



AGENDA

September 27, 2023 | 1:00 – 3:00 p.m.

Link to access the Zoom meeting:

<https://wsba.zoom.us/j/81458886706?pwd=aW5FbW9FVUZSZkMwOTJiMUZld2JzUT09>

Zoom Call-In Number: (888) 788-0099 || Meeting ID: 814 5888 6706 || Passcode: 858896

PUBLIC SESSION

- Minutes for Approval (1:00-1:05)
 1. August 16, 2023

- Fiscal Year 2024 Meeting Dates (1:05-1:10)

- Discussion with Past-Chair Doug Walsh on the Unauthorized Practice of Law (1:10-2:40)
 1. Introductions – Douglas Walsh Bio
 2. A Bit of Law (Background)
 - a. What is UPL?
 - I. [RCW 2.48.180: Definitions—Unlawful practice a crime—Cause for discipline—Unprofessional conduct—Defense—Injunction—Remedies—Costs—Attorneys' fees—Time limit for action. \(wa.gov\)](#)
 - II. [GA GR 24 00 00.pdf \(wa.gov\)](#) (Defines the Practice of Law with exceptions to UPL)
 - b. What is the CPA?
 - I. [Chapter 19.86 RCW: UNFAIR BUSINESS PRACTICES—CONSUMER PROTECTION \(wa.gov\)](#)
 - II. [Consumer Protection | Washington State](#)
 - c. What is a per se violation?
 - I. per se — of, in, or by itself; standing alone, without reference to additional facts — as a matter of law
 - II. per se rule — (antitrust) The judicial principal that a trade practice violates the Sherman Act simply if the practice is a restraint of trade, regardless of whether it actually harms anyone.
 - III. per se violation (antitrust) A trade practice (such as price fixing) that is considered inherently anti-competitive and injurious to the public without any need to determine whether it has actually injured market competition.
 3. What did the POLB recommend to the Court?
 - a. That the WSBA Board of Governors request enactment of a bill to make unauthorized practice of law a per se violation of the Consumer Protection Act.
 - b. Helps consumer bring a civil CPA cause of action by establishing:
 - I. UPL is a per se unfair and deceptive act or practice;
 - II. UPL is a trade or commerce;

- III. UPL violates the public interest.
 - c. Therefore, consumer need only prove damages, and that the damages were caused by the UPL.
- 4. Benefits of UPL being per se violation of the CPA
 - a. Establishes effective civil deterrent to UPL
 - b. Provides robust remedies (treble damages)
 - c. Relieves overburdened prosecutors from having to bring an action.
 - d. Aligns with law regarding UPL in immigration assistance and estate distribution matters.
- 5. Detriments of UPL being a per se violation of the CPA
 - a. Special interest legislation (benefits legal service provider monopoly)
- 6. What are the unintended consequences or unknowns?
 - a. Could this clog the civil calendar with complaints that end up being dismissed under the rules of civil procedure?
- 7. What are the next steps?
 - a. Recommendation has been presented to court (correct), so does the POLB:
 - I. Ask the Court to move forward, and the POLB works with WSBA and AOC to find legislator to introduce the bill
 - II. Ask the Court to permanently withdraw the request.

EXECUTIVE SESSION