

WASHINGTON STATE BAR ASSOCIATION

Washington Young Lawyers Committee

Washington Young Lawyers Committee | Tulalip, WA
Saturday, April 13, 2019 | 10:00am – 2:30pm
Meeting Minutes

Present/Phone: Kim Sander, Mike Mocerri, Nathan Beard, Alice Bagirova (joined at 12:58pm), Colin McMahon, Chelsie Elliott, Emily Ann Albrecht, Ian McCurdy, Brian Neuharth, Benjamin Hodges, Alixanne Pinkerton

Absent: Jordan Couch (excused), Molly Winston (excused), Maha Jafarey (excused), Catherine Holm (excused), Zachary Davison (excused)

WSBA Staff: Ana LaNasa-Selvidge (left at 12:15pm), Julianne Unite

Board of Governors (BOG): Russell Knight (left at 12:32pm), Rajeev Majumdar (left at 12:32pm)

Public: Darrias Sime

Introductions & Approval of the Minutes

Kim called the meeting to order at 10:01am. Alicia Horne, Court Director of the Tulalip Tribal Court welcomed the WYLC. Alicia stated that the court is seeking criminal conflict attorneys and guardian ad litem services and to contact her if anyone is.

On motion by Ian and seconded by Brian, the WYLC unanimously approved the February meeting minutes.

Chair-elect and WYLC nominations

Kim announced that the Chair-elect will be Brian Neuharth. Kim thanked Brian for stepping up and applying for the position. Discussion ensued regarding how to recruit for this position, since not many people apply with such an early deadline. Mike suggested setting time aside at a meeting to discuss the position responsibilities and time commitment. Emily stated that she was approached to apply this year, but with her role as ABA District Representative, the amount of work would be unmanageable. Ana added that the WYLC normally solicits applicants in December to align with the larger WSBA committee nominations process, but that sequencing could change to a February deadline to give folks more time to understand the WYLC and the role. Ana further stated that staff will review the current nominations policy, send to leadership team, and any proposed changes could be voted on at the next WYLC meeting. Ian asked if there was a Chair-elect position description. Ana replied that nothing formal exists, but drafting one would be something to consider.

Kim announced that the leadership team reviewed the applications for WYLC positions, and forwarded recommendations to the Board of Governors for final approval. Julianne mentioned that the North Central position is still vacant. Kim asked for WYLC members to reach out to people in that area and encouraged them to apply.

Quarterly Contact Emails

Kim reminded WYLC members that the quarterly contact emails need to go out. Kim also stated that Julianne can assist in sending out the messages if members are having trouble.

Trello

Kim mentioned that it seems like most WYLC members have not signed up for Trello and encouraged members to sign up because it is helpful for tracking on subcommittee work. Brian stated that his subcommittee is still figuring out projects and deadlines, but once that is decided, he anticipates the subcommittee will start using Trello.

Annual Report

Ana reminded everyone that at the beginning of June, all WSBA committees, boards, and councils have to submit their annual report. Usually, the leadership team drafts the report. Kim told the WYLC to reach out to Kim, Mike, or Jordan if they have ideas or anything to add. Rajeev mentioned that the committee that reviews the annual reports primarily looks at the first page and looks at whether or not the WYLC addressed the feedback they received from the previous year. Kim was thankful that a BOG member was in attendance and giving direct feedback. Rajeev also mentioned that diversity is one of WSBA's core values and that the reviewing committee also tends to focus on that.

Leadership Tips from a Current WSBA Leader

Russell introduced the WYLC to Rajeev, WSBA President-elect. Rajeev began his presentation talking about his background growing up as a Hindu and person of color in Idaho. Rajeev provided an overview of his background and impressed upon the committee the importance to get involved with communities because people look up to lawyers. Rajeev started to get more involved with WSBA when he first heard stuff about a WSBA referendum to reduce license fees. Rajeev then heard about WSBA Bylaws changes and that is how he got interested in getting more involved and applied for a WSBA leadership position. Rajeev studied what was going on at WSBA and reported back to membership.

Rajeev then started discussion about current happenings at the WSBA. First, Rajeev mentioned what he was stressed about the legislation that originally was about repealing the State Bar Act. To Rajeev, the most important thing is that membership has an important role in the regulation of law. Rajeev stated thanks to WSBA lobbying and letters to legislature by members, the bill changed substantially and saves some democratic process for members and moved the implementation date to July 2020. Kim asked for an explanation of the bill. Rajeev said every year, a bill is proposed to abolish the State Bar Act. The Bar Act was adopted in 1935 to codify the WSBA under the supervision of the Supreme Court and established the Board of Governors and election procedures. Rajeev then stated the proposed bill would destroy WSBA overnight. Russell mentioned that the fundamental problem with the bill is the lack of a clear plan to go forward. Russell stated that the work Rajeev is doing, which a lot is behind the scenes, is to make the outcome of the bill less dramatic. Russell stated that what the bill looks like now would help make way for the profession of law to remain self-regulated. Brian asked if that means all subcommittees would go away. Rajeev stated that WSBA would go away, but the best interpretation of the bill empowers the court to create an entity that is exactly the same as WSBA.

BOG Report

- **Structure of the Bar/EHSB 1788/Litigation in General:** Russell began by talking about the Keller Deduction, which is based on the *Keller* case that states one cannot be compelled to pay for

“political activity”. On the license form, there is a Keller Deduction that members can select to opt out of paying for WSBA “political activity”. Russell further explained that Keller relied on a case called *Abood*. Another case, *Janus*, overturned *Abood* last year. *Janus* does not explicitly state that mandatory bar associations are a problem, rather it is about unions, but it overturned *Abood*, the defining case in which *Keller* relied upon. Russell further explained there are differences between mandatory and voluntary bars; however, there is a grey area of what is mandatory vs. voluntary. For example, there is a good argument that diversity and inclusion work should be mandatory. Russell reported that Justice Fairhurst has formed a Bar Structure Workgroup to review and make recommendations on the future structure of the WSBA, given the recent case law. Russell mentioned that WYLC member Zach applied to serve on the workgroup and hopes that Zach attends the workgroup meetings. Russell encouraged everyone else on the WYLC to also attend. Russell reported that the workgroup should be done by July. The workgroup will look at issues and propose a framework of where the WSBA goes. Russell said that the WYLC could have a large influence on the workgroup if members just show up. Ben asked how many states have mandatory integrated bars. Russell replied that most western states have mandatory integrated bars. The east coast has mix of mandatory and voluntary. Russell mentioned that in those states without mandatory or integrated bars, justice is still getting done and that the fundamental nature of the profession will probably not change dramatically. Rajeev stated that other mandatory integrated bars are organized differently. Rajeev said that the WSBA is geared toward member services and it is important to take care of each other and foster relationships to make a better society. Brian asked if all of the voluntary functions could possibly be lumped together. Russell replied there are multiple ways this could happen. For example, the Tacoma Pierce County Bar Association (TPCBA) is a great organization that is completely voluntary. The TPCBA still does great work and not everyone in Pierce County is a member. It is a model that could be followed. Ben replied that those voluntary associations have seen membership declining. Rajeev said it depends on regions as well. It’s unknown what Washington would be like. Russell said that it would be ideal not to increase the price to be a member of a mandatory and voluntary organization. Russell further stated that the range is so broad of what the mandatory license fees could be and that the stakes are not the same for mandatory and voluntary associations. Ben mentioned that it is interesting of who has a say and how it changes. Ben further explained that what voluntary associations heavily rely on are the big firms and big firms have a huge influence on local/voluntary bar associations. Russell said that applications for volunteer positions at the WSBA as a whole is down across the entire organization. Ana explained that for some committees yes and for others no. It is interesting that some programming numbers are going great and others are not. Russell said there is a chilling effect due to the uncertainty of the organization. Ian asked about employee morale at WSBA, it seems like it may be difficult for employees. Ana replied that it is rough and the articles from *The Seattle Times* don’t help.. Ana further explained that what we are trying to recognize that there is a lot of uncertainty. We are trying to instill in staff that it will be bumpy and staff will need to make decision on what matters to them. At end of day, there is a lot good programming we need to get done and members we need to serve. Rajeev said that there is no other person in the entire world that he would support in this time period than Terra Nevitt.

Ana added that for the structures workgroup, the recordings are online, you can go back and watch it to get back up to speed, encourage folks to do that to be more informed. Kim asked how people can voice their opinions. Rajeev said he will circulate a link to find the senator in their district and contact them. Kim asked about whether one of the BOG members was suing the WSBA. Russell clarified that Dan Bridges filed a tort claim. Rajeev mentioned Dan amended the claim to remove monetary damages and that the nature of the claim is a whistleblower retaliation. Russell said he is still on the BOG. Kim asked what do we tell people when they ask why is Dan still on the BOG. Rajeev said it could be seen as more retaliation to fire him. Rajeev further explained that BOG members can be removed in a number of ways 1) by membership or 2) by BOG. Russell said that none of the methods to remove a BOG member have happened. Emily asked what Dan blew the whistle about. Rajeev referred the WYLC to look at *The Seattle Times* articles. Russell said that the precursor to Dan's claim is WSBA staff Kara Ralph who made claims of alleged sexual harassment by Dan when he was a governor-elect at the time. When Kara reported, she claimed that she was retaliated against for reporting it. Kara filed a lawsuit against WSBA about what the WSBA did once she reported it. Ben asked if WSBA has training and procedures for reporting. Rajeev said BOG has anti-retaliation training. Russell said the best source of these lawsuits are the pleadings themselves.

- **Status of Executive Director (ED):** Russell acknowledged that a lot of members have good questions about Paula's termination (9-4) by BOG and Terra's appointment. Russell further expressed that everyone is trying to do what they think is best for the WSBA. Russell stated that the BOG greatly appreciates many of the things Paula has done e.g. how well-oiled this machine is, the programs like the WYLC run well and Paula had a very involved role. Russell explained that a lot of the discussion was about how much should be on the ED and how much should be on the members. Russell further explained that on advice of counsel because Paula may file suit, they are not supposed to talk about the reasons behind Paula's termination and it is frustrating to the BOG because they recognize people want the details. Russell stated that Lincoln Beauregard brought a lawsuit against WSBA to reinstate Paula. The court denied to reinstate Paula, but ruled that the WSBA is subject to Open Public Meetings Act (OPMA), which contradicts a prior case. Whether it is or not, Russell stated that more transparency is better, even if they are not required to be transparent. Russell mentioned that the articles in Seattle Times are generally accurate. Kim asked about what was stated in Beauregard's lawsuit about a secret meeting in January and whether the court ruled on that. Russell explained that the BOG met in a published meeting called executive session as permitted by the Bylaws for litigation and personnel matters. Russell clarified that the nature of the discussion in executive session was about reviewing the performance of the ED. Rajeev clarified that the BOG took the vote publicly in March. Kim asked whether it means the BOG can't have executive session. Rajeev reported that he watched a training on OPMA and there is a lot of things in the WSBA Bylaws that directly contradict OPMA. Rajeev said the effect of the ruling is that personnel discussions should be done in an open public meeting and that is concerning. Russell mentioned one of the concerns to keep personnel issues private is for protection of the employee. Kim asked if the ruling affects the WSBA. Russell mentioned that the Washington Supreme Court will ultimately review this. Russell said it does not matter what the result is, it's not bad if every single email and discussion

is subject to public disclosure. Ben asked if they could comment on the WSBA Foundation. Rajeev stated that president resigned from the BOG. Russell said the new director is Kristina Larry. Russell mentioned Board has appointed Terra Nevitt to serve as interim. Russell further stated that Terra has been involved and the WSBA is in very good hands with her. Rajeev said the theme is collaboration and build bridges.

- **Malpractice Insurance:** Russell reported that a taskforce was put together about a year ago to make recommendations on whether malpractice insurance should be mandatory. Currently, the WSBA requires disclosures of whether or not a member carries insurance. Russell also reported that only two states require malpractice insurance, Idaho and Oregon. Russell explained that from those he talked to, the vast majority are opposed to mandatory malpractice insurance or request for an exception for their specific situation. Rajeev mentioned about 86% of lawyers in Washington already have malpractice insurance. Emily asked for the reasons people are opposed. Russell replied cost is a big one, but also that people don't want to be forced to do it. Russell said the focus should be on what is the problem we are trying to solve. Malpractice insurance has no impact on whether client has a claim. Russell mentioned that Hugh Spitzer said there was no evidence that there is anyone that had a cognizable claim against a lawyer, sued the lawyer, was awarded a judgment, but was unable to recover judgment. Russell stated that one issue is whether a lawyer is willing to represent a harmed client against another lawyer who does not have malpractice insurance. Russell further reported that in Oregon, claims against lawyers jumped dramatically after malpractice insurance became mandatory. Russell thinks the BOG will reject the proposal to mandate malpractice insurance for everyone, but approve another proposal to mandate 1) informed consent from client and 2) attendance at a specific CLE as condition of licensing. Ben mentioned that for young lawyers, there has been more new lawyers starting their own practice. If more and more young lawyers are opening their own practice, most won't be able to satisfy a judgment. Russell said that the BOG is meeting on April 22 from 1-5pm for a public session about this topic at the WSBA office and that everyone will have opportunity to say something. Rajeev encouraged everyone to talk to their district governors and at-large governors. Ian asked about the impact to members who live out of state, but are licensed in Washington. Russell replied it is still unknown.
- **President-elect and At-large seat:** Rajeev stated that the deadline to apply April 22. Rajeev encouraged WYLC members to consider applying. Rajeev said he has never seen the BOG more unified and working collaboratively and enjoys getting to know each member, who represent a variety of backgrounds. Rajeev expressed deeply appreciation of the leadership of the WYLC and putting forth the effort. Russell stated the BOG is a diverse group with a common goal of advancing the profession of law and finding a compromising way of doing it. Rajeev stated that his goal is by fall of 2020 to get the BOG to gender parity. Kim thanked Russell and Rajeev for taking the time to attend the WYLC meeting and explain the happenings at WSBA.

General Updates

Ben reported that if anyone will be in Seattle on May 16, Foster is sponsoring a Veterans Consortium for anyone interested in training and doing pro bono work for veteran clients. Participants will be provided

a mentor and law student assistant. Ben stated he has been taking cases from them for about a year or so and it is a great program. Ben can send a link to the website if members are unable to find it online.

FY20 Budget

Brian said the Budget subcommittee met on March 8 to gather information and draft a budget. Brian further explained that the WYLC gets \$20,000 from WSBA's annual budget of about \$23 million. Brian suggested that it is probably not a good idea to ask for more money right now so what the subcommittee discussed was moving money around. The subcommittee looked at what has been spent in the past on outreach and suggested move \$500 from outreach to ABA scholarships. Discussion ensued on how to split up the funding. On motion by Colin and seconded by Emily, the WYLC unanimously approved the proposed budget as submitted in the materials.

Subcommittee Discussion

- Outreach: Kim asked Colin if the subcommittee is planning on hosting an event in Richland. Colin said he will work on that and get in touch with Ryan Griffiee. Kim said she wants to focus on a mentorship type event and wants more experienced attorneys there too. Colin reported that they are hosting a social today. Maha is working on mentorship programs through the law schools and maybe have an event in Spokane with Gonzaga and in Seattle partnering with UW and Seattle U. Colin mentioned that a great way to get new lawyers acquainted with the committee is to start at law school. Kim suggested reaching out to law students during graduation or at swearing-in ceremonies. Brian asked if there was a statewide swearing in ceremony. Colin replied there is not one and mostly local counties organize their own. Kim said maybe the WYLC could focus on giving swearing-in ceremony information to people and post on the website. Colin thanked Alice for getting the food set up for today'.
- Debt and New Lawyer Benefits: Brian mentioned that one of the things they are talking about is the Race Equity Justice Initiative (REJI) toolkit. REJI talks about how organizations can promote race equity. Brian asked if Chelsie and another could review and conduct the organizational assessment. Chelsie mentioned that some things did not apply and that there may be some way to tweak the assessment for smaller organizations because it seems like it was written for larger organizations. Maha and Brian went to diversity mixer in Bellevue and Brian plans to attend another diversity mixer in Tacoma on May 14. Brian asked whether it was appropriate for WYLC to lobby for the public service loan forgiveness program, but thought now is not the time to do it. Kim agreed it might not be the right time. Brian mentioned individual members are free to lobby in their own. Colin said that the best way to move forward is to draft a statement and then the WYLC can vote on whether they want to support that statement. Brian also stated they are working with WSBA staff to put on the Financial Focus CLE in August. Brian also talked to Colin about last year's CLE. Colin stated that at this time last year, they narrowed down what they want the CLE to be about and then from there, worked on scheduling speakers. Chelsie stated that she will work with Destinee Evers regarding changes to the WSBA website e.g. custodianship program.

- Awards: Emily reported that Public Service and Leadership Award nominations are currently being accepted until May 4 and that people were pleased about last year's *NWLawyer* article about the recipients.
- RRR/ATJ: Alixanne reported that for the RRR Summit, they are trying to determine what type of attorneys are available for folks in the areas. Alixanne said they originally focused on workers compensation claims, but didn't get enough data or correlation. The subcommittee will get county data on divorces and look at pro-se filings, those seeking services through agencies, and those seeking attorneys through the traditional way. The subcommittee is working through identifying barriers for people getting representation for complex matters. The subcommittee is talking about pairing up with Oregon to co-host this summit. Oregon appointed a team to identify what Oregon and Washington can do together and Jordan is in contact with them. Alixanne also reported that they submitted a proposal for the ATJ Conference. They were encouraged to go, but they wouldn't have their own session. Jordan and Alixanne talked about potentially going to ATJ Conference in June in Spokane.
- Bylaws and Governance: Mike reported that they are in hiatus right now because of what was previously talked about earlier in the meeting. Mike asked for direction on what the WYLC wants this subcommittee to do. Mike reported that they would focus on changing the name of the WYLC. Kim asked why they were thinking about changing the name. Mike reported one reason is because "young" was not capturing those that were new, but not young. Kim said when she thinks young, she thinks young in practice, not age. Ben says it's a great idea but does not think it will result in getting more people involved. Kim said she doesn't agree with using "new" lawyers because that also won't capture those that are not new, but young. Emily mentioned that the ABA was talking about changing qualifications of young lawyers to expand to 10 years of practice. Mike clarified those are different things 1) name change and 2) qualifications. Mike said there is also a third issue of tolling e.g. pausing the time qualification for events like those taking time off for parental leave. Mike proposed putting the subcommittee on hiatus. Kim stated she doesn't think that the subcommittee should go on hiatus, but continue to do the work and have something prepared so that when it is okay to move forward, they have it ready. Mike said the subcommittee will be working on proposal and have something ready for next meeting for the WYLC to review.
- ABA Updates: Kim mentioned she wanted to talk about process for selecting ABA delegates, since lately it has been a struggle for recruiting. Emily clarified that they need 10 delegates total each year. Ben proposed making all scholarships \$250. Julianne asked the ABA subcommittee to draft a proposal for the ABA delegate application and selection process and have it ready for WYLC vote at next meeting in July. Ben also suggested that the WYLC should come up with a process for nominating new and young lawyers for national awards. Kim asked if the ABA had a RRR grant available. Julianne replied they did and the deadline for this year was last October. Kim asked Alixanne if RRR subcommittee was planning on applying for the grant next year. Alixanne confirmed it was on their radar. Kim suggested maybe filling out the old form and having it ready by July meeting. Emily said she will see if she can find more information about the grant and report back in July.

Regional and At-large Highlights

- Colin reported he is reaching out to Snohomish County YLD. He is now connected with their chair and trying to increase involvement.
- Alixanne reported that with her new job, she got in touch with new attorneys and those she hasn't met before and recognized the need for more government attorneys in the area. Alixanne stated that the county is sponsoring an event where folks are going to hike nature conservatories in the area.
- Brian reported that he and Maha attended diversity mixer in Bellevue and that young lawyers in Tacoma are focused on casino night. Brian also volunteered as a mock juror for WSBA's Trial Advocacy Program.
- Kim reported that Cat has been doing lunches and meeting with young lawyers.
- Chelsie reported that their local young lawyers hosted a CLE a week or two ago and had a fantastic turnout. Chelsie also reported that they have Inns of Court, which is a great way to meet attorneys and people on the bench.
- Emily will be going to the ABA YLD spring conference in D.C. in May. Emily also emphasized that they really need delegates for the August ABA Annual Meeting. Emily asked if anyone was a member of Defense Research Institute (DRI) because she is state chair and is recruiting a Vice Chair. If anyone knows anyone interested, get in contact with Emily. Emily mentioned she is involved with Birthday Dreams, a non-profit that throws birthday parties for homeless children. Emily encouraged people to volunteer.
- Ian is continuing to nurture the Whatcom Young Lawyers Group. On April 25, they will have joint happy hour with the Washington Women Lawyers Whatcom division. Kim asked if Ian just created the young lawyers division. Ian said he did started it with Esther Hyun. Brian asked if local bar provided funding for the group. Ian replied no, it's pretty informal.
- Kim reported that Maha attended the diversity mixer with Brian. Maha is involved with U.S. Small Business Administration and met with law students.
- Alice reported she recently became VP of the East King Bar Association and they are organizing a swearing in ceremony. Alice also works with the Slavic Bar association and are discussing what they could be doing.

General Updates

Julianne encouraged everyone to book rooms for Friday night in Richland. Ben asked when we would know if Saturday could be reimbursable. Julianne said generally, Saturday would not be reimbursable, unless reasonable. Julianne will let the WYLC know whether Saturday night would be reimbursable as soon after she touches base with Ana regarding the budget.

Adjournment

On motion by Brian and seconded by Emily, the WYLC unanimously approved to adjourn the meeting at 2:22pm.