

# WASHINGTON STATE BAR ASSOCIATION

## Washington Young Lawyers Committee

Washington Young Lawyers Committee | WSBA Office, Seattle, WA  
Saturday, January 11, 2020 | 10:00 a.m. – 2:19 p.m.  
Meeting Minutes

**Present In-Person or Phone:** Alixanne Pinkerton, Chelsie Elliott, Emily Ann Albrecht, Esther Hyun, Ian McCurdy, Jordan Lee Couch, Kim Sandher, Laura King, Paula Kurtz-Kreshel

**Absent:** Benjamin Hodges, Brian Holden, Brian Neuharth (excused), Catherine Holm (excused), Maha Jafarey, Molly Winston (excused), Zach Davison

**WSBA Staff:** Paris Eriksen – Member Services and Engagement Manager, Julianne Unite – Member Services and Engagement Specialist/Staff liaison

**Board of Governors (BOG):** Governor Russell Knight (left at 11:00 a.m.)

**Public:** Mike Mocerri (arrived at 11:45 a.m., left at 1:32 p.m.), Serena Sayani (arrived at 12:30 p.m., left at 1:34 p.m.), Chelsea Brisbois (arrived at 12:30 p.m., left at 1:30 p.m.)

### **Welcome & Introductions**

Jordan Couch, Washington Young Lawyers Committee (WYLC) Chair, called the meeting to order at 10:09 a.m. WYLC members introduced themselves and discussed what they were excited about.

### **BOG Update & Discussion**

Russell Knight introduced himself as the At-large Governor on the WSBA Board of Governors (BOG) and BOG liaison to WYLC. Governor Knight provided the WYLC with three updates: 1) Mandatory Continuing Legal Education (MCLE) Board's proposal to add a number of categories for continuing legal education (CLE) requirements and decision, 2) WSBA offering limited license legal technician (LLLT) education, and 3) the way that BOG members are elected.

Regarding the first update, Governor Knight reported that the MCLE Board proposed an increase to the number of CLE ethics categories that lawyers need to take: 1) diversity and bias, 2) mental health, and 3) technology. Governor Knight further reported that the BOG thought the proposal was too much, but were generally supportive of the idea. Governor Knight also stated that the Supreme Court rejected the proposal. Governor Knight said that the general concern of members would be that the requirements would be hard to track. Jordan asked that since there was support for diversity and bias CLE, would there be continued discussion to require that as a topic. Governor Knight replied that the BOG would consider that. Governor Knight also stated another way is to consider it not an ethics credit and require as a free-standing credit. Governor Knight explained that the letter from Supreme Court did not provide the reason as to rejecting the original proposal. Governor Knight said the BOG may be more supportive of the proposal if there weren't so many categories. Laura King, WYLC member, asked what other states are doing. Governor Knight said no other states packaged those three categories into one requirement and that other states have one of the three as a requirement, e.g., Florida has a technology requirement and a couple of other states have a diversity requirement. Governor Knight further stated that Washington would have been the first to have all three.

Governor Knight then provided additional information regarding the second update by explaining historically, the only provider for the educational component for the LLLT program is the University of Washington (UW). Governor Knight further reported that the UW was not offering the classes until Fall 2020, probably because of low demand. Governor Knight explained that the question is whether that the lack of education availability is a problem or not and that one proposal is to have the WSBA create those classes. Governor Knight stated that the concern is two folded: 1) potential antitrust problem with the entity regulating and WSBA providing education, and 2) a competition issue if UW offers classes again, then WSBA and UW would be competing. Jordan asked about whether there were talks about expanding LLLT topics as that could have an impact of number of people enrolling in education. Governor Knight replied there are talks and a variety of opinions. Governor Knight explained that the LLLT program was largely Supreme Court mandated program that has a lot of passionate and vocal supporters. Governor Knight further stated that looking at the number of people, the vast of majority lawyers don't care. Then there is a next larger group of lawyers that is not in favor of the program. Governor Knight read an interesting law review article in Seattle University School of Law's law review journal that discusses whether the LLLT program is successful. Governor Knight explained that the law review article found that the LLLT program is not successful in achieving the goal of serving low income needs of the public and that those goals can be achieved in other ways like low cost entry into practice of law. Governor Knight stated that the reality is many LLLTs are working in existing law firms and are charging clients. Governor Knight also stated that the current BOG would probably not expand the LLLT program in any way and that the BOG is not in charge of expanding the program, but what the Supreme Court does is unknown. Governor Knight explained that suggested areas of expansion to the LLLT program were estate planning, forming LLCs, etc. and those conversations started getting attention with other lawyers who practice in those areas. Governor Knight reported that at the next BOG meeting, the question they will address is whether the WSBA should be a player in administering LLLT education. Jordan asked if the Supreme Court has been notified about this now that the LLLT program is being underfunded because the UW won't offer classes. Governor Knight replied that it is UW administration that is in charge of making decision and they did not notifying the Bar that they weren't offering courses. Governor Knight reported that WSBA President Rajeev Majumdar and WSBA Executive Director Terra Nevitt had a discussion with Supreme Court and this is very much up in the air right now. Governor Knight also stated that one of the benefits of WYLC is they can synthesize a position and have Governor Knight bring it to the BOG. Kim Sandher, WYLC Immediate Past Chair, asked if the LLLT educational component and licensing was similar to attending law school and then taking an exam administered by WSBA. Paris Eriksen, WSBA staff, responded that UW has been the only provider of LLLT program education and that WSBA administers the licensing exam and the rest of the program. Paris also reported that staff have been trying to work with community colleges to provide LLLT curriculum. Governor Knight added the reality is that some of this comes down to the LLLT Board if WSBA does not enter into the marketplace. Governor Knight said the BOG would be willing to look more into community colleges. Governor Knight said his thoughts are that he is concerned if WSBA provides a law school type education. Emily Ann Albrecht, WYLC At-large Member – ABA, suggested that the LLLT Board members serve as adjunct faculty at community colleges. Kim asked if license fees would pay for LLLT education if WSBA provides it. Governor Knight replied that the goal would be for it to be revenue neutral and that the cost for staff would be covered by tuition. Governor Knight pointed out that currently, the LLLT program is not revenue neutral and that the Supreme Court's mandate initially was that this program would eventually become cost neutral. Governor Knight further stated that this discussion could morph into whether this program should be expanded and perhaps that means WSBA would be in charge of the educational component.

Governor Knight reported on his third update notifying WYLC members that there are a number of WSBA Bylaws amendment proposals where potential action could be taken next week at the BOG meeting, but the biggest one that concerns this WYLC is how the At-large Young Lawyer Governor is elected. Governor Knight explained that currently, the WYLC makes recommendations to the BOG for appointment. Governor Knight reported that one of the amendment proposals is to have the all At-large positions elected by all members and that the WSBA Diversity Committee (DC) would like the same role the WYLC has had in recommending the candidates for the At-large diversity position. Governor Knight further explained that the amendment proposal has the WYLC and DC serve as gatekeepers by choosing three or more names to go on ballot for members to vote. Governor Knight explained that if there are no applicants, the WYLC would be serving in a recruitment role. Governor Knight also stated that the current amendment proposal removes the BOG generally (there is one exception) from any role on determining who serves on the BOG. Governor Knight's recommendation is that the WYLC should still be involved in recommending candidates. Governor Knight further said that the young lawyer seat has bright line rule for eligibility, but whether you meet "underrepresented group" is much more difficult and so it makes sense that the DC plays a gatekeeper role. Jordan asked if there is still a conversation about the new and young lawyers vote for the At-large young lawyer position as opposed to the entire WSBA membership. Governor Knight replied that amendment proposal limits the vote for that specific position to those who meet definition of young lawyers. Emily commented about how many people are actually going to vote, so really this is mostly about optics. Governor Knight reported that another component of the proposal is whether sections and committees should be allowed to endorse candidates. Governor Knight further stated that these amendment proposals are on the BOG meeting agenda for second read, which means it could be voted on or reviewed at the meeting next week.

#### **Approval of November 2019 Meeting Minutes**

On motion by Esther Hyun, seconded by Kim Sandher, the WYLC by unanimous vote (9-0) approved the November 2019 meeting minutes.

#### **BOG Update & Discussions cont.**

Jordan asked members if the WYLC should take a position regarding the WSBA Bylaws amendment proposals. Governor Knight replied that having the WYLC involved as a gatekeeper is not a popular position on BOG. Governor Knight also clarified that if the WYLC does not find at least three people to recommend for the ballot, the BOG can find people to run and nominate candidates. Esther Hyun, WYLC Snohomish County Member, asked if historically has there been only one candidate nominated for BOG seats. Governor Knight replied that it depends on the year and the position, but that the applicant pool has decreased recently. Jordan replied that the WYLC has submitted at least three candidates in recent years. Jordan also commented it is interesting that if the WYLC only forwards two candidates onto the ballot, the BOG could put a lot of candidates on the ballot because there is no ceiling. Governor Knight said that is an accurate interpretation and that one of the goals of the proposed amendment is to not have one entity controlling the vote, so the fewer the candidates, arguably the more control the gatekeeping entity has. Governor Knight explained another way of saying it is the BOG could find additional candidates up to three. Governor Knight pointed out that there is no limit on how many candidates WYLC members forward. Paula Kurtz-Kreshel, WYLC King County Member, asked why the BOG is against the WYLC having this gatekeeping role. Governor Knight replied that the BOG wants the broader membership to have a meaningful voice in the vote, so if an entity is allowed to be a gatekeeper and only forward one name, that would not really give members a meaningful choice. Governor Knight agrees that the BOG should be totally uninvolved, but should get involved if the WYLC is trying to reduce meaningful choice on the ballot. Governor Knight advised that there is a risk if the WYLC wants to

change any part of the proposed amendments as currently written. Esther said that she agrees generally with language of the proposal, but she would want to limit the number of candidates the BOG may add to “up to total of three” candidates. Governor Knight reported that one consideration is that the proposed amendments mirror the responsibilities between the WYLC and the BOG, e.g., if the BOG is limited to up to three, the WYLC have the same limit. Jordan said he doesn’t mind incentivizing WYLC to find at least three candidates because if WYLC recommends at least three, then the BOG is cut completely out of it of adding candidates to the ballot.

On motion by Jordan, and seconded by Emily, the WYLC by a unanimous vote (9-0-0) supported the language used in the WSBA Bylaws amendment proposals included in the January BOG meeting materials.

Governor Knight concluded that the BOG is meeting next week and WYLC members should email him if they have any additional feedback or come to the next BOG meeting.

### **WSBA Updates, Budget, & Nominations**

Julianne Unite, WSBA staff liaison to the WYLC, provided the following updates:

- 2020 Expense Report is available on WSBA’s website on the Volunteer Toolbox page.
- There will be a list serve survey going out on January 14 to all WSBA members that are subscribed to WSBA list serves.
- The WSBA will be hosting a MentorLink Mixer on January 22 focused on solo and small practice and in need of table coach mentors.
- The New Member Survey should be going out sometime in February or March and Julianne will circulate draft to WYLC members priors to dissemination.
- License fees are due February 3.
- Open Sections Night will be hosted at WSBA on February 6, from 5-7 p.m.
- WYLC will need to approve the FY21 budget for WYLC expenses at the March meeting.
- WSBA Committee, Boards, and Task force applications will be open in the near future.
- The WYLC needs to confirm the March meeting location.

Jordan offered to co-lead with Brian Neuharth, WYLC Chair-elect, and work with staff to prepare a draft budget proposal for approval in March.

Julianne further reported that since the WYLC is now subject to the Open Public Meetings Act (OPMA), the process under which nominations for committee member seats is made may need to change. Julianne further explained that if the process needs to change, deliberations and nominations would need to be done at the March WYLC meeting, as opposed to a smaller nominations team. Jordan volunteered to take lead on the nominations process. Julianne also reported that once the committee applications open this year, anyone interested in serving as Chair-elect needs to apply though the standard committee application process and specify in their cover letter which position they are applying for, e.g. Chair-elect.

Julianne asked the WYLC for clarification whether the March meeting will be in Pierce County or WSBA. The WYLC agreed to have the meeting in Pierce County. Esther suggested that if the WYLC has a meeting in Pierce County, the WYLC should also host a social event in the area. Jordan will work with Brian N. and Brian Holden, WYLC Pierce County Member, to identify the location of the meeting and the social.

### **Representative Reports/New Representative Report Forms and Other Updates**

Jordan asked if any WYLC members had anything they wanted to share with the group. No one had comments.

Jordan transitioned the discussion for feedback on the draft new representative report forms. Jordan explained that he created one for each At-Large member, regional member, and project team leads. WYLC members did not have suggestions ABA At-large form. Laura suggested changing the Other Constituents form to include out-of-state members, expanding question one to say “initiatives, programs, or tools”, and to not include law students. Paula reported that she likes the regional representative form better than the previous version because it is more directed. Jordan replied the WYLC will try these new report forms in March to see if they are workable for members.

On motion by Jordan and seconded by Emily, the WYLC by a unanimous vote (9-0-0) appointed Laura to serve as the At-large member for other constituents. Jordan will talk to Maha Jafarey, WYLC At-large member, about the At-large social media position. Until then, Kim will review the social media report form and see if it works.

Jordan provided an update about WSBA’s Trial Advocacy Program (TAP) and reported that every year, TAP has two new and young lawyer chairs with one having a civil background and the other criminal law background (one chair and one chair-elect). Jordan further reported that right now, the WSBA is looking for someone to serve in one of the co-chair roles. Emily clarified that the WSBA is currently recruiting the chair-elect position. Julianne added that the WSBA is looking for someone with a criminal law background to serve as chair-elect for their first year and serve as chair next year. Jordan told WYLC members to email him directly if they are interested or if they know someone that may be interested.

Kim reported she doesn’t use Facebook anymore. Emily added that the WYLC should talk about using other social media outlets. Kim asked WYLC members how they felt about changing the photo on Facebook. Kim reported she will be working with WSBA to see if the WYLC could have other social media outlets and change images. Jordan said the WYLC should take a photo at next meeting.

Paula suggested that the project teams have check-ins in between the two month periods when the WYLC meets.

### **Project Updates/Team Assignments**

Jordan reported that the following members will serve as project leads/on the following teams:

- Budget: Brian N. (lead)
- Nominations: Jordan (lead)
- Survey: Paula (lead)
- Debt/New Lawyer Benefits: Brian N. (lead), Jordan
- RRR/ATJ: Alixanne Pinkerton, WYLC South Central Region Member (lead)
- Bylaws/Governance: Zachary Davison, WYLC King County Member, (co-lead), Paula (co-lead), Jordan
- Awards: Emily (lead)

### **Lunch Break 12:04-12:42 p.m.**

### **New Project: Courtroom Attire**

Jordan reported that he found the LLLT law review article and if interested in seeing it, email Jordan and he will send it over.

Mike Mocerri introduced himself as a former chair of the WYLC and happy to be at the WYLC meeting. Mike further stated that he is attending the meeting to provide a presentation about rethinking dress codes. Mike explained that this topic arose out of a recent discussion on the new lawyers list serve. Mike reported that several months ago, he broke his arm and was unable to tie a tie. Mike went to court and the judge told him that next time, he should wear a tie. Mike explained to the judge that he broke his arm and the judge suggested getting a clip on. Mike further stated that at first, he didn't think too much about it and then recalled in law school at a professionalism seminar, he heard a suggestion that ladies wear skirts and nylons to court. Mike also thought about his nephew who is gender nonconforming and the impacts of dress code rules on his nephew. Mike then posted this topic on the new lawyer list serve and the discussion became contentious. Mike then explained why this topic matters: 1) there is precedent (1999); 2) topic matters to new lawyers as suggested by the new lawyers list serve discussion, and 3) topic matters to generation Z because many identify as gender nonconforming. Mike further pointed out this is not only a gender issue, but also race. Mike stated that it makes sense to take action now so future generations do not have to. Mike then discussed current local/court rules re. dress code. Mike reported that these rules can be challenged under constitutional grounds e.g. 14th Amendment, Equal Protection Clause, and Title VII. Mike also stated that sex discrimination is reviewed under intermediate scrutiny and there is case law that explain the standard. Mike proposed a solution to get the BOG to approve a proposal for a new General Rule (GR) to the Supreme Court: "Attorneys shall not wear attire in the courtroom, which calls into question the legitimacy of, or respect for, the courts." Mike further explained that there should be an explanatory note to indicate intent. Mike also proposed a new rule under the Code of Judicial Conduct (probably under Canon 2, which concerns impartiality), which prohibits judicial officers from commenting on courtroom attire, unless it clearly violates the new GR. Mike then asked the WYLC for feedback on his proposal. Paula replied that this a ripe issue for new and young lawyers and that they should reach out to law students as well about this topic. Emily replied that she does not own a suit, and wears dresses, cardigan, and blazers to court. Mike reported that standards for men and women are different. Emily stated that there's a difference between non-conforming, gender specifics, and being sloppy. Jordan said that there is a court's committee of judges and they would need to be reached out to get them on board to support this type of proposal. Jordan also asked if the DC would like to be a part of this continuing discussion. Serena Sayani and Chelsea Brisbois, DC members, agreed that the DC should be involved. Chelsea reported that she knows gender nonconforming has impacts members where they are practicing and what they are types of law they practice. Serena reported that the underlying issue is that these types of dress codes disproportionately affect people of different races as well. Paula said that implicit bias is still there and it will take a long time for people to feel more comfortable. Serena commented that is really an unconscious bias issue not only impacting courts, but also influencing how clients view the attorney. Jordan said judges are now doing a lot more bias training now. Emily said it is important to distinguish that presentability is important and it is not the same as allowing for attire that is being gender and other diversity neutral. Jordan suggested adding "dignity" in the proposal.

On motion by Paula, and seconded by Kim, the WYLC by a unanimous vote (9-0-0) approved moving forward on this courtroom attire project.

Jordan asked what does done look like for this project. Jordan suggested that done would mean the WYLC exhausted all efforts to have a new GR. Jordan asked for volunteers for this project team. Mike and Serena volunteered to be members. Jordan reported he will temporarily serve as project team lead.

Jordan reported that he will be attending the DC meeting next week. Mike offered to repeat this presentation to the DC. Serena replied that would be a great idea and that she will work with the DC staff liaison to update the agenda.

### **Project Leads Presentation and Recruitment**

Jordan stated that he will reach out to project leads about recruitment and make sure WYLC members are all on the same page. Jordan will update Trello to include every project and what done looks like.

### **Awards: ABA Scholarships and PSLA**

Emily reported that two people applied for the ABA YLD Midyear scholarships this year and that the WYLC has more scholarships available than applicants. Emily further reported that she reviewed both applications and believe both are qualified to receive the scholarships. Julianne pointed out that she redacted some confidential information from the application materials in the WYLC meeting packet. Jordan suggested redacting the names of applicants as well. Kim suggested using the funds for WYLC members to attend the ABA meetings instead of awarding scholarships. Kim further explained the she personally would want WYLC members to attend. Emily suggested the WYLC discuss potentially increasing the amount of scholarships and identifying what to do with any unused funds. Emily further suggested that the WYLC could award two scholarships per meeting at \$500 each, instead of \$250. Kim asked if that will impact the ability to recruit delegates. Emily replied that the proposal would leave \$250 for each meeting that could be designated to WYLC members to attend. Esther asked what will happen to the unused scholarship funds for the Midyear. Emily suggested moving leftover funds for the Midyear to offer four \$500 scholarships for annual. Jordan asked about including optional diversity, equity and inclusion questions and potentially including criteria in the updated scholarship application form. Esther suggested including language about public disclosure. Julianne reported that she will be redacting names and other confidential from applications. Emily asked when the updated application form will go out. Julianne replied after she receives an updated application form with the WYLC indicating the change in scholarship amounts and any other updates as discussed. Emily reported she will update the application form and send it to Julianne. Jordan asked about addressing whether a WYLC member should be able to apply and be eligible for the scholarships and that the WYLC should continue this discussion at the March meeting. Paris suggested that it seems entirely reasonable that WYLC members would not be eligible to apply so that the WYLC can engage other new members to participate. Paris further explained that it seems to overcomplicate things to allow WYLC members to apply and then having to mitigate potential conflict issues as they arise. Paris said it's a good idea to discuss at the March meeting in preparation for the FY21 budget process. Emily agreed that the WYLC should talk about this in budget discussions at the March meeting. Jordan suggested including language in the application that preference will be given to those who are not WYLC members.

On motion by Emily, and seconded by Jordan, the WYLC by a unanimous vote (9-0-0) approved to award the Midyear scholarships to both applicants.

On motion by Emily, and seconded by Kim, the WYLC by a unanimous vote (9-0-0) approved reallocating the remaining \$750 budgeted for the Midyear to scholarships to combine with the \$1,250 allocated to the Annual scholarships, for a total of \$2,000 to be awarded as four \$500 scholarships for the Annual meeting.

Julianne brought up the WYLC's Public Service Leadership Award (PSLA) and asked for any feedback/changes to the current application or process. Emily replied that she likes the application form and would like to use it again. Emily suggested getting the PSLA application out before the ABA Annual

meeting application. Julianne reminded everyone to communicate these opportunities to their quarterly contacts.

Paula asked about when we can communicate about court room attire or other matters the WYLC is discussing. Jordan replied to hold off for now. Paris suggested that WYLC members may communicate, but should use language that makes clear what the communication is and whether or not WYLC is taking action. Paris also said that she and Julianne will be meeting to identify other stakeholders and follow up with WYLC who should be informed re. courtroom attire.

### **Rapid Evaluation: New Projects**

Jordan asked if anyone wanted to discuss any new projects.

Esther reported that she included in her representative report the Embracing Diversity challenge award. Esther further explained that the ABA provides funds for certain projects that increase diversity in the legal profession. For next year, the WYLC might want to discuss applying for funding a WYLC project. Jordan asked for examples. Esther replied it could be a wide variety of things that promote diversity in the legal profession. Esther state she will serve as the project lead.

Jordan asked about the MCLE requirements that Governor Knight reported earlier in the meeting. Emily responded that she agrees making those topics more available, but not making them requirements. Paris clarified that the court letter said that while not required, it should be encouraged and CLEs should be developed in those areas.

Jordan asked about the WYLC about their thoughts on the LLLT program. Esther replied she needed more clarification on the proposal. Paris responded that they are discussing whether it is appropriate for the WSBA to fill the education gap and suggested that the WYLC keep track of the developments. Jordan encouraged members to reach out to Governor Knight if they have thoughts.

### **Adjournment**

On motion by Jordan, and seconded by Emily, the WYLC by a unanimous vote (9-0-0) approved to adjourn the meeting at 2:19 p.m.