-	-	1,000.00	0.00%
WYLC OUTREACH EVENTS	2,500.00	-	13.15	2,486.85	0.53%
WYL COMMITTEE	15,000.00	-	767.86	14,232.14	5.12%
OPEN SECTIONS NIGHT	4,400.00	10.00	10.00	4,390.00	0.23%
RURAL PLACEMENT PROGRAM	10,500.00	-	-	10,500.00	0.00%
TRIAL ADVOCACY EXPENSES	2,500.00	-	-	2,500.00	0.00%
RECEPTION/FORUM EXPENSE	4,000.00	1,046.76	2,251.54	1,748.46	56.29%
WYLC SCHOLARSHIPS/DONATIONS/GRANT	2,500.00	835.90	835.90	1,664.10	33.44%
STAFF MEMBERSHIP DUES	385.00	-	-	385.00	0.00%
LENDING LIBRARY	5,500.00	45.74	1,658.48	3,841.52	30.15%
NMP SPEAKERS & PROGRAM DEVELOPMENT	1,500.00	-	7.77	1,492.23	0.52%
TOTAL DIRECT EXPENSES:	56,065.00	2,643.40	7,213.23	48,851.77	12.87%
INDIRECT EXPENSES:					
SALARY EXPENSE (3.98 FTE)	296,941.00	24,496.04	92,611.15	204,329.85	31.19%
BENEFITS EXPENSE	110,321.00	8,892.35	36,221.89	74,099.11	32.83%
OTHER INDIRECT EXPENSE	98,352.00	7,073.69	33,450.63	64,901.37	34.01%
TOTAL INDIRECT EXPENSES:	505,614.00	40,462.08	162,283.67	343,330.33	32.10%
TOTAL ALL EXPENSES:	561,679.00	43,105.48	169,496.90	392,182.10	30.18%
NET INCOME (LOSS):	(420,479.00)	(34,617.10)	(104,170.35)		

Washington State Bar Association
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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MEMBERSHIP BENEFITS					
REVENUE:					
SPONSORSHIPS	8,000.00	-	-	8,000.00	0.00%
INTERNET SALES	9,000.00	882.00	10,927.00	(1,927.00)	121.41%
TOTAL REVENUE:	17,000.00	882.00	10,927.00	6,073.00	64.28%
DIRECT EXPENSES:					
LEGAL LUNCHBOX COURSEBOOK PRODUCTION	500.00	-	-	500.00	0.00%
LEGAL LUNCHBOX SPEAKERS & PROGRAM	1,700.00	-	25.80	1,674.20	1.52%
WSBA CONNECTS	46,560.00	-	19,400.00	27,160.00	41.67%
CASEMAKER & FASTCASE	136,336.00	75,192.00	91,440.00	44,896.00	67.07%
CONFERENCE CALLS	-	-	127.69	(127.69)	
TOTAL DIRECT EXPENSES:	185,096.00	75,192.00	110,993.49	74,102.51	59.97%
INDIRECT EXPENSES:					
SALARY EXPENSE (0.73 FTE)	54,366.00	4,409.37	17,299.94	37,066.06	31.82%
BENEFITS EXPENSE	20,206.00	1,640.69	6,672.21	13,533.79	33.02%
OTHER INDIRECT EXPENSE	18,039.00	1,299.78	6,146.49	11,892.51	34.07%
TOTAL INDIRECT EXPENSES:	92,611.00	7,349.84	30,118.64	62,492.36	32.52%
TOTAL ALL EXPENSES:	277,707.00	82,541.84	141,112.13	136,594.87	50.81%
NET INCOME (LOSS):	(260,707.00)	(81,659.84)	(130,185.13)		

Washington State Bar Association

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
NORTHWEST LAWYER					
REVENUE:					
ROYALTIES	-	-	1,267.59	(1,267.59)	
DISPLAY ADVERTISING	297,500.00	26,497.10	26,497.10	271,002.90	8.91%
SUBSCRIPT/SINGLE ISSUES	350.00	36.00	72.00	278.00	20.57%
CLASSIFIED ADVERTISING	12,500.00	50.00	6,759.85	5,740.15	54.08%
GEN ANNOUNCEMENTS	17,500.00	364.00	364.00	17,136.00	2.08%
PROF ANNOUNCEMENTS	21,000.00	1,209.60	1,209.60	19,790.40	5.76%
JOB TARGET ADVERTISING	112,500.00	7,160.16	61,235.79	51,264.21	54.43%
TOTAL REVENUE:	461,350.00	35,316.86	97,405.93	363,944.07	21.11%
DIRECT EXPENSES:					
BAD DEBT EXPENSE	2,000.00	-	(1,950.00)	3,950.00	-97.50%
POSTAGE	89,000.00	19,536.69	29,772.65	59,227.35	33.45%
PRINTING, COPYING & MAILING	250,000.00	28,089.55	86,649.83	163,350.17	34.66%
DIGITAL/ONLINE DEVELOPMENT	10,200.00	2,200.00	2,900.00	7,300.00	28.43%
GRAPHICS/ARTWORK	3,500.00	-	-	3,500.00	0.00%
EDITORIAL ADVISORY COMMITTEE	800.00	-	178.27	621.73	22.28%
STAFF MEMBERSHIP DUES	135.00	-	-	135.00	0.00%
TOTAL DIRECT EXPENSES:	355,635.00	49,826.24	117,550.75	238,084.25	33.05%
INDIRECT EXPENSES:					
SALARY EXPENSE (2.25 FTE)	177,211.00	11,779.27	58,248.73	118,962.27	32.87%
BENEFITS EXPENSE	70,006.00	3,952.52	16,159.19	53,846.81	23.08%
OTHER INDIRECT EXPENSE	55,601.00	3,999.28	18,912.04	36,688.96	34.01%
TOTAL INDIRECT EXPENSES:	302,818.00	19,731.07	93,319.96	209,498.04	30.82%
TOTAL ALL EXPENSES:	658,453.00	69,557.31	210,870.71	447,582.29	32.03%
NET INCOME (LOSS):	(197,103.00)	(34,240.45)	(113,464.78)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
OFFICE OF GENERAL COUNSEL					
REVENUE:					
COPY FEES	-	-	330.00	(330.00)	
TOTAL REVENUE:	-	-	330.00	(330.00)	
DIRECT EXPENSES:					
DEPRECIATION	3,336.00	-	-	3,336.00	0.00%
STAFF TRAVEL/PARKING	3,240.00	-	-	3,240.00	0.00%
STAFF MEMBERSHIP DUES	1,500.00	-	200.00	1,300.00	13.33%
COURT RULES COMMITTEE	2,000.00	681.25	1,229.62	770.38	61.48%
DISCIPLINE ADVISORY ROUNDTABLE	500.00	-	-	500.00	0.00%
CUSTODIANSHIPS	2,500.00	-	-	2,500.00	0.00%
TOTAL DIRECT EXPENSES:	13,076.00	681.25	1,429.62	11,646.38	10.93%
INDIRECT EXPENSES:					
SALARY EXPENSE (5.75 FTE)	588,978.00	43,091.39	167,232.30	421,745.70	28.39%
BENEFITS EXPENSE	197,610.00	15,946.53	64,999.51	132,610.49	32.89%
OTHER INDIRECT EXPENSE	142,092.00	10,223.10	48,343.83	93,748.17	34.02%
TOTAL INDIRECT EXPENSES:	928,680.00	69,261.02	280,575.64	648,104.36	30.21%
TOTAL ALL EXPENSES:	941,756.00	69,942.27	282,005.26	659,750.74	29.94%
NET INCOME (LOSS):	(941,756.00)	(69,942.27)	(281,675.26)		

Washington State Bar Association

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSE:					
STAFF MEMBERSHIP DUES	500.00	-	-	500.00	0.00%
DISCIPLINARY BOARD EXPENSES	10,000.00	287.20	1,656.18	8,343.82	16.56%
CHIEF HEARING OFFICER	33,000.00	2,500.00	10,000.00	23,000.00	30.30%
HEARING OFFICER EXPENSES	3,000.00	67.71	110.43	2,889.57	3.68%
HEARING OFFICER TRAINING	2,000.00	-	-	2,000.00	0.00%
OUTSIDE COUNSEL	55,000.00	5,500.00	14,500.00	40,500.00	26.36%
TOTAL DIRECT EXPENSES:	103,500.00	8,354.91	26,266.61	77,233.39	25.38%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.45 FTE)	110,578.00	8,747.66	32,601.50	77,976.50	29.48%
BENEFITS EXPENSE	40,663.00	3,279.30	13,372.99	27,290.01	32.89%
OTHER INDIRECT EXPENSE	35,832.00	2,574.55	12,174.65	23,657.35	33.98%
TOTAL INDIRECT EXPENSES:	187,073.00	14,601.51	58,149.14	128,923.86	31.08%
TOTAL ALL EXPENSES:	290,573.00	22,956.42	84,415.75	206,157.25	29.05%
NET INCOME (LOSS):	(290,573.00)	(22,956.42)	(84,415.75)		

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
OUTREACH & ENGAGEMENT					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSE:					
STAFF TRAVEL/PARKING	1,400.00	-	-	1,400.00	0.00%
STAFF MEMBERSHIP DUES	1,152.00	-	-	1,152.00	0.00%
CONFERENCE CALLS	200.00	-	-	200.00	0.00%
ABA DELEGATES	4,500.00	-	-	4,500.00	0.00%
ANNUAL CHAIR MEETINGS	600.00	-	496.74	103.26	82.79%
JUDICIAL RECOMMENDATIONS COMMITTEE	4,500.00	-	1,976.10	2,523.90	43.91%
BOG ELECTIONS	6,500.00	-	-	6,500.00	0.00%
BAR OUTREACH	10,000.00	-	440.27	9,559.73	4.40%
PROFESSIONALISM	2,000.00	-	-	2,000.00	0.00%
TOTAL DIRECT EXPENSES:	30,852.00	-	2,913.11	27,938.89	9.44%
INDIRECT EXPENSES:					
SALARY EXPENSE (2.73 FTE)	224,397.00	18,585.55	75,648.55	148,748.45	33.71%
BENEFITS EXPENSE	79,186.00	6,396.54	26,079.16	53,106.84	32.93%
OTHER INDIRECT EXPENSE	67,463.00	4,849.10	22,930.81	44,532.19	33.99%
TOTAL INDIRECT EXPENSES:	371,046.00	29,831.19	124,658.52	246,387.48	33.60%
TOTAL ALL EXPENSES:	401,898.00	29,831.19	127,571.63	274,326.37	31.74%
NET INCOME (LOSS):	(401,898.00)	(29,831.19)	(127,571.63)		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
PRACTICE OF LAW BOARD					
REVENUE:	_____	_____	_____	_____	_____
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:	_____	_____	_____	_____	_____
PRACTICE OF LAW BOARD	16,000.00	477.70	3,105.78	12,894.22	19.41%
TOTAL DIRECT EXPENSES:	<u>16,000.00</u>	<u>477.70</u>	<u>3,105.78</u>	<u>12,894.22</u>	<u>19.41%</u>
INDIRECT EXPENSES:					
SALARY EXPENSE (0.40 FTE)	50,676.00	1,802.08	7,400.21	43,275.79	14.60%
BENEFITS EXPENSE	13,502.00	1,155.77	4,726.76	8,775.24	35.01%
OTHER INDIRECT EXPENSE	9,885.00	699.89	3,309.62	6,575.38	33.48%
TOTAL INDIRECT EXPENSES:	<u>74,063.00</u>	<u>3,657.74</u>	<u>15,436.59</u>	<u>58,626.41</u>	<u>20.84%</u>
TOTAL ALL EXPENSES:	<u>90,063.00</u>	<u>4,135.44</u>	<u>18,542.37</u>	<u>71,520.63</u>	<u>20.59%</u>
NET INCOME (LOSS):	<u>(90,063.00)</u>	<u>(4,135.44)</u>	<u>(18,542.37)</u>		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
PROFESSIONAL RESPONSIBILITY PROGRAM					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	2,000.00	-	969.77	1,030.23	48.49%
STAFF MEMBERSHIP DUES	500.00	-	-	500.00	0.00%
CPE COMMITTEE	4,200.00	727.81	1,693.17	2,506.83	40.31%
TOTAL DIRECT EXPENSES:	6,700.00	727.81	2,662.94	4,037.06	39.75%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.65 FTE)	160,192.00	13,395.14	54,201.61	105,990.39	33.84%
BENEFITS EXPENSE	57,904.00	4,676.79	19,047.85	38,856.15	32.90%
OTHER INDIRECT EXPENSE	40,774.00	2,924.46	13,829.38	26,944.62	33.92%
TOTAL INDIRECT EXPENSES:	258,870.00	20,996.39	87,078.84	171,791.16	33.64%
TOTAL ALL EXPENSES:	265,570.00	21,724.20	89,741.78	175,828.22	33.79%
NET INCOME (LOSS):	<u>(265,570.00)</u>	<u>(21,724.20)</u>	<u>(89,741.78)</u>		

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
PUBLIC SERVICE PROGRAMS					
REVENUE:					
DONATIONS & GRANTS	110,000.00	-	137,500.00	(27,500.00)	125.00%
PSP PRODUCT SALES	2,000.00	157.00	1,462.00	538.00	73.10%
TOTAL REVENUE:	112,000.00	157.00	138,962.00	(26,962.00)	124.07%
DIRECT EXPENSES:					
DONATIONS/SPONSORSHIPS/GRANTS	207,915.00	48,999.58	48,999.58	158,915.42	23.57%
STAFF TRAVEL/PARKING	2,000.00	-	89.85	1,910.15	4.49%
PRO BONO & PUBLIC SERVICE COMMITTEE	2,000.00	-	549.16	1,450.84	27.46%
PUBLIC SERVICE EVENTS AND PROJECTS	20,500.00	-	162.27	20,337.73	0.79%
TOTAL DIRECT EXPENSES:	232,415.00	48,999.58	49,800.86	182,614.14	21.43%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.03 FTE)	87,057.00	6,045.60	22,889.67	64,167.33	26.29%
BENEFITS EXPENSE	29,994.00	2,417.02	9,854.26	20,139.74	32.85%
OTHER INDIRECT EXPENSE	25,453.00	1,824.68	8,628.66	16,824.34	33.90%
TOTAL INDIRECT EXPENSES:	142,504.00	10,287.30	41,372.59	101,131.41	29.03%
TOTAL ALL EXPENSES:	374,919.00	59,286.88	91,173.45	283,745.55	24.32%
NET INCOME (LOSS):	(262,919.00)	(59,129.88)	47,788.55		

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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
PUBLICATION & DESIGN SERVICES					
REVENUE:	_____	_____	_____	_____	_____
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:	_____	_____	_____	_____	_____
STAFF MEMBERSHIP DUES	500.00	-	-	500.00	0.00%
SUBSCRIPTIONS	83.00	79.98	79.98	3.02	96.36%
IMAGE LIBRARY	4,680.00	100.00	4,200.00	480.00	89.74%
TOTAL DIRECT EXPENSES:	5,263.00	179.98	4,279.98	983.02	81.32%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.22 FTE)	80,074.00	7,188.74	31,653.54	48,420.46	39.53%
BENEFITS EXPENSE	31,380.00	2,471.24	10,073.74	21,306.26	32.10%
OTHER INDIRECT EXPENSE	30,148.00	2,174.61	10,283.37	19,864.63	34.11%
TOTAL INDIRECT EXPENSES:	141,602.00	11,834.59	52,010.65	89,591.35	36.73%
TOTAL ALL EXPENSES:	146,865.00	12,014.57	56,290.63	90,574.37	38.33%
NET INCOME (LOSS):	(146,865.00)	(12,014.57)	(56,290.63)		

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
SECTIONS ADMINISTRATION					
REVENUE:					
REIMBURSEMENTS FROM SECTIONS	300,000.00	255,668.75	258,406.25	41,593.75	86.14%
TOTAL REVENUE:	300,000.00	255,668.75	258,406.25	41,593.75	86.14%
DIRECT EXPENSES:					
STAFF TRAVEL/PARKING	1,200.00	115.54	321.90	878.10	26.83%
SUBSCRIPTIONS	372.00	-	372.00	-	100.00%
CONFERENCE CALLS	300.00	-	78.70	221.30	26.23%
MISCELLANEOUS	300.00	-	-	300.00	0.00%
SECTION/COMMITTEE CHAIR MTGS	1,000.00	-	360.87	639.13	36.09%
DUES STATEMENTS	6,000.00	-	5,585.18	414.82	93.09%
STAFF MEMBERSHIP DUES	125.00	-	-	125.00	0.00%
TOTAL DIRECT EXPENSES:	9,297.00	115.54	6,718.65	2,578.35	72.27%
INDIRECT EXPENSES:					
SALARY EXPENSE (4.25 FTE)	297,955.00	28,992.06	102,698.64	195,256.36	34.47%
BENEFITS EXPENSE	112,039.00	9,022.63	36,735.81	75,303.19	32.79%
OTHER INDIRECT EXPENSE	105,024.00	7,548.60	35,696.41	69,327.59	33.99%
TOTAL INDIRECT EXPENSES:	515,018.00	45,563.29	175,130.86	339,887.14	34.00%
TOTAL ALL EXPENSES:	524,315.00	45,678.83	181,849.51	342,465.49	34.68%
NET INCOME (LOSS):	(224,315.00)	209,989.92	76,556.74		

Washington State Bar Association
Statement of Activities
For the Period from January 1, 2019 to January 31, 2019
33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
TECHNOLOGY					
REVENUE:					
TOTAL REVENUE:	-	-	-	-	
DIRECT EXPENSES:					
CONSULTING SERVICES	85,000.00	1,967.24	31,104.30	53,895.70	36.59%
STAFF TRAVEL/PARKING	2,500.00	-	-	2,500.00	0.00%
STAFF MEMBERSHIP DUES	110.00	-	-	110.00	0.00%
TELEPHONE	24,000.00	1,701.93	6,042.06	17,957.94	25.18%
COMPUTER HARDWARE	29,000.00	803.72	3,460.13	25,539.87	11.93%
COMPUTER SOFTWARE	29,000.00	-	734.83	28,265.17	2.53%
HARDWARE SERVICE & WARRANTIES	60,000.00	-	29,059.65	30,940.35	48.43%
SOFTWARE MAINTENANCE & LICENSING	270,000.00	592.06	107,744.87	162,255.13	39.91%
TELEPHONE HARDWARE & MAINTENANCE	10,000.00	-	137.35	9,862.65	1.37%
COMPUTER SUPPLIES	15,000.00	277.28	5,398.33	9,601.67	35.99%
THIRD PARTY SERVICES	143,000.00	1,212.25	72,009.90	70,990.10	50.36%
TRANSFER TO INDIRECT EXPENSES	(667,610.00)	(6,554.48)	(255,691.42)	(411,918.58)	38.30%
TOTAL DIRECT EXPENSES:	-	-	-	-	
INDIRECT EXPENSES:					
SALARY EXPENSE (12.10 FTE)	1,059,680.00	90,108.36	369,083.39	690,596.61	34.83%
BENEFITS EXPENSE	370,332.00	28,233.97	119,460.89	250,871.11	32.26%
CAPITAL LABOR & OVERHEAD	(188,800.00)	(6,218.76)	(39,081.69)	(149,718.31)	20.70%
OTHER INDIRECT EXPENSE	299,010.00	21,496.06	101,652.08	197,357.92	34.00%
TOTAL INDIRECT EXPENSES:	1,540,222.00	133,619.63	551,114.67	989,107.33	35.78%
TOTAL ALL EXPENSES:	1,540,222.00	133,619.63	551,114.67	989,107.33	35.78%
NET INCOME (LOSS):	(1,540,222.00)	(133,619.63)	(551,114.67)		

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
CONTINUING LEGAL EDUCATION (CLE)					
REVENUE:					
SEMINAR REGISTRATIONS	876,000.00	(206.25)	245,722.25	630,277.75	28.05%
SEMINAR-EXHIB/SPNSR/ETC	41,500.00	-	500.00	41,000.00	1.20%
SHIPPING & HANDLING	1,000.00	58.50	178.68	821.32	17.87%
COURSEBOOK SALES	11,000.00	1,020.00	4,966.00	6,034.00	45.15%
MP3 AND VIDEO SALES	950,000.00	56,892.66	553,420.10	396,579.90	58.25%
TOTAL REVENUE:	1,879,500.00	57,764.91	804,787.03	1,074,712.97	42.82%
DIRECT EXPENSES:					
COURSEBOOK PRODUCTION	3,000.00	47.55	183.51	2,816.49	6.12%
POSTAGE - FLIERS/CATALOGS	10,685.00	412.48	1,859.86	8,825.14	17.41%
POSTAGE - MISC./DELIVERY	2,500.00	-	140.00	2,360.00	5.60%
DEPRECIATION	5,540.00	632.12	2,530.12	3,009.88	45.67%
ONLINE EXPENSES	40,000.00	4,284.08	14,910.08	25,089.92	37.28%
ACCREDITATION FEES	4,696.00	(36.00)	2,134.00	2,562.00	45.44%
SEMINAR BROCHURES	20,770.00	-	4,328.29	16,441.71	20.84%
FACILITIES	223,500.00	1,750.00	27,830.10	195,669.90	12.45%
SPEAKERS & PROGRAM DEVELOP	68,100.00	1,532.12	8,391.51	59,708.49	12.32%
CLE SEMINAR COMMITTEE	500.00	-	37.85	462.15	7.57%
BAD DEBT EXPENSE	600.00	-	(523.00)	1,123.00	-87.17%
STAFF TRAVEL/PARKING	5,675.00	-	190.60	5,484.40	3.36%
STAFF MEMBERSHIP DUES	1,260.00	-	1,007.00	253.00	79.92%
SUPPLIES	3,650.00	-	186.17	3,463.83	5.10%
TELEPHONE	-	-	13.88	(13.88)	
COST OF SALES - COURSEBOOKS	1,200.00	73.41	427.57	772.43	35.63%
A/V DEVELOP COSTS (RECORDING)	1,500.00	-	-	1,500.00	0.00%
SHIPPING SUPPLIES	100.00	-	-	100.00	0.00%
POSTAGE & DELIVERY-COURSEBOOKS	500.00	44.80	160.61	339.39	32.12%
TOTAL DIRECT EXPENSES:	393,776.00	8,740.56	63,808.15	329,967.85	16.20%
INDIRECT EXPENSES:					
SALARY EXPENSE (9.72 FTE)	656,422.00	58,469.57	226,920.99	429,501.01	34.57%
BENEFITS EXPENSE	254,178.00	20,465.02	83,223.25	170,954.75	32.74%
OTHER INDIRECT EXPENSE	240,197.00	17,271.82	81,676.23	158,520.77	34.00%
TOTAL INDIRECT EXPENSES:	1,150,797.00	96,206.41	391,820.47	758,976.53	34.05%
TOTAL ALL EXPENSES:	1,544,573.00	104,946.97	455,628.62	1,088,944.38	29.50%
NET INCOME (LOSS):	334,927.00	(47,182.06)	349,158.41		

Washington State Bar Association
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For the Period from January 1, 2019 to January 31, 2019
33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
DESKBOOKS					
REVENUE:					
SHIPPING & HANDLING	2,000.00	355.50	1,018.32	981.68	50.92%
DESKBOOK SALES	80,000.00	10,085.50	30,691.40	49,308.60	38.36%
SECTION PUBLICATION SALES	3,000.00	450.00	1,575.00	1,425.00	52.50%
CASEMAKER ROYALTIES	75,000.00	3,186.42	11,148.24	63,851.76	14.86%
TOTAL REVENUE:	160,000.00	14,077.42	44,432.96	115,567.04	27.77%
DIRECT EXPENSES:					
COST OF SALES - DESKBOOKS	50,000.00	7,994.52	24,386.58	25,613.42	48.77%
COST OF SALES - SECTION PUBLICATION	750.00	78.04	312.16	437.84	41.62%
SPLITS TO SECTIONS	1,000.00	398.60	398.60	601.40	39.86%
DESKBOOK ROYALTIES	1,000.00	337.50	337.50	662.50	33.75%
SHIPPING SUPPLIES	150.00	-	-	150.00	0.00%
POSTAGE & DELIVER-DESKBOOKS	2,000.00	1,276.19	2,169.19	(169.19)	108.46%
FLIERS/CATALOGS	3,000.00	-	-	3,000.00	0.00%
POSTAGE - FLIERS/CATALOGS	1,500.00	-	-	1,500.00	0.00%
COMPLIMENTARY BOOK PROGRAM	2,000.00	411.54	411.54	1,588.46	20.58%
BAD DEBT EXPENSE	100.00	-	-	100.00	0.00%
RECORDS STORAGE - OFF SITE	7,440.00	-	2,645.00	4,795.00	35.55%
STAFF MEMBERSHIP DUES	250.00	-	168.00	82.00	67.20%
MISCELLANEOUS	200.00	-	-	200.00	0.00%
TOTAL DIRECT EXPENSES:	69,390.00	10,496.39	30,828.57	38,561.43	44.43%
INDIRECT EXPENSES:					
SALARY EXPENSE (2.05 FTE)	117,663.00	9,822.92	40,447.44	77,215.56	34.38%
BENEFITS EXPENSE	48,981.00	3,925.66	15,979.25	33,001.75	32.62%
OTHER INDIRECT EXPENSE	50,659.00	3,649.37	17,257.25	33,401.75	34.07%
TOTAL INDIRECT EXPENSES:	217,303.00	17,397.95	73,683.94	143,619.06	33.91%
TOTAL ALL EXPENSES:	286,693.00	27,894.34	104,512.51	182,180.49	36.45%
NET INCOME (LOSS):	(126,693.00)	(13,816.92)	(60,079.55)		

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2019 to January 31, 2019

33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
CLIENT PROTECTION FUND					
REVENUE:					
CPF RESTITUTION	3,000.00	662.49	1,357.75	1,642.25	45.26%
CPF MEMBER ASSESSMENTS	982,000.00	555,510.00	894,840.00	87,160.00	91.12%
INTEREST INCOME	7,500.00	1,020.10	19,854.41	(12,354.41)	264.73%
TOTAL REVENUE:	992,500.00	557,192.59	916,052.16	76,447.84	92.30%
DIRECT EXPENSES:					
BANK FEES - WELLS FARGO	1,000.00	10.78	(156.69)	1,156.69	-15.67%
GIFTS TO INJURED CLIENTS	500,000.00	5,000.00	56,200.00	443,800.00	11.24%
CPF BOARD EXPENSES	3,000.00	53.08	334.31	2,665.69	11.14%
TOTAL DIRECT EXPENSES:	504,000.00	5,063.86	56,377.62	447,622.38	11.19%
INDIRECT EXPENSES:					
SALARY EXPENSE (1.25 FTE)	97,740.00	6,735.72	27,322.56	70,417.44	27.95%
BENEFITS EXPENSE	35,581.00	2,871.06	11,694.99	23,886.01	32.87%
OTHER INDIRECT EXPENSE	30,889.00	2,224.58	10,519.79	20,369.21	34.06%
TOTAL INDIRECT EXPENSES:	164,210.00	11,831.36	49,537.34	114,672.66	30.17%
TOTAL ALL EXPENSES:	668,210.00	16,895.22	105,914.96	562,295.04	15.85%
NET INCOME (LOSS):	324,290.00	540,297.37	810,137.20		

Washington State Bar Association
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For the Period from January 1, 2019 to January 31, 2019
33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
MANAGEMENT OF WESTERN STATES BAR CONFERENCE (NO WSBA FUNDS)					
REVENUE:					
REGISTRATION REVENUE	33,000.00	-	-	33,000.00	0.00%
OTHER ACTIVITIES REGISTRATION REVENUE	20,000.00	-	-	20,000.00	0.00%
WESTERN STATES BAR MEMBERSHIP DUES	3,200.00	2,200.00	2,400.00	800.00	75.00%
SPONSORSHIPS	12,000.00	-	-	12,000.00	0.00%
TOTAL REVENUE:	68,200.00	2,200.00	2,400.00	65,800.00	3.52%
DIRECT EXPENSES:					
FACILITIES	55,000.00	-	-	55,000.00	0.00%
SPEAKERS & PROGRAM DEVELOPMENT	1,000.00	-	-	1,000.00	0.00%
BANK FEES	-	-	1.00	(1.00)	
WSBC PRESIDENT TRAVEL	500.00	-	-	500.00	0.00%
OPTIONAL ACTIVITIES EXPENSE	3,500.00	-	78.15	3,421.85	2.23%
MARKETING EXPENSE	800.00	-	52.04	747.96	6.51%
STAFF TRAVEL/PARKING	2,000.00	-	777.87	1,222.13	38.89%
TOTAL DIRECT EXPENSES:	62,800.00	-	909.06	61,890.94	1.45%
INDIRECT EXPENSES:					
TOTAL INDIRECT EXPENSES:	-	-	-	-	
TOTAL ALL EXPENSES:	62,800.00	-	909.06	61,890.94	1.45%
NET INCOME (LOSS):	5,400.00	2,200.00	1,490.94		

Washington State Bar Association

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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
SECTIONS OPERATIONS					
REVENUE:					
SECTION DUES	471,440.00	387,548.75	391,648.25	79,791.75	83.07%
SEMINAR PROFIT SHARE	15,000.00	-	7,034.41	7,965.59	46.90%
INTEREST INCOME	1,900.00	-	-	1,900.00	0.00%
PUBLICATIONS REVENUE	4,000.00	2,432.73	2,432.73	1,567.27	60.82%
OTHER	49,250.00	900.00	12,483.75	36,766.25	25.35%
TOTAL REVENUE:	541,590.00	390,881.48	413,599.14	127,990.86	76.37%
DIRECT EXPENSES:					
DIRECT EXPENSES OF SECTION ACTIVITIES	533,005.00	19,147.78	70,786.10	462,218.90	13.28%
REIMBURSEMENT TO WSBA FOR INDIRECT EXPENSES	308,232.00	255,668.75	258,406.25	49,825.75	83.83%
TOTAL DIRECT EXPENSES:	841,237.00	274,816.53	329,192.35	512,044.65	39.13%
NET INCOME (LOSS):	(299,647.00)	116,064.95	84,406.79		

Washington State Bar Association
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33.33% OF YEAR COMPLETE

	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET
INDIRECT EXPENSES:					
SALARIES	11,868,980.00	1,002,003.48	3,960,830.99	7,908,149.01	33.37%
ALLOWANCE FOR OPEN POSITIONS	(200,000.00)	-	-	(200,000.00)	0.00%
TEMPORARY SALARIES	141,330.00	48,426.21	102,851.59	38,478.41	72.77%
CAPITAL LABOR & OVERHEAD	(188,800.00)	(6,218.76)	(39,081.69)	(149,718.31)	20.70%
EMPLOYEE ASSISTANCE PLAN	4,800.00	-	1,200.00	3,600.00	25.00%
EMPLOYEE SERVICE AWARDS	2,230.00	-	1,392.60	837.40	62.45%
FICA (EMPLOYER PORTION)	879,000.00	75,682.72	273,196.92	605,803.08	31.08%
L&I INSURANCE	47,250.00	9,668.59	9,668.59	37,581.41	20.46%
WA STATE FAMILY MEDICAL LEAVE (EMPLOYER PORTION)	-	1,476.89	1,476.89	(1,476.89)	
MEDICAL (EMPLOYER PORTION)	1,590,000.00	119,809.43	484,270.53	1,105,729.47	30.46%
RETIREMENT (EMPLOYER PORTION)	1,494,000.00	121,883.52	489,355.69	1,004,644.31	32.75%
TRANSPORTATION ALLOWANCE	119,250.00	255.00	105,973.20	13,276.80	88.87%
UNEMPLOYMENT INSURANCE	87,500.00	9,665.10	15,166.90	72,333.10	17.33%
STAFF DEVELOPMENT-GENERAL	6,900.00	154.07	469.79	6,430.21	6.81%
TOTAL SALARY & BENEFITS EXPENSE:	15,852,440.00	1,382,806.25	5,406,772.00	10,445,668.00	34.11%
WORKPLACE BENEFITS	39,000.00	208.30	9,257.50	29,742.50	23.74%
HUMAN RESOURCES POOLED EXP	102,400.00	5,741.37	20,833.79	81,566.21	20.35%
MEETING SUPPORT EXPENSES	12,500.00	735.72	4,403.40	8,096.60	35.23%
RENT	1,802,000.00	152,012.66	591,843.44	1,210,156.56	32.84%
PERSONAL PROP TAXES-WSBA	14,000.00	900.84	5,742.62	8,257.38	41.02%
FURNITURE, MAINT, LH IMP	35,200.00	5,312.02	9,264.99	25,935.01	26.32%
OFFICE SUPPLIES & EQUIPMENT	46,000.00	3,080.06	18,248.82	27,751.18	39.67%
FURN & OFFICE EQUIP DEPRECIATION	51,300.00	3,434.00	14,268.78	37,031.22	27.81%
COMPUTER HARDWARE DEPRECIATION	51,800.00	3,454.00	13,812.00	37,988.00	26.66%
COMPUTER SOFTWARE DEPRECIATION	162,700.00	9,310.00	37,695.00	125,005.00	23.17%
INSURANCE	143,000.00	11,916.18	47,664.72	95,335.28	33.33%
PROFESSIONAL FEES-AUDIT	35,000.00	2,350.00	31,669.20	3,330.80	90.48%
PROFESSIONAL FEES-LEGAL	50,000.00	19,602.50	38,236.15	11,763.85	76.47%
TELEPHONE & INTERNET	47,000.00	3,526.82	14,829.57	32,170.43	31.55%
POSTAGE - GENERAL	36,000.00	3,672.92	9,593.68	26,406.32	26.65%
RECORDS STORAGE	40,000.00	3,054.09	16,886.70	23,113.30	42.22%
STAFF TRAINING	95,245.00	6,995.38	25,438.82	69,806.18	26.71%
BANK FEES	35,400.00	5,438.37	13,629.59	21,770.41	38.50%
PRODUCTION MAINTENANCE & SUPPLIES	12,000.00	2,500.64	2,521.17	9,478.83	21.01%
COMPUTER POOLED EXPENSES	667,610.00	6,554.48	255,691.42	411,918.58	38.30%
TOTAL OTHER INDIRECT EXPENSES:	3,478,155.00	249,800.35	1,181,531.36	2,296,623.64	33.97%
TOTAL INDIRECT EXPENSES:	19,330,595.00	1,632,606.60	6,588,303.36		

Washington State Bar Association
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	FISCAL 2019 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE
SUMMARY PAGE				
LICENSE FEES	15,958,200.00	1,202,394.11	5,113,914.28	10,844,285.72
ACCESS TO JUSTICE	(327,324.00)	(23,491.70)	(96,546.11)	(230,777.89)
ADMINISTRATION	(1,043,654.00)	(53,933.26)	(308,445.44)	(735,208.56)
ADMISSIONS/BAR EXAM	69,421.00	(49,301.23)	132,008.81	(62,587.81)
BOARD OF GOVERNORS	(834,709.00)	(83,201.89)	(301,867.76)	(532,841.24)
COMMUNICATIONS	(604,832.00)	(56,133.63)	(221,256.06)	(383,575.94)
CONFERENCE & BROADCAST SERVICES	(783,893.00)	(65,051.63)	(264,421.67)	(519,471.33)
DISCIPLINE	(5,788,075.00)	(468,203.88)	(1,924,389.09)	(3,863,685.91)
DIVERSITY	(445,817.00)	(47,807.14)	(50,954.05)	(394,862.95)
FOUNDATION	(164,863.00)	(14,259.73)	(53,699.42)	(111,163.58)
HUMAN RESOURCES	(204,958.00)	(33,807.38)	(133,752.70)	(71,205.30)
LAP	(132,499.00)	(10,774.31)	(44,567.36)	(87,931.64)
LEGISLATIVE	(154,066.00)	(12,788.41)	(51,317.29)	(102,748.71)
LICENSING AND MEMBERSHIP	(377,789.00)	(20,538.15)	(97,895.23)	(279,893.77)
LIMITED LICENSE LEGAL TECHNICIAN	(241,191.00)	(19,611.12)	(81,737.96)	(159,453.04)
LIMITED PRACTICE OFFICERS	(171,653.00)	(13,890.28)	(56,127.72)	(115,525.28)
MANDATORY CLE ADMINISTRATION	176,571.00	54,562.72	141,437.68	35,133.32
MEMBER BENEFITS	(260,707.00)	(81,659.84)	(130,185.13)	(130,521.87)
MEMBER SERVICES & ENGAGEMENT	(420,479.00)	(34,617.10)	(104,170.35)	(316,308.65)
NW LAWYER	(197,103.00)	(34,240.45)	(113,464.78)	(83,638.22)
OFFICE OF GENERAL COUNSEL	(941,756.00)	(69,942.27)	(281,675.26)	(660,080.74)
OGC-DISCIPLINARY BOARD	(290,573.00)	(22,956.42)	(84,415.75)	(206,157.25)
OUTREACH & ENGAGEMENT	(401,898.00)	(29,831.19)	(127,571.63)	(274,326.37)
PRACTICE OF LAW BOARD	(90,063.00)	(4,135.44)	(18,542.37)	(71,520.63)
PROFESSIONAL RESPONSIBILITY PROGRAM	(265,570.00)	(21,724.20)	(89,741.78)	(175,828.22)
PUBLICATION & DESIGN SERVICES	(146,865.00)	(12,014.57)	(56,290.63)	(90,574.37)
PUBLIC SERVICE PROGRAMS	(262,919.00)	(59,129.88)	47,788.55	(310,707.55)
LAW CLERK PROGRAM	11,985.00	52,368.84	53,648.98	(41,663.98)
SECTIONS ADMINISTRATION	(224,315.00)	209,989.92	76,556.74	(300,871.74)
TECHNOLOGY	(1,540,222.00)	(133,619.63)	(551,114.67)	(989,107.33)
CLE - PRODUCTS	733,919.00	35,979.41	477,630.56	256,288.44
CLE - SEMINARS	(398,992.00)	(83,161.47)	(128,472.15)	(270,519.85)
SECTIONS OPERATIONS	(299,647.00)	116,064.95	84,406.79	(384,053.79)
DESKBOOKS	(126,693.00)	(13,816.92)	(60,079.55)	(66,613.45)
CLIENT PROTECTION FUND	324,290.00	540,297.37	810,137.20	(485,847.20)
WESTERN STATES BAR CONFERENCE (No WSBA Funds)	5,400.00	2,200.00	1,490.94	3,909.06
INDIRECT EXPENSES	(19,330,595.00)	(1,632,606.60)	(6,588,303.36)	(12,742,291.64)
TOTAL OF ALL	19,193,934.00	992,392.40	5,081,984.74	14,111,949.26
NET INCOME (LOSS)	136,661.00	640,214.20	1,506,318.62	

**Washington State Bar Association
Analysis of Cash Investments
As of January 31, 2019**

Checking & Savings Accounts

General Fund

Checking

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
Wells Fargo	General	\$ 2,280,368

Total

Investments

	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	2.48%	\$ 9,400,976
UBS Financial Money Market	2.48%	\$ 579,201
Morgan Stanley Money Market	2.35%	\$ 26,282
Merrill Lynch Money Market	2.39%	\$ 1,927,902
Long Term Investments	Varies	\$ 3,303,369
Short Term Investments	Varies	\$ 1,980,000

General Fund Total \$ 19,498,100

Client Protection Fund

Checking

<u>Bank</u>	<u>Amount</u>
Wells Fargo	\$ 484,829

Investments

	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	2.48%	\$ 3,305,638
Morgan Stanley Money Market	2.07%	\$ 104,772
Wells Fargo Investments	Varies	\$ -

Client Protection Fund Total \$ 3,895,240

Grand Total Cash & Investments \$ 23,393,339

**Washington State Bar Association
Analysis of Cash Investments
As of December 31, 2018**

Long Term Investments- General Fund

UBS Financial Long Term Investments
Nuveen 3-7 year Municipal Bond Portfolio

Value as of 12/31/2018
\$ 312,180.11

Morgan Stanley Long Term Investments
Lord Abbett Short Term Duration Income Fund
Guggenheim Total Return Bond Fund
Virtus Multi-Sector Short Term Bond Fund

Value as of 12/31/2018
\$ 791,824.32
\$ 1,104,415.55
\$ 1,067,522.82
\$ 2,963,762.69

Total Long Term Investments- General Fund 3,275,942.80

Short Term Investments- General Fund

Bank

<u>Interest Rate</u>	<u>Yield</u>	<u>Term</u>	<u>Maturity Date</u>	<u>Amount</u>
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Total Short Term Investments- General Fund -

Client Protection Fund

Bank

<u>Interest Rate</u>	<u>Yield</u>	<u>Term Mths</u>	<u>Maturity Date</u>	<u>Amount</u>
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Total CPF -

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Tiffany Lynch, Associated Director for Finance

Re: Investment Update as of December 31, 2018 and January 31, 2019

Date: February 25, 2019

WSBA's investments consist of short and long term bond portfolios, and are managed by our advisors at Morgan Stanley and UBS Financial. There has been no change in the makeup of the portfolio since the last report. As of January 31, there is an aggregate gain across all funds of \$75,354, or 2.3%:

TOTAL INCEPTION VALUE OF ALL FUNDS	\$3,228,015
TOTAL VALUE OF ALL FUNDS AS OF 1/31/19	\$3,303,369
GAIN/(LOSS) SINCE INCEPTION (\$ and %)	\$75,354, 2.3%

The chart below details value by fund at inception, transfers of portfolio gains above \$100,000 to the WSBA's general fund operating accounts per the Budget and Audit Committee's June 2016 direction, end of month for the periods November, December, January, and Gain/(Loss) from January 31, 2018 to January 31, 2019:

INVESTMENT FUND	VALUE					GAIN/(LOSS)
	Inception	Transfer of Gains	11/30/18 (Previously Reported)	12/31/18	1/31/19	1/31/18 – 1/31/19
Nuveen 3-7 year Municipal Bond Portfolio	\$500,000	(\$200,000) ¹	\$307,788	\$312,180	\$314,034	\$11,039
Lord Abbett & Company Short Term Duration Income Fund	\$628,015 ²	\$0	\$789,240	\$791,824	\$800,147	\$19,090
Guggenheim Total Return Bond Fund	\$1,050,000 ³	\$0	\$1,093,581	\$1,104,416	\$1,105,144	\$12,265
Virtus Multi-Sector Short Term Bond Fund	\$1,050,000 ³	\$0	\$1,069,366	\$1,067,523	\$1,084,044	\$4,097
Total	\$3,228,015	(\$200,000)	\$3,259,975	\$3,275,943	\$3,303,369	\$46,491

¹ Transfer of \$200,000 made on November 22, 2017.

² Inception value is based on original amount of \$1,428,015 (\$500,000 original purchase price of Lord Abbett, plus \$599,995 Legg Mason fund transferred on May 9, 2014, plus \$328,000 liquidation of Hays Advisory Fund on March 3, 2015) minus \$800,000 that was redistributed evenly to Guggenheim and Virtus on September 19, 2017.

³ Inception value is \$1,050,000 based on original purchase price is \$650,000 plus \$400,000 re-distributed from Lord Abbett on Sept 19, 2017.



Board of Governors Meeting
Hilton Garden Inn
Yakima, WA
May 16-17, 2019

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

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE

THURSDAY, MAY 16, 2019

GENERAL INFORMATION XX

1. AGENDA XX

8:00 A.M.

2. EXECUTIVE SESSION

- a. Approve March 7, 2019, Executive Session Minutes..... E-xx
- b. President’s and Executive Director’s Reports
- c. BOG Election Interview time Limits **(action)** E-xx
- d. WSBA APEX Awards Committee Recommendations **(action)** E-xx
- e. Litigation Report – Julie Shankland..... E-xx

12:00 P.M. – LUNCH WITH LIAISONS AND GUESTS

1:00 A.M. – PUBLIC SESSION

- Welcome
- Report on Executive Session
- President’s Report and Executive Director’s Report
- Consideration of Consent Calendar*

MEMBER AND PUBLIC COMMENTS

This time period is for guests to raise issues of interest.

OPERATIONAL

3. FIRST READING/ACTION CALENDAR

- a. Interview and Selection of 2019-2020 WSBA President-elect **(action)**..... XX
- b. Interview and Selection of 2019-2020 WSBA At-Large (A) Governor **(action)**..... XX
- c. Interview and Selection of 2019-2021 WSBA District 1 Governor **(action)** XX

* See Consent Calendar. Any items pulled from the Consent Calendar will be scheduled at the President’s discretion. The WSBA is committed to full access and participation by persons with disabilities to Board of Governors meetings. If you require accommodation for these meetings, please contact Kara Ralph at karar@wsba.org or 206.239.2125.

FRIDAY, MAY 17, 2019

8:00 A.M. EXECUTIVE SESSION (*tentative*)

9:00 A.M. PUBLIC SESSION

OPERATIONAL (continued)

4. FIRST READING/ACTION CALENDAR (continued)

- a. Approve Recommendations from Mandatory Malpractice Insurance Task Force – Hugh Spitzer, Chair, and Doug Ende, Chief Disciplinary Counsel (**action**)..... XX
- b. Proposed Process for Litigation Matters (**second reading**)..... XX

GOVERNOR ROUNDTABLE

This time period is for Board members to raise new business and issues of interest.

OPERATIONAL (continued)

- 5. CONSENT CALENDAR..... XX**
 - a. March 7, 2019, Public Session Minutes

- 6. INFORMATION**
 - a. Executive Director’s Report XX
 - b. ABA Midyear Meeting Report..... XX
 - c. FY2019 Second Quarter Management Report XX
 - d. Legislative Report..... XX
 - e. Diversity and Inclusion Events XX
 - f. Financial Statements

- 7. PREVIEW OF JULY 26-27, 2019, MEETING XX**

2019-2020 Board of Governors Meeting Issues

NOVEMBER (Seattle)

Standing Agenda Items:

- Access to Justice Board Annual Report (Information)
- Financials
- FY2018 Fourth Quarter Management Report
- 2018-2019 Legislative Priorities
- 2018-2019 Legislative Review Committee Recommendations
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- Outside Appointments (if any)
- Washington Leadership Institute (WLI) Fellows Report
- WSBA Practice Sections Annual Reports (ED Report Information)
- WSBF Annual Report

JANUARY (Seattle)

Standing Agenda Items:

- ABA Midyear Meeting Sneak Preview
- Client Protection Fund (CPF) Annual Report
- Financials
- FY2018 Audited Financial Statements
- FY2019 First Quarter Management Report
- Legislative Session Report
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- Outside Appointments (if any)

MARCH (Olympia)

Standing Agenda Items:

- ABA Mid-Year Meeting Report
- Financials
- Legislative Report
- Outside Appointments (if any)
- Supreme Court Meeting

March 2018 Agenda Items:

- BOG Civil Litigation Rules Committee Report
- Mandatory Malpractice Insurance Final Report

May (Yakima)

Standing Agenda Items:

- BOG Election Interview Time Limits (Executive Session)
- Financials
- FY2019 Second Quarter Management Report
- Interview/Selection of WSBA At-Large Governor
- Interview/Selection of the WSBA President-elect
- Legislative Report/Wrap-up
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- Outside Appointments (if any)
- WSBA APEX Awards Committee Recommendations (Executive Session)

JULY (Richland)

Standing Agenda Items:

- ATJ Board Report
- BOG Retreat
- Court Rules and Procedures Committee Report and Recommendations
- Financials
- Draft WSBA FY2020 Budget
- FY2018 Third Quarter Management Report
- Office of Disciplinary Counsel Report (ED Report Information – quarterly)
- WSBA Committee and Board Chair Appointments
- WSBA Mission Performance and Review (MPR) Committee Update
- WSBA Treasurer Election

SEPTEMBER (Seattle)

Standing Agenda Items:

- 2020 Keller Deduction Schedule
- ABA Annual Meeting Report
- Chief Hearing Officer Annual Report
- Professionalism Annual Report
- Report on Executive Director Evaluation (Executive Session)
- Financials
- Final FY2020 Budget
- Legal Foundation of Washington and LAW Fund Report
- Washington Law School Deans
- WSBA Annual Awards Dinner
- WSBF Annual Meeting and Trustee Election

Board of Governors – Action Timeline

Description of Matter/Issue	First Reading	Scheduled for Board Action
Recommendations from BOG Civil Litigation Rules Committee	March 7, 2019	May 16-17, 2019
Recommendations from Mandatory Malpractice Insurance Task Force	March 7, 2019	May 16-17, 2019