



MEETING NOTES

Approved by Chair on June 19, 2019.

Work Group Attendees

Andrea Jarmon; Dan Clark (phone); Eileen Farley; Esperanza Borboa; Frederick Corbit; Hunter Abell; Jane Smith; Kyle Sciuchetti; Mark Johnson; Mary Fairhurst, Chair; Paul Swegle

Work Group Staff Attendees

Dory Nicpon; Margaret Shane

Presenter

N/A

Welcome

Mary Fairhurst called the Work Group meeting to order at 9:00 am.

Work Group Discussion

Mary announced that a speaker on first amendment issues was not available for this meeting and that the entire meeting would be devoted to discussion. Dory referred to the matrix that was in the materials, explained the vision for the matrix, and filled it in as discussion was held during the meeting.

Work Group discussion included:

- Consideration of CLE approval process and production, including regulation for quality
- Role of Washington Supreme Court (Court) regarding supervision of the WSBA
- Role of Board of Governors; i.e. Advisory Board to Court or Board of standalone entity
- Opt-in under Keller
- Keep Work Group Charter in mind; reduce liability; obtain input from staff re feasibility of Keller

option; ala carte option for involvement with the Bar; obtain advice from Regulatory Counsel, Disciplinary Counsel, and General Counsel

- Focus on compelled political speech, compelled association, and regulatory authority rather than anti-trust issues when considering recommendations
- Focus on *Janus* and compelled association when considering recommendations
- Request an assessment of recommendations within the current structure and resulting implications
- Make small modifications to avoid issues that raise compelled political speech and compelled association issues, and refine the model if lawsuits result
- Outside auditor to handle *Keller* so calculation is more objective
- Create a stronger connection between the Court and the Bar
- Consider thinking big and focusing on what is constitutionally permissible and what would be an ideal bar association
- Retain the enthusiasm of the Sections
- Amend GR 12 to clarify the Court's authority over the Bar and to clarify that access to justice, diversity, and equity and inclusion principles are paramount
- Identify and evaluate potential issues, decide what the consequences would be, and decide what information, including financial, is required in order to make recommendations
- Start by deciding what is regulatory
- Review ABA Model Rules and Regulatory Objectives for Delivery of Legal Services

Public Comments

Comments from the public encouraged the Work Group to proactively consider institutional changes; and a recommendation was made for the Office of the Attorney General review the system with an eye to protecting the citizens of Washington and the judiciary, and make recommendations to the Court.

Future Agenda Items

Mary stated that at the next Work Group meeting, access to justice, race, equity and inclusion, Client Protection Fund, and the Keller deduction would be discussed and decisions would be made regarding which items are clearly regulatory, which are on the cusp, and which are clearly not regulatory. In response to her

request for further agenda suggestions, the following were made: hear from those legislators who worked on SHB 1788; presenters from the ACLU; share comments received during the Listening Tour; consider an incentive/benefit for members to opt in; importance of a majority or unanimous decision regarding race and equity and inclusion issues; role of the Court and its relationship to the Bar; and recommendations to the Legislature and the Court regarding legislation.

Adjournment

Mary announced that this meeting was adjourned at 11:58 am. She stated that the next meeting would be on Wednesday, June 26, 1:00 pm – 4:00 pm, at the WSBA offices, and advised the Work Group to keep the two optional meeting dates on their calendar.