



**MEETING NOTES**

**Approved by Chair on April 2, 2019.**

**Workgroup Attendees**

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

**Workgroup Staff Attendees**

Dory Nicpon; Margaret Shane

**Presenters**

**Ann Holmes**, WSBA Chief Operations Officer; **Doug Ende**, WSBA Chief Disciplinary Counsel; **Frances Dujon-Reynolds**, WSBA Director of Human Resources; **Hugh Spitzer**, University of Washington Law Professor; **Jean McElroy**, WSBA Chief Regulatory Counsel; **Sara Niegowski**, WSBA Chief Communications and Outreach Officer; **Terra Nevitt**, WSBA Director of Advancement and Chief Development Officer

**WELCOME**

Mary called the Workgroup meeting to order at 9:00 am, introduced the Workgroup members, and reviewed meeting decorum and format. She noted that the Workgroup members had different bases of knowledge and that the meetings would start with basic, more general knowledge; then go deeper in subsequent meetings. Dory reviewed the Workgroup charter and tasks, and explained there would be a period of information gathering and analysis of options, including funding, culminating in a list of recommendations to the Washington Supreme Court (Court).

**WASHINGTON STATE HISTORY AND CONSTITUTION**

Hugh reviewed the history of the Constitution of the state of Washington, the State Bar Act, and the relationship between the Court and the WSBA (Bar) from a constitutional standpoint.

**WSBA CURRENT STRUCTURE AND FUNCTIONS**

Members of the Bar's Executive Management team presented an overview of the Bar's structure and functions.

**RECENT CASES**

Doug and Jean reviewed relevant United States Supreme Court cases and the potential basis for

reversal of *Keller v. State Bar of California*.

### **QUESTIONS AND DISCUSSION**

Questions and comments included: the effect of the *Janus* decision on the Bar; the scope of the Workgroup's task; the Bar's current structure and potential alternatives; the advisability of obtaining the advice of outside legal counsel before presenting recommendations to the Court; and the benefit of hearing how other state bars are addressing these issues.

### **FUTURE AGENDA ITEMS AND ACTION ITEM REVIEW**

Mary emphasized to Workgroup members that they are not representatives of a group, but they bring the perspectives as members of various groups to these discussions. Dory explained that the next meeting will contemplate a further exploration of items touched on at today's meeting; i.e., what the *Janus* decision means for this Bar and what other state bars are experiencing. She advised that Charlotte Garden, Associate Professor of Law at the Seattle University School of Law, will be on the agenda at the next meeting to further discuss the *Janus* decision. There will possibly be other presenters to start discussion regarding how other state bars are reacting and/or responding to law suits. Mary noted that WSBA Executive Director Paula Littlewood, who is an expert in this area and has spent much time thinking about it, anticipating it, and talking with the Court, the Board of Governors (BOG), and the Executive Management Team, was not available for the first two Workgroup meetings, but would attend the third meeting and the Workgroup would have the benefit of her thinking. She stated that Paula will be a resource to the Workgroup throughout the process, as will the Executive Management Team and Hugh.

Paul suggested adding to the agenda for a future meeting a discussion of ESHB 1788. He noted that the current iteration seems to continue the entity, but does away with the BOG and a huge chunk of the policy-making function of the Bar, and he would like to discuss the implications with this Workgroup, potential alternatives, and how the alternatives might be affected by the pending legislation. He wondered if, without the BOG and its policy-making functions, the Sections would do better as a completely separate entity. Mary noted that peoples' assumptions regarding the ramifications of the pending legislation may not be correct, including whether it does away with the BOG, and that the end result will depend on the recommendations of this Workgroup and the decision of the Court. She stated that, in the meantime, the Bar will continue as it is.

Hunter inquired whether there would be a dedicated block of time on a future agenda to hear from

members of the public. Mary responded that it is important to hear from the public and the Workgroup could discuss as a group what and when and how in the process that would be most beneficial.

Esperanza inquired whether the Workgroup was going to cover other structure issues of the Bar at these meetings, in particular, how to deal with harassment allegations. Mary responded that this item is not within the scope of this Workgroup, but it can be directed to the Bar and the BOG. Esperanza stated that the issue of race equity and justice is paramount in what the Workgroup is doing and urged the Workgroup to keep in mind the people who need services from attorneys when considering discussions and recommendations to the Court.

Eileen noted that it is important to think of Bar employees and their future, and urged the Workgroup to consider the impact on Bar employees when discussing issues and looking at structures.

### **ADJOURNMENT**

Mary announced that this meeting was adjourned at 12:02 pm and that the next meeting will be on April 8, 2019, 1:00 pm – 4:00 pm.