

WASHINGTON STATE
B A R A S S O C I A T I O N

Board of Governors Meeting
Meeting Materials

March 3-4, 2023
Heritage Room
Olympia, WA
Zoom and Teleconference



**Board of Governors Meeting
Heritage Room, Olympia, WA
March 3-4, 2023**

WSBA Mission: To serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.

ALL ITEMS ON THIS AGENDA ARE POTENTIAL ACTION ITEMS

To participate call 1.888.788.0099

Friday, March 3rd : Meeting ID: 829 9701 0997 Passcode: 036362

<https://wsba.zoom.us/j/82997010997?pwd=Y2FxQVhrL014YlJPVGpJL08raHVGUT09>

Saturday, March 4th : Meeting ID: 854 9897 7498 Passcode: 933855

<https://wsba.zoom.us/j/85498977498?pwd=c0pkeGU1cnV2SDZoVldPbzJWWXlzd09>

FRIDAY, MARCH 3, 2023

2:00 PM – CALL TO ORDER & WELCOME

BUDGET & AUDIT RETREAT

BUDGET & AUDIT RETREAT 5

6:00 PM – RECESS

SATURDAY, MARCH 4, 2023

9:00 AM – RESUME MEETING

CONSENT CALENDAR

CONSENT CALENDAR

A governor may request that an item be removed from the consent calendar without providing a reason and it will be discussed immediately after the consent calendar. The remaining items will be voted on *en bloc*.

- Approve January 13-14, Board of Governors meeting minutes 48
- Approve Update to Fiscal Policies RE Banking Resolutions 53
- Approve Client Protection Board Recommendations 56
- Council on Public Defense Proposed Changes to Standards 15-18 Re Certification Form 57

MEMBER & PUBLIC COMMENT

MEMBER AND PUBLIC COMMENTS

Overall public comment is limited to 30 minutes and each speaker is limited to 3 minutes. The President will provide an opportunity for public comment for those in the room and participating remotely. Public comment will also be permitted at the beginning of each agenda item, at the President’s discretion.

STANDING REPORTS

- PRESIDENT’S REPORT** 62
- EXECUTIVE DIRECTOR’S REPORT** 65
 - Scope of Ongoing WSBA Program Review

NEW BUSINESS

- GOVERNOR ROUNDTABLE**

AGENDA ITEMS & UNFINISHED BUSINESS

- SECOND READING: PROPOSED NEW DEFINITION OF DIVERSITY IN WSBA BYLAWS** DEI Council Member SaNni M-K Lemonidis and DEI Council Co-Chair Raina Wagner200
- GATHERING INPUT ON THE EQUITY AND DISPARITY WORKGROUP’S PROPOSED AMENDMENT TO GR 12.2** Gov. Alec Stephens and GR 12.2 Subcommittee Chair Laura Sierra.....213

12:00 TO 1:00 PM – RECESS

EXECUTIVE SESSION

- EXECUTIVE SESSION TO DISCUSS EXECUTIVE DIRECTOR EVALUATION**..... 228

AGENDA ITEMS & UNFINISHED BUSINESS CONTINUED

- APPROVE COMMITTEE ON PROFESSIONAL ETHICS PROPOSED AMENDMENTS TO RPC 1.5(e), 5.4 AND 7.3** CPE Chair Pam Anderson229

<input type="checkbox"/> UPDATE: TASK FORCE ADMINSTERING XENIAL INVOLVEMENT WITH SUPREME COURT BOARDS PROPOSED POLICY FOR WSBA’S ADMINISTRATION OF SUPREME COURT BOARDS Chair Kyle Sciuchetti.....	280
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SPECIAL PRESENTATION

<input type="checkbox"/> LEGAL REGULATORY INNOVATION	290
• Information on Utah’s Regulatory Sandbox, Executive Director of the Utah State Bar Elizabeth Wright	387
• Information on Arizona’s Framework for Alternative Business Structures, AZ Supreme Court Administrative Office of the Court Legal Service Innovations Officer Suzanne Porter	485
• Update on the Practice of Law Board’s Current Proposal for Data-Driven Legal Regulatory Reform in Washington State, Chair Michael Cherry.....	292

MEETING REVIEW

MEETING FEEDBACK

5:00 PM – ADJOURN

INFORMATION

• Audited FY22 Financial Statements	663
• Monthly Financial Reports, Unaudited.....	711
• General Information	813



WSBA BUDGET PRIMER

FRANCIS ADEWALE, TREASURER

TIFFANY LYNCH, DIRECTOR OF FINANCE

WSBA'S BUDGET PHILOSOPHY

- The budget is a tool that:
 - ❑ Lays out a financial plan for the coming fiscal year
 - ❑ Guides decision making and provides a way for direct oversight to WSBA Fiscal activities
 - ❑ Is a statement of the values of the organization as well as a financial document as it is a tangible expression of WSBA's real priorities
 - ❑ Gives WSBA staff direction on how and where to invest its resources
- Revenues and expenses should be budgeted as accurately as possible.
 - ❑ Revenues should be realistic, but not overly conservative
 - ❑ Expenses should be estimated not on remote possibilities, but rather on historical spending patterns and actual planned expenses
 - ❑ There should be some flexibility in the budget to allow for contingencies and necessary adjustments
 - ❑ Amendments can be made by the Board of Governors, Budget and Audit Committee or Executive Director as described in fiscal policies
 - ❑ Variances to the budget (over or under) are to be expected

BOARD ROLE

- Set fiscal policies that inform/guide budget philosophy
- Participate in and set Board goals and strategic plan, which guides the budget process
- Provide guidance to WSBA staff regarding use of reserves and resulting impact on annual budgets
- Approve annual budget and license fees

BUDGET FUNDAMENTALS

WSBA budgets by function, referred to as a Cost Center

- Cost center budgets include its revenues, direct expenses, and its share of the WSBA's overhead (indirect) expenses.
 - **Direct Expenses:** Those that are planned at the Cost Center level to support operational work
Examples: Committee meeting expenses, staff travel costs, program supplies.
 - **Indirect Expenses:** Staffing related costs and those that benefit the whole organization; the basic cost of doing business.
Examples: salaries, benefits, rent, insurance, internet, auditing services, computer equipment, etc.
 - **Allocation of Indirect Expenses**
 - WSBA utilizes labor hours (FTEs) as the allocation factor for indirect expenses
 - Labor hours and allocations are recalibrated annually during the budget process

BUDGET FUNDAMENTALS

- Annual budget consists of 2 categories:
 - **Operating**: tracks all revenues and expenditures of all cost centers, broken down by fund:
 - General (39 cost centers)
 - CLE (3 cost centers)
 - Client Protection (1 cost center)
 - Section funds (29 cost centers)
 - **Capital**: tracks the purchase of long-term assets that meet the WSBA's capitalization threshold (\$2,500 and over 1 year useful life).
 - Examples: leasehold improvements, equipment, software

OPERATING BUDGET

FUND	REVENUE	EXPENSE	RESERVES
GENERAL (39 cost centers)	Regulatory fees (licenses, admissions, MCLE, etc.), Bar News Advertising, Foundation donations, Section PMC	Cost center specific direct and indirect expenses	Operating, Facilities, License Fee Stability, Special Projects & Innovation, Unrestricted
CLE (3 cost centers)	Seminar registrations, sales from deskbooks, coursebooks, recorded seminars, online subscriptions	Seminar and product development direct expense, indirect expenses	CLE Reserve
CLIENT PROTECTION (1 cost center)	Annual fee assessments	Payments to injured clients, meeting costs, indirect expenses	CPF Restricted Reserve
SECTIONS (29 cost centers)	Section dues, CLE seminar revenue, interest income	Direct expense for section activities and WSBA Per-Member Charge	Sections Reserves

OPERATING BUDGET

FUND	RESERVE	AMOUNT @ 9/30/2022
GENERAL	OPERATING	\$2.0M
	FACILITIES	\$2.7M
	LICENSE FEE STABILITY	\$0
	SPECIAL PROJECTS/INNOVATION	\$0
	UNRESTRICTED	\$4.01M
CLE	CLE	\$1,042,049
CLIENT PROTECTION	CLIENT PROTECTION	\$4,063,501
SECTIONS	SECTIONS COMBINED (29)	\$1,802,650

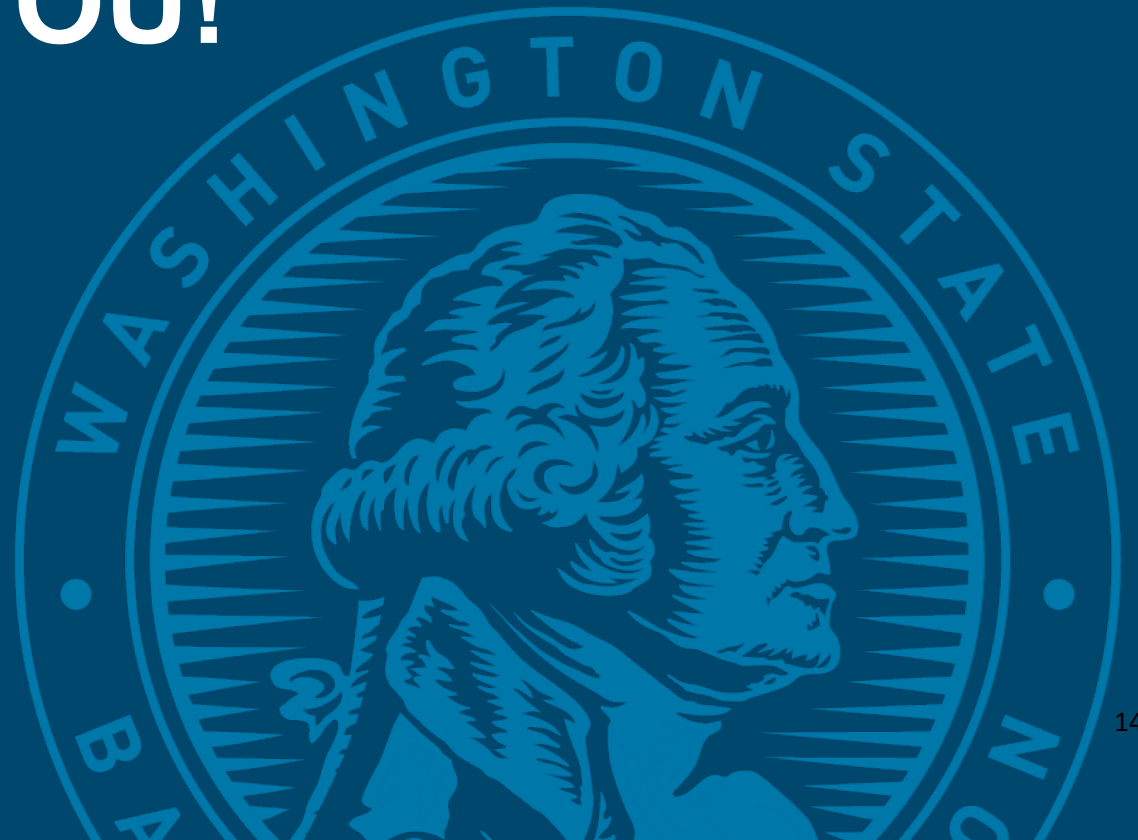
CAPITAL BUDGET

- Budget includes capital purchases that are valued at \$2,500 and have a useful life over 1 year
- Cost of the item is depreciated over the useful life and included in operating expense budget (both direct and indirect expenses)
- IT staff hours can be included in this budget for projects that meet the capitalization threshold. Capitalized Hours require to be tethered an approved capital project.
 - Example: IT staff Developer time building Admissions software system
- The Board of Governors reviews a preliminary capital budget in July or August and approves the final capital budget with the entire WSBA budget at its last meeting of the fiscal year (September).

ANNUAL BUDGET TIMELINE

MONTH	TOPIC
February - March	<ul style="list-style-type: none">• Internal development of baseline budget• Board of Governors Budget Retreat
April - May	<ul style="list-style-type: none">• Internal review and finalization of 1st draft• Budget and Audit Committee review 1st draft
June	<ul style="list-style-type: none">• Board of Governors review 1st draft
July	<ul style="list-style-type: none">• Internal budget updates and development of 2nd draft• Budget and Audit Committee and Board review 2nd draft
August	<ul style="list-style-type: none">• Internal budget updates and development of Final Draft• Budget and Audit Committee reviews & approves Final Draft
September	<ul style="list-style-type: none">• Board reviews and approves Final Budget

THANK YOU!



RESOURCES

- WSBA website: www.wsba.org/about-wsba/finances
 - Current and Previous 5 years of annual budgets
 - Prior 3 months of financial statements
 - Prior year end audited financial statements
 - Fiscal Policies and Procedures
- B&A Committee: www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/budget-audit
 - Historical budget and financial statements
 - License fee information
- New Governor Orientation materials: contact Paris Eriksen (parise@wsba.org)



FY 2024 BUDGET RETREAT

MARCH 3, 2023

AGENDA

- BUDGET TIMELINE & RESOURCES
- RETREAT OBJECTIVES
 - LICENSE FEES
 - BUDGET PRIORITIES
 - WSBA RESERVE FUNDS
 - FY 2024 BUDGET
- BOARD GUIDANCE

FY24 BUDGET TIMELINE

BUDGET AND AUDIT COMMITTEE MEETINGS

DATE	TOPIC
April 28, 2023	Presentation of baseline FY24 assumptions, PMC calculation review/approval
May 26, 2023	First review of draft budget
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August 25, 2023	Review of final draft

BOARD OF GOVERNORS MEETINGS

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- Budget Primer Video: <https://youtu.be/bdlvicWoapc>
 - Included in February 2023 B&A meeting materials and March 2023 BOG meeting materials

RETREAT OBJECTIVES

- Obtain guidance from Board in areas identified below to build FY 2024 Budget and plan for future needs:
 - **License Fees**
 - Can we confirm the Board's intent for license fees through 2026?
 - **Budget Priorities** (*open discussion*)
 - **Reserves**
 - What amounts (if any) should be allocated to License Fee Stability Fund and Special Projects/Innovation Fund?
 - What amount of Unrestricted Reserves do we want to keep available annually?
 - **FY 2024 Budget**
 - What level of reserve spend down is the Board comfortable with?

LICENSE FEES

- License fees have been set through 2024, Board will need to set fees this year for 2025 in August
- Fee has remained at \$458 for full active members since 2020
- Since FY21, there have been communications to members regarding license fees and the Board's interest in not raising fees through 2026, though there has not been any formal action by the Board.

Guidance Needed:

Can we confirm the Board's intent for license fees through 2026?

FISCAL PROJECTIONS: FY2023- FY2026

Fiscal Year	Budgeted Gain or Loss	Actual	Overall Increase Actual vs. Budget
2013	\$ (456,559)	\$ 215,655	\$ 672,214
2014	\$ (1,928,485)	\$ (1,085,827)	\$ 842,658
2015	\$ (3,125,741)	\$ (2,679,392)	\$ 446,349
2016	\$ (2,325,568)	\$ (1,183,997)	\$ 1,141,571
2017	\$ (1,997,345)	\$ (554,785)	\$ 1,442,560
2018	\$ (732,275)	\$ 432,107	\$ 1,164,382
2019	\$ (101,616)	\$ 940,679	\$ 1,042,295
2020	\$ (591,915)	\$ 791,697	\$ 1,383,612
2021	\$ (202,779)	\$ 1,543,940	\$ 1,746,719
2022	\$ (89,563)	\$ 1,641,094	\$ 1,730,657

- 10 yr average variance between budget vs. actual= \$1.1M
 - Lowest variance= \$446K (2015)
 - Highest=\$1.74M (2021)
- Projections do not account for adding funds to existing reserves
- FY 2027 Projections
 - Budget impact varies based on WSBA office space decisions

FISCAL PROJECTIONS: FY2023- FY2026

GENERAL FUND PROJECTIONS FY2023 - FY2026				
LICENSE FEES @ \$458				
	FY23 BUDGET	FY24 PROJECTIONS	FY25 PROJECTIONS	FY26 PROJECTIONS
	<i>Aniticipates Two Staff Adds, 4% Salary Increase</i>			
BEGINNING CYCLE FUND BALANCE	8,713,268	8,152,071	7,297,850	5,921,649
BUDGETED REVENUE	21,891,872	22,358,954	22,763,442	23,174,731
<i>Licensing Revenue</i>	17,159,281	17,614,536	17,966,827	18,326,163
<i>Other Revenue</i>	4,732,591	4,744,418	4,796,615	4,848,568
BUDGETED EXPENSES	22,453,069	23,213,175	24,139,643	24,912,911
<i>Direct</i>	2,649,466	2,456,795	2,530,499	2,606,414
<i>Indirect</i>	19,803,603	20,756,380	21,609,144	22,306,497
BUDGETED NET INCOME/(LOSS) AND ANTICIPATED USE OF RESERVES	-561,197	-854,221	-1,376,201	-1,738,180
RESERVE BALANCE OFFSET	561,197	854,221	1,376,201	1,738,180
NET OPERATING RESULT	0	0	0	0
FY23-27 General Fund Balance	8,152,071	7,297,850	5,921,649	4,183,469
Operating & Facilities Restricted Reserves	4,700,000	4,700,000	4,700,000	4,700,000
Remaining Unrestricted Reserves	3,452,071	2,597,850	1,221,649	-516,531
Remaining Unrestricted Reserves w/\$600K offset	4,052,071	3,797,850	3,021,649	1,883,469

BUDGET PRIORITIES

- Given limited revenue source, what are our priorities for spending?

- The following are Board's own stated goals for 2023:
 - Increase member engagement in WSBA's volunteer community
 - Establish a process for WSBA program review
 - Support rural practice
 - Develop a strategic plan for the future of WSBA space
 - Increase WSBA's commitment to Diversity, Equity, and Inclusion

WSBA RESERVES

- **Fiscal Policies Chapter 4: Fund Balance**

- *The General Fund supports the majority of the WSBA's work, including regulatory functions and most services to members and the public. General Fund reserves are funded by the annual operating income of the WSBA. Use of the General Fund reserves is approved by the Board of Governors, usually planned as part of the annual budget, and is reflected in any annual net loss incurred by the WSBA.*
- *Fund balances are either unrestricted or restricted. The Board of Governors may designate, and has designated, portions of the WSBA's unrestricted fund balance for specific purposes.*
- *Per WSBA Fiscal Policy, total value of General Fund Reserves shall not fall below \$2M.*

- Reserve funds serve as a form of communication to indicate the purpose of excess funds beyond those needed for operations.

- **General Fund Reserves:**

- Operating Reserve- \$2M
- Facilities Reserve- \$2.7M
- License Fee Stability Fund Reserve- \$0 (established in Sept. 2022)
- Special Projects/Innovation Fund Reserve- \$0 (established in Sept. 2022)
- Unrestricted Reserve- \$3.4M (estimated @ end of FY23)

WSBA RESERVES 2012-2023

FISCAL YEAR	TOTAL GENERAL FUND RESERVES	OPERATING RESERVE	FACILITIES RESERVE	OTHER RESERVES*	UNRESTRICTED RESERVE
2012	\$8,745,117	\$1,500,000	\$3,340,000	\$445,641	\$3,459,476
2013	\$8,960,772	\$1,500,000	\$3,340,000	\$513,911	\$3,606,861
2014	\$7,803,070	\$1,500,000	\$3,340,000	\$337,582	\$2,625,488
2015	\$5,102,534	\$1,500,000	\$3,286,096	\$316,438	\$0
2016	\$3,918,536	\$1,500,000	\$2,114,427	\$304,109	\$0
2017	\$3,363,751	\$1,500,000	\$200,000	\$0	\$1,663,751
2018	\$3,795,858	\$1,500,000	\$450,000	\$0	\$1,845,858
2019	\$4,736,537	\$1,500,000	\$550,000	\$0	\$2,686,537
2020	\$5,528,234	\$1,500,000	\$550,000	\$0	\$3,478,234
2021	\$7,072,174	\$1,500,000	\$1,050,000	\$0	\$4,522,174
2022	\$8,713,268	\$2,000,000	\$1,000,000	\$0	\$5,713,268
2023 BUDGET	\$8,152,071	\$2,000,000	\$2,700,000	\$0	\$3,452,071

*Other Reserves consist of: Capital Reserve and Board Program Reserve from 2012-2016; License Fee Stability Fund and Innovation Fund beginning 2023

WSBA RESERVES

- **Guidance Needed and Considerations:**

- What amount (if any) should be designated to the two newly established reserve funds?
 - License Fee Stability Fund
 - 2024 license fees have already been set at current rate of \$458
 - Special Projects/Innovation Fund:
 - Current list of projects on the horizon that may require funding
- What amount of Unrestricted Reserves do we want to keep available annually?
- Projections do not include any allocation of additional funds to the Facilities Reserve Fund.

FY 2024 BUDGET

Status Quo Budget Estimate:

	<u>FY24 PROJECTIONS</u>
BEGINNING CYCLE FUND BALANCE	8,152,071
BUDGETED REVENUE	22,358,954
<i>Licensing Revenue</i>	17,614,536
<i>Other Revenue</i>	4,744,418
BUDGETED EXPENSES	23,213,175
<i>Direct</i>	2,456,795
<i>Indirect</i>	20,756,380
BUDGETED NET INCOME/(LOSS) AND ANTICIPATED USE OF RESERVES	-854,221
RESERVE BALANCE OFFSET	854,221
NET OPERATING RESULT	0
FY24 General Fund Balance	7,297,850
Operating & Facilities Restricted Reserves	4,700,000
Remaining Unrestricted Reserves	2,597,850
Remaining Unrestricted Reserves w/\$600K offset	3,797,850

Assumptions:

- \$405,000 in salary increases which represents movement through the compensation grid and total salary increase of 3.1%.
- 4% increase in benefits (health/retirement)= \$122K
- \$105K net increase in rent
- 2% increase in other indirect costs (\$2M base= \$40K)
- 3% increase in direct costs
- Revenue growth of 2% overall

Additional Information:

- Gallagher estimates 4.5% increase in labor market inflation for 2023. Companies surveyed showed an average salaries budget increase of 4.1% for 2023.

FY 2024 BUDGET

- **Guidance Needed and Considerations:**
 - What level of reserve spend down is the Board comfortable with?
 - Budgeting a net loss is how we actively spend down reserves that have been built up.
 - Additional Budget Needs- Financial Impact TBD
 - Staffing
 - New projects
 - Adding to reserves

BOARD GUIDANCE

➤ License Fees

- Can we confirm the Board's intent for license fees through 2026?

➤ Reserves

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➤ FY 2024 Budget

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2015	\$5,102,534	\$1,500,000	\$3,286,096	\$316,438	\$0
2016	\$3,918,536	\$1,500,000	\$2,114,427	\$304,109	\$0
2017	\$3,363,751	\$1,500,000	\$200,000	\$0	\$1,663,751
2018	\$3,795,858	\$1,500,000	\$450,000	\$0	\$1,845,858
2019	\$4,736,537	\$1,500,000	\$550,000	\$0	\$2,686,537
2020	\$5,528,234	\$1,500,000	\$550,000	\$0	\$3,478,234
2021	\$7,072,174	\$1,500,000	\$1,050,000	\$0	\$4,522,174
2022	\$8,713,268	\$2,000,000	\$1,000,000	\$0	\$5,713,268
2023 BUDGET	\$8,152,071	\$2,000,000	\$2,700,000	\$0	\$3,452,071

*Other Reserves consist of: Capital Reserve and Board Program Reserve from 2012-2016; License Fee Stability Fund and Innovation Fund beginning 2023

WSBA RESERVES

- **Guidance Needed and Considerations:**
 - What amount (if any) should be designated to the two newly established reserve funds?
 - License Fee Stability Fund
 - 2024 license fees have already been set at current rate of \$458
 - Special Projects/Innovation Fund:
 - Current list of projects on the horizon that may require funding
 - What amount of Unrestricted Reserves do we want to keep available annually?
 - Projections do not include any allocation of additional funds to the Facilities Reserve Fund.

FY 2024 BUDGET

Status Quo Budget Estimate:

	<u>FY24 PROJECTIONS</u>
BEGINNING CYCLE FUND BALANCE	8,152,071
BUDGETED REVENUE	22,358,954
<i>Licensing Revenue</i>	17,614,536
<i>Other Revenue</i>	4,744,418
BUDGETED EXPENSES	23,213,175
<i>Direct</i>	2,456,795
<i>Indirect</i>	20,756,380
BUDGETED NET INCOME/(LOSS) AND ANTICIPATED USE OF RESERVES	-854,221
RESERVE BALANCE OFFSET	854,221
NET OPERATING RESULT	0
FY24 General Fund Balance	7,297,850
Operating & Facilities Restricted Reserves	4,700,000
Remaining Unrestricted Reserves	2,597,850
Remaining Unrestricted Reserves w/\$600K offset	3,797,850

Assumptions:

- \$405,000 in salary increases which represents movement through the compensation grid and total salary increase of 3.1%.
- 4% increase in benefits (health/retirement)= \$122K
- \$105K net increase in rent
- 2% increase in other indirect costs (\$2M base= \$40K)
- 3% increase in direct costs
- Revenue growth of 2% overall

Additional Information:

- Gallagher estimates 4.5% increase in labor market inflation for 2023. Companies surveyed showed an average salaries budget increase of 4.1% for 2023.

FY 2024 BUDGET

- **Guidance Needed and Considerations:**
 - What level of reserve spend down is the Board comfortable with?
 - Budgeting a net loss is how we actively spend down reserves that have been built up.
 - Additional Budget Needs- Financial Impact TBD
 - Staffing
 - New projects
 - Adding to reserves

BOARD GUIDANCE

➤ License Fees

- Can we confirm the Board's intent for license fees through 2026?

➤ Reserves

- What amounts (if any) should be allocated to License fee Stability Fund and Special Projects/Innovation Fund?
- What amount of Unrestricted Reserves do we want to keep available annually?

➤ FY 2024 Budget

- What level of reserve spend down is the Board comfortable with?

THANK YOU!



WASHINGTON STATE BAR ASSOCIATION

BOARD OF GOVERNORS MEETING MINUTES

Seattle, WA

January 13-14, 2023

Call to Order and Welcome ([link](#))

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Dan Clark on Friday, January 13, at 9:07 AM. Governors in attendance were:

Francis Adewale
Sunitha Anjilvel
Lauren Boyd
Matthew Dresden
Kevin Fay
Erik Kaeding
Nam Nguyen
Kari Petrasek
Brett Purtzer
Mary Rathbone
Alec Stephens
Brent Williams-Ruth

Also in attendance were President-Elect Hunter Abell, Deputy Executive Director Dua Abudiab, Peter Arkison, Access to Justice Board Member Esperanza Borboa, Online Communications Specialist Noel Brady, Executive Administrator Shelly Bynum, Practice of Law Board Chair Michael Cherry, IT Director Jon Dawson, Chief Disciplinary Counsel Douglas Ende, Volunteer Engagement Advisor Paris Eriksen, Access to Justice Board Member Brynn Felix, Chief Regulatory Counsel Renata Garcia, Practice Management Assistance Advisor Margeaux Green, Alexis Gobeske, Miryam Gordon, Family Law Section Liaison Nancy Hawkins, Todd Howard, Rajeev Majumdar, Chief Outreach Specialist Mike Kroner, DEI Council Member SanNi Lemonidis, Sections Program Specialist Carolyn MacGregor, Sarah Mack, WSAJ Liaison Betsylew Miale-Gix, Justice Raquel Montoya-Lewis, Executive Director Terra Nevitt, Chief Communications Officer Sara Niegowski, Broadcast Services Manager Rex Nolte, Communication Strategies Manager Jennifer Olegario, Advancement Director Kevin Plachy, Access to Justice Board Chair Terry Price, DEI Council Member Sharon Sakamoto, Kyle Sciuchetti, General Counsel Julie Shankland, Access to Justice Board Member Vanna Sing, Chief Equity & Justice Officer Diana Singleton, Human Resources Director and Chief Culture Officer Glynnis Klinefelter Sio, Past President Brian Tollefson, Zyandrea Tucker, Member Services and Engagement Manager Julianne Unite, Seattle University School of Law Dean Anthony E. Varona, and DEI Council Co-Chair Raina Wagner.

Access to Justice Board Report ([link](#))

Board Chair Terry Price and members Esparanza Barboa and Vanna Sing presented the Access to Justice (ATJ) Board's annual report, as well as an overview of the work the ATJ Boards is engaged in, highlighting a retreat, work on the criminal/civil de-silo project and a Yakima needs assessment, electronic filing, and continued internal equity work. Discussion followed regarding the extent to which our laws and legal systems can properly be characterized as systems of justice. The group thanked their WSBA staff liaisons for their support.

Member & Public Comments ([link](#))

The Board heard public comment from Peter Arkison regarding the Legislative Review Committee's process for outreach and getting input from all interested members for volunteer positions. Discussion followed about how to make sure all members understand what's happening during the legislative session and what issues the WSBA is considering. The subject was referred to the WSBA Communications team/Legislative Manager.

The Board also heard from Nancy Hawkins, who requested to have all meeting materials published well in advance of future board meetings, noted that there was no description of why the 2-6 p.m. portion of the Jan. 13 board meeting was not open to the public, and observed that the number of volunteer vacancies is a systemic issue best addressed in a systemic way by asking the volunteers themselves for solutions.

President's Report ([link](#))

Pres. Clark referred to his written report. Gov. Stephens reported about the Executive Director's performance evaluation, noting that all board members (including past governors during the timeframe of the evaluation) and the WSBA Executive Leadership Team should have received a link to an evaluation; Gov. Stephens encouraged participation. The Board will take up the evaluation results at the March meeting.

Executive Director's Report ([link](#))

The Board was referred to the written report. Executive Director Nevitt drew the board's attention to a volunteer-engagement report in the materials; acknowledging that late materials are not ideal, she also addressed her intention to get the materials and agenda out one week in advance and suggested that the materials timeliness issue be discussed further by the Executive Committee.

Governor Roundtable ([link](#))

Gov. Stephens gave notice that he will bring a bylaw change to have all members vote in the WSBA Presidential election. Gov. Stephens also invited everyone to an online viewing where he will deliver a speech during a Martin Luther King Day mass celebration.

Gov. Williams Ruth commented that he had the honor of speaking at Seattle University's December graduation, noted the importance of governors taking their liaison-ship roles seriously, mentioned that he hosted Q-Law's annual retreat, and commented on the impact to him of late materials.

Gov. Kaeding asked why the WSBA takes position on specific legislation, adding that it seemed to him that that is not the business of the WSBA to do so.

Gov. Stephens supported the enforcement of materials deadlines and defended the WSBA's legislative work as fundamental.

First Reading: Proposed New Definition of Diversity in WSBA Bylaws ([link](#))

Diversity, Equity and Inclusion (DEI) Council Member SanNi M-K Lemonidis and DEI Council Co-Chair Raina Wagner presented a bylaw amendment proposing a new definition of diversity. The presenters commented that their development process included both member and stakeholder feedback, reviewing ABA and other MBA's and bar definitions, that the focus be on lived experiences versus specific recognition, and that the proposed change is not to the WSBA's overall definition of diversity, but only as it applies in the bylaws to eligibility for the at-large Board seats, designated to be filled by members from underrepresented communities.

Discussion followed regarding concern about lack of stakeholder input, removing geography from the criteria when eastern Washington is still largely a minority, that the proposed terminology may seem too ambiguous, that veteran status was not included, and about whether an additional geographic-diversity seat should be considered. Discussion continued suggesting that an invitation be made for members and the public to submit concerns.

Consent Calendar ([link](#))

Gov. Fay requested that the terminology of the Council of Public Defense Charter Revision be edited to use the word "council" as needed. Gov. Boyd moved to approve the consent calendar. Motion passed unanimously. Gov. Anjilvel was not present for the vote.

Approve FY23 Board Priorities ([link](#))

Executive Director Nevitt provided background information regarding the Board priorities and goals, the overall objective, and the request to approve the goals and statement of purpose. Discussion followed, including suggestions to identify the entities that will be responsible for the goals, to identify which goals are multi-year before adopting goals for the next year, and the potential for adding member wellness as a goal. Concern was expressed that there was insufficient time to review the goals and to gather broader input. Gov. Adewale suggested that member wellness be added as a goal and that the goals be deferred to the March Board meeting to allow additional time for member and public input.

Gov. Stephens moved to approve the goals. Discussion continued about whether the Board should take action on the goals. highlighting that the memo presented detailed the process that was used to create the goals, and that the timing for the Board to review was sufficient. Gov. Stephens called the question on the underlying motion. Motion to failed 5-4. Govs. Anjilvel, Dresden, and Purtzer were not present for the vote.

Director Plachy commented that there is a plan to bring forward the topic of member wellness at a future Board meeting. The underlying motion to approve the goals passed 7-2. Motion passed 7-2. Gov. Anjilvel was not present for the vote.

Email Security Training ([link](#))

IT Director Jon Dawson led a cybersecurity awareness training, including best practices to avoid phishing scams, reduce physical security risks, protect information and data, use company resources wisely, and maintain device and data security.

Update on the Washington State Bar Licensure Task Force ([link](#))

Justice Raquel Montoya-Lewis and Seattle University School of Law Dean Anthony E. Varona presented the work being done to review the efficacy of the bar exam and the impact it has on marginalized communities. Their goal is to make recommendations to the Supreme Court about continuing the current process or adopting alternatives to the bar exam. The presentation detailed the entities they are working with, how they are looking at the history of the bar exam and how it translates into the ability to serve the public, what alternatives make sense for Washington state, and plans to hold public meetings.

Discussion followed regarding getting feedback from stakeholders, the WSBA and the public; looking through the lens that the Court is the decision maker and the WSBA is the facilitator; feedback that Law Clerks should be treated similarly to lawyers and not be excluded from diploma privilege; the need to overcome silos created by state lines as lawyer mobility and cross-border practice increases; and consideration of an admission and examination process based on legal specialties.

Meeting Feedback ([link](#))

The Board reviewed post-meeting survey results regarding the November 2022 board meeting and commented on highlights and opportunities.

Discussion to Create Legal Link ([link](#))

Chief Communications and Outreach Officer Sara Niegowski requested from the Board what information or input will be needed for the Board to decide on the Washington Legal Link project. Officer Niegowski presented the background, current work, and research on the project. Discussion followed presenting questions that would need to be addressed, how the tool will work with the Practice of Law Board's Legal Health Checkup, how the tool will be marketed, how the WSBA will manage risk, a recommendation that the Access to Justice and Rural and Small-Town legal communities be considered, and if it is possible to leverage the current WSBA database tool.

Approve Increase to Facilities Reserve ([link](#))

Long Range Strategic Planning Council member Kyle Sciuchetti presented a proposal to move \$1.7M from unrestricted reserves to the Facilities Reserve Fund. He commented that earmarking the funds is critical to preserve options when WSBA's current building lease expires in Dec. 2026 and will provide opportunities for planning long-term real estate solutions. Discussion followed regarding purchasing property versus leasing, the timing of moving the funds, that moving the money supports a future decision of where to locate the WSBA offices and that the proposal is in alignment with the Board priorities. Gov. Williams-Ruth moved to approve the increase. Motion passed unanimously. Govs. Anjilvel, Dresden, Purtzer, and Rathbone were not present for the vote.

ADJOURNMENT ([link](#))

There being no further business, Pres. Clark adjourned the meeting at 1:45 PM on Saturday January 14, 2023.

Respectfully submitted,

Terra Nevitt
WSBA Executive Director & Secretary



**Board of Governors Meeting – Motions List
Seattle, WA
January 13-14, 2023**

1. Motion to approve the Consent Calendar. Motion passed unanimously. Gov. Anjilvel was not present for the vote.
2. Motion to approve the [FY23 Board] goals.
 - a. Motion to call the question failed 5-4. Govs. Anjilvel, Dresden, and Purtzer were not present for the vote.
 - b. Underlying motion passed 7-2. Gov. Anjilvel was not present for the vote.
3. Motion to approve the increase [\$1.7M to the facilities reserve fund.] Motion passed unanimously. Gov.'s Anjilvel, Dresden, Purtzer and Rathbone were not present for the vote.

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
From: Budget and Audit Committee
Date: January 27, 2023
Re: Fiscal Policies Update- Banking Resolution

ACTION: Adopt the Budget and Audit Committee’s recommended updates to WSBA Fiscal Policies related to the Banking Resolution.

The WSBA Budget and Audit Committee met on January 27, 2023 and reviewed revisions to the Resolution Authorizing Banking Relationships, which is included in the WSBA Fiscal Policies and Procedures. The purpose is to update the document to reflect current information and provide consistency throughout the resolution. Summary of changes is as follows:

- Eliminate requirement to include the Executive Director’s name throughout the document.
- Update paragraph three to replace “their designee” with “Controller” as an authorized position to invest excess balances in accordance with the Investment Policy.

The Committee discussed and voted unanimously to recommend to the Board of Governors that they adopt the recommended updates in the redlined version attached.

WASHINGTON STATE BAR ASSOCIATION

1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
Phone: (206) 443-9722, Fax (206) 727-8316

RESOLUTION AUTHORIZING BANKING RELATIONSHIPS

WHEREAS, it is necessary and prudent for the Washington State Bar Association to establish and maintain a number of banking relationships for the purposes of depositing, managing and investing WSBA funds; and

WHEREAS, it is necessary and prudent for the Washington State Bar Association to establish and maintain certain credit relationships for the purposes of purchasing goods and services;

NOW, THEREFORE, BE IT RESOLVED:

That the Treasurer or Executive Director, ~~[Name of ED]~~ of the Washington State Bar Association, ~~or any one thereof~~, are hereby authorized to establish both deposit relationships and credit relationships necessary to conduct WSBA business; and

That the Treasurer, Executive Director, ~~[Name of ED]~~ and _____ a
are authorized as signers on any deposit relationship in order to withdraw funds of the WSBA; and

That the Executive Director, ~~[Name of ED]~~, and Director of Finance, and ~~their designees~~ Controller are authorized to invest excess balances, in accordance with the Investment Policy; and

That the Executive Director, Director of Finance, Controller, and their designees, are authorized to make deposits and transfers in established accounts.

Approved by resolution of the Board of Governors on the _____ day of _____, _____.

XXXXXXX, President

ATTEST:

XXXXXXXXX, Executive
Director, and
Secretary to the Board
of Governors

<input type="checkbox"/> SUPERIOR COURT <input type="checkbox"/> JUVENILE DEPARTMENT <input type="checkbox"/> DISTRICT COURT <input type="checkbox"/> MUNICIPAL COURT FOR <input type="checkbox"/> CITY OF <input type="checkbox"/> COUNTY OF _____, STATE OF WASHINGTON

No.: _____
 Administrative Filing

CERTIFICATION BY: [NAME], [WSBA#] FOR THE: [1 ST , 2 ND , 3 RD , 4 TH] CALENDAR QUARTER OF [YEAR]
--

CERTIFICATION OF APPOINTED
COUNSEL OF COMPLIANCE WITH
STANDARDS REQUIRED BY CrR 3.1
/ CrRLJ 3.1 / JUCR 9.2

The undersigned attorney hereby certifies:

1. Approximately ____% of my total practice time is devoted to indigent defense cases.
2. I am familiar with the applicable Standards adopted by the Supreme Court for attorneys appointed to represent indigent persons and that :
 - a. **Basic Qualifications:** I meet the minimum basic professional qualifications in Standard 14.1.
 - b. **Office:** I have access to an office that accommodates confidential meetings with clients, and I have a postal address and adequate telephone services to ensure prompt response to client contact, in compliance with Standard 5.2.
 - c. **Investigators:** I have investigators available to me and will use investigative services as appropriate, in compliance with Standard 6.1.
 - d. **Caseload:** I will comply with Standard 3.2 during representation of the defendant in my cases. [Effective October 1, 2013 for felony and juvenile offender caseloads; effective January 1, 2015 for misdemeanor caseloads: I should not accept a greater number of cases (or a proportional mix of different case types) than specified in Standard 3.4, prorated if the amount of time spent for indigent defense is less than full time, and taking into account the case counting and weighting system applicable in my jurisdiction.]
 - e. **Case Specific Qualifications:** I am familiar with the specific case qualifications in Standard 14.2, Sections B-K and will not accept appointment in a case as lead counsel unless I meet the qualifications for that case. [Effective October 1, 2013]

Signature, WSBA#

Date

WASHINGTON STATE BAR ASSOCIATION

Office of General Counsel

Nicole Gustine, Assistant General Counsel

TO: WSBA Board of Governors
FROM: Nicole Gustine, Assistant General Counsel
DATE: February 6, 2023
RE: Confidentiality of Client Protection Board Recommendations

The Board of Governors (BOG) is responsible for approving gifts from the Client Protection Board. Per Court Rule, all of the materials, reports, and deliberations shall not be public. (APR 15 Procedural Regulations, Regulation 13(b)). As such, the recommendations are placed on the Consent Calendar. If discussion is requested by any Governor, it shall be taken up in Executive Session.

APR 15

CLIENT PROTECTION FUND PROCEDURAL REGULATIONS REGULATION 13. CONFIDENTIALITY

(a) Matters Which Are Public. On approved applications, the facts and circumstances which generated the loss, the Client Protection Board's recommendations to the Trustees with respect to payment of a claim, the amount of claim, the amount of loss as determined by the Client Protection Board, the name of the lawyer, LLLT, or LPO causing the loss, and the amount of payment authorized and made, shall be public.

(b) Matters Which Are Not Public. The Client Protection Board's file, including the application and response, supporting documentation, and staff investigative report, and deliberations of any application; the name of the applicant, unless the applicant consents; and the name of the lawyer, LLLT, or LPO unless the lawyer, LLLT, or LPO consents or unless the lawyer's, LLLT's, or LPO's name is made public pursuant to these rules and regulations, shall not be public.

The following report of CPB recommendations contains only pre-approved applications, and is therefore provided to you as a Trustee, confidentially. The report will not appear in the BOG meeting's public session materials. Please take the time to review the materials thoroughly prior to the BOG public session meeting.

Pursuant to ELC 3.4(l), the Chief Disciplinary Counsel has authorized the release of otherwise confidential disciplinary information to the Board of Governors for the purpose of reviewing and deciding on Client Protection Fund Board recommendations. The Board of Governors is advised of its obligation to maintain the confidentiality of these materials.

Please do not discuss any details regarding the matters, including the names or amounts related to the matter, at the public session meeting.



TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Bob Boruchowitz, Chair, Standards Committee, Council on Public Defense
DATE: February 6, 2023
RE: Proposed amendment to public defense certification form in court rules.

Action: Approve submitting the revised Certification of Appointed Counsel of Compliance with Standards Required by CrR 3.1/CrRLJ 3.1/JUCR 9.2/MPR 2.1 to the Washington Supreme Court for adoption.

The Washington Supreme Court requires public defense counsel to file periodically a CERTIFICATION OF APPOINTED COUNSEL OF COMPLIANCE WITH STANDARDS REQUIRED BY CRR 3.1 / CRRLJ 3.1 / JUCR 9.2 / MPR 2.1. The existing form has been interpreted inconsistently by practitioners who are not always clear on what they are to report. As a result, the information provided can be incomplete or inaccurate.

After several months of drafting and discussion, the CPD Standards Committee and the full CPD have approved a proposed revised form that simplifies and clarifies what lawyers are to report. When lawyers submit their certifications using the revised form, we will be able to measure how successful the revision is in part by comparing to previously filed forms and in the state OPD's review of information provided by local jurisdictions. We are asking the Board of Governors to approve this proposed revised form and send it to the Washington Supreme Court asking them to amend the court rules accordingly.

Background

The issue came to the CPD's attention because of Washington OPD's concern about inconsistent compliance with the certification rule and because of individual examples of lawyers who failed to file or filed incomplete certification forms. The Board previously approved a complete set of proposed Standards that included a certification procedure. The Standards Committee has discussed a variety of alternative drafts and concluded that the current proposal is the most effective approach.

The Standards Committee and the CPD review all proposals through an equity lens. Because public defense clients are disproportionately of color and all are poor, improving the information provided by public defense counsel is important to efforts to improve public defense services to disproportionately affected persons.

Community Input

The CPD Standards Committee and the CPD have both practitioners and former chief Defenders as members and the members reflect a variety of sizes and types of public defense offices as well as individual appointed counsel.

The Standards Committee also has a member who is formerly incarcerated and who currently works with public defense clients and who periodically participated in discussions on this topic.

Information for Fiscal Analysis

There should be no fiscal impact for either WSBA or members.

Information for Equity Analysis

Please see above answers. Making the certification form easier to use and more helpful to those receiving it will improve equity as it will help strengthen information used to support improved public defense services. The CPD has not identified any unintended consequences of revising the form beyond create a form that more accurately reflects caseload data.

In areas of the state with rural and small jurisdictions, defense attorneys often engage in both public defense and privately retained work. Moreover, their public defense work is often comprised of assigned cases from multiple jurisdictions. Such “stacking” of cases can (and does) result in attorneys exceeding caseload limits. Certification forms are received and reviewed on an individual jurisdiction basis. The currently used form makes it very ambiguous as to what an attorney’s full caseload looks like. In result, there are attorneys who exceed caseload standards, but certification forms don’t reflect that. Less time per case results in less time with client communication, investigation, case preparation, and litigation.

In Washington’s decentralized public defense system, the CPD seeks to ensure certain minimal standards for public defense in all jurisdictions. It is unequitable for people to receive disparate representation based on geographic jurisdiction. Higher caseloads not only result in less attorney time and focus per case, but they also create a danger that defense attorneys will triage cases, prioritizing their time and effort for some clients over others. This triage approach coupled with unconscious bias, can result in disparate representation based on clients’ race or ethnicity.

(Reference: https://www.yalelawjournal.org/pdf/1199_pzeey4t1.pdf)

WSBA RISK ANALYSIS

The Board is asked to approve sending the revised Certification of Appointed Counsel of Compliance with Standards to the Court. The changes appear to be focused on gathering information relating to providing public defense services in multiple courts. The revised form includes the addition of the following three data points:

- Certification forms filed in each court in which the lawyer provides indigent defense representation;
- The specific percentage of total practice time the lawyer devotes to indigent cases in the specific court;
- A list of other courts and the percentage of total practice time devoted to indigent defense representation.

There is no apparent legal risk in amending the certification form to collect data on indigent defense representation provided in multiple courts.

WSBA FISCAL ANALYSIS

No fiscal impact is anticipated.

WSBA EQUITY ANALYSIS

The proposed action appears to promote equity because the proposed clearer certification form is designed to improve and make public defense representation fairer. Hopefully, CPD and the public defense community can track data to determine how the new certification form is impacting representation.

Attachments

- *Draft amended Certification of Appointed Counsel*
- *Current Certification of Appointed Counsel*

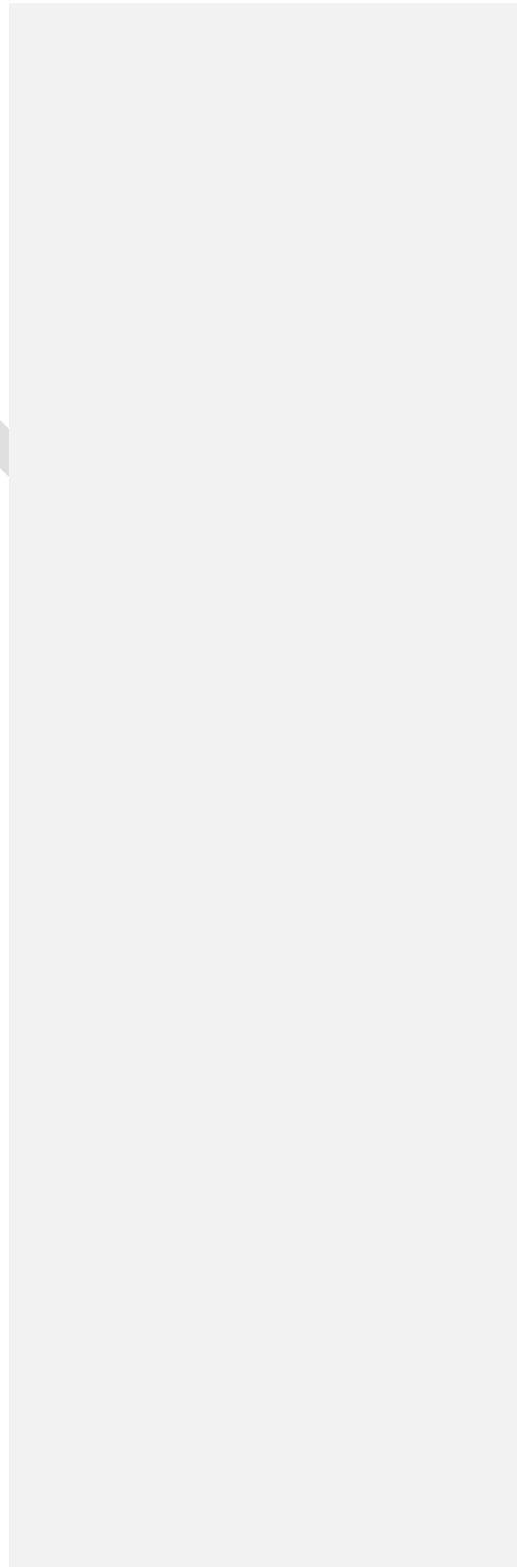
[Reserved.]

CERTIFICATION OF COMPLIANCE

For criminal and juvenile offender cases, and civil commitment proceedings under Chapter 71.05 RCW, a signed Certification of Compliance with Applicable Standards must be filed by an appointed attorney by separate written certification on a quarterly basis in each court in which the attorney has been appointed as counsel.

The certification must be in substantially the following form:

DRAFT



SUPERIOR COURT JUVENILE DEPARTMENT

DISTRICT COURT MUNICIPAL COURT

FOR

CITY OF COUNTY OF _____,

STATE OF WASHINGTON

CERTIFICATION BY:

[NAME], [WSBA#]

FOR THE:

[1ST, 2ND, 3RD, 4TH] CALENDAR QUARTER OF [YEAR]

Administrative Filing

CERTIFICATION OF APPOINTED
COUNSEL OF COMPLIANCE WITH
STANDARDS REQUIRED BY
CRR 3.1 / CRRLJ 3.1 / JUCR 9.2 /
MPR 2.1

The undersigned attorney hereby certifies:

1. I am familiar with the Standards for Indigent Defense adopted by the Supreme Court which apply to attorneys appointed to represent indigent clients.
2. I file certification forms in each court in which I provide indigent defense representation.
3. Approximately ____% of my total practice time is devoted to indigent defense.

Approximately ____% of my total practice time is devoted to indigent defense cases in this court.

4. I am appointed in other courts to provide indigent defense representation. My practice time in each is approximately as follows: ____ Not Applicable

Court: _____ % of total practice: _____

Court: _____ % of total practice: _____

Court: _____ % of total practice: _____

5. **Caseload:** I limit the number of cases and mix of case types to the caseload limits required by Standards 3.2, 3.3 and 3.4. My caseload is prorated to the percentage of my practice devoted to indigent defense.
6. **Qualifications:** I meet the minimum basic professional qualifications in Standard 14.1. I am familiar with the specific case qualifications in Standard 14.2 and accept appointment as lead counsel only when I meet the qualifications for that case.
7. **Office:** I have access to an office that accommodates confidential meetings, a postal address, and adequate telephone and communication services as required by Standard 5.2.
8. **Investigators:** I have investigators available to me and use investigative services as appropriate, as required by Standard 6.1.

Signature, WSBA#

Date

February 13, 2023
President's Report Update
March BOG meeting 2023

First, I wanted to truly thank each and every current WSBA Governor and Officer for volunteering their time, and doing an outstanding job of representing the Board of Governors. In my humble opinion, FY 23 is going well in terms of our accomplishments and ability to work together. We could not be successful without each and every Governor's hard work. Please take a moment to thank each Governor and Officer for their hard work in volunteering on behalf of the Washington State Bar Association!

January Executive Committee Meeting

The Executive Committee met on January 27. In addition to reviewing the agenda for the March BOG meeting, we reviewed and discussed the meeting feedback regarding the January BOG meeting. Executive Director Nevitt and I are committed to trying to constantly examine Governor and Executive Leadership Team feedback to improve the way we work together and improve the volunteer experience for Board members.

National Conference of Bar President's Mid-Year Meeting

From February 2-4, I attended the National Conference of Bar President's Mid-Year meeting alongside Past President Brian Tollefson, Treasurer Francis Adewale and Executive Director Terra Nevitt. The theme of the meeting was Hope Based Leadership. The meeting was a great opportunity to learn from colleagues across the country and share ideas.

Board of Governors Meeting with the Supreme Court

On March 3, the Board of Governors will have its annual meeting with the Washington Supreme Court. I worked with Executive Director Nevitt, the other WSBA Officers, and Chief Justice González to plan the agenda. I am very excited to have our first in-person meeting with the Court since March 2019. Unfortunately, COVID-19 has prevented the Board of Governor from meeting in person with the Court in 2020, 2021 and 2022. Meeting with the Court is an honor that I hope you will all take advantage of and enjoy.

Executive Director Evaluation

I worked with the HR Director and Governor Stephens to ensure a process of proper chain of custody with respect to review of the Executive Director's evaluation. This process included receiving a copy of the final evaluation report at the same time the Executive Director received it to ensure nothing was altered before it was sent to other Board members for review prior to the March 2023 BOG meeting.

Ongoing Engagement with Minority Bar Associations – Future FY23 Event

As part of the January 2023 BOG meeting, I was very pleased that we could coordinate a successful gathering of MBA leaders, as well as members of the Access to Justice Board and the Diversity, Equity and

Inclusion Council. I hope to coordinate a second collaborative event with MBA and other stakeholders later this year. I am envisioning that it would be something like the virtual meeting that former President Kyle Sciuchetti hosted with MBAs in August 2021.

Seeking a Social Chair for the BOG

One of the recommendations arising from our leadership training with Dr. Eugene Kogan in January was the recommendation that I appoint a social chair to help coordinate more social events for the Board and Executive Leadership Team as a way of deepening relationships and improving the volunteer experience. I have asked Communications Director Sara Niegowski to be the staff liaison for a Social Chair for the BOG and it is my intent to work with Sara, and other interested Governors in planning more “fun” events during the Board meetings. Please let me know if you would like to help with this effort.

Supporting Court Funding

I signed a letter of support for the Administrative Office of the Courts 2023-2025 budget request for \$2.5 million annually to establish the Security Matching Grant Program. This action was approved by the BOG Legislative Committee.

Board of Governors Election Board

I appointed five WSBA members to serve on the Elections Board to certify the 2023 Board of Governor election results. Former Treasurer and Governor G. Kim Risenmay, former Governor Russell Knight, Former Governor Carla Higginson, and Former Governor and President-Elect Hunter Abell and Immediate Past President Brian Tollefson will work with Volunteer Engagement Paris Eriksen to certify the results of the elections this year. Please join me in thanking these appointed representatives for their service.

Long Range Strategic Planning Council Updates

At its January 23 meeting, the Long Range Planning Council took action to recommend that WSBA work to (1) reduce our footprint at our current location, (2) plan to purchase a building in King County, and (3) plan to establish a satellite office in Spokane and other locations throughout Washington. As Chair of the Council, I intend to refer the recommendation to the Facilities Subcommittee of the Budget and Audit Committee for additional analysis. The Long Range Planning Council will hopefully have a list of recommendations to send to the BOG in advance of the May 2023 BOG meeting as set forth in the Charter. The Council did not make such recommendations to the BOG 2021 or 2022 and it is my intent that we do so for 2023.

Honoring the Chief Justice Mary E. Fairhurst

The February 2023 Bar News President’s Corner was dedicated by me to honoring the memory of former Chief Justice Mary E. Fairhurst. Please check out the [article](#), as I think it turned out very well in honoring Mary, her many accomplishments and her lifelong commitment to WSBA.

WSBA 50-Year Member Celebration – Planning is Underway

Planning is underway for the 50-year member celebration, and I am working with Sara Niegowski and the communications team to set a date. This event is a wonderful opportunity for us to honor our members that have reached the 50-year milestone.

It remains a tremendous honor to serve as the current FY23 WSBA President. The above is a brief summary of various things that I've been working on as President. I'm very proud of the continued respectful collaboration that I have with Executive Director Nevitt, and the WSBA Executive Leadership Team. Thank you and please let me know if you have any questions. You can reach me at (509) 969-4731 or via email at Danclarkbog@yahoo.com

Respectfully,

Daniel D. Clark
FY 23 WSBA President
WSBA #35901

TO: WSBA Board of Governors
FROM: Executive Director Terra Nevitt
DATE: February 15, 2023
RE: Executive Director's Report

2023 Licensing Update

The license renewal deadline has passed and about 94% of members are compliant. The percentage of members who pay their license fee online continues to increase each year and is now about 70% as compared to 65% last year. (While we are paperless and certifications must be done online, we still accept checks in the mail.) We plan on sending certified, pre-suspension notices on March 3 to those who have not completed their license renewal.

Winter Exams

It takes a village! Next week approximately 40 proctors and 20 WSBA staff will be administering the winter 2023 exams at the Lynnwood Convention Center. We have close to 270 applicants registered to sit for the lawyer bar exam and 70 applicants registered to take the LPO exam. Masks are mandatory for everyone present at the exam site, and upon arrival each person will be screened for symptoms of Covid-19 that are not caused by another condition. Exam results will be released to examinees via the online portal on April 8 and pass lists will be posted on the WSBA website on April 9.

FY22 Financial Audit

In December WSBA had its annual financial audit performed by CPA firm Clark Nuber. The auditors met with the Budget and Audit Committee and reported the results of the audit on January 27, 2023, meeting. The final audit report for FY22 is included in the March Board meeting materials under "Information". The report states that WSBA received an unmodified opinion. This means there were no adjustments or significant recommendations from the auditors, and that financial statements fairly present, in all material respects, the financial position of the organization in accordance with generally accepted accounting principles. WSBA has typically received an unmodified opinion and we are happy to report that this remains unchanged for FY22.

First Quarter FY23 Financial Report

The first quarter of current fiscal year ended on December 31, 2022. With 25% of the year complete, the General Fund is outperforming the budget and has a net income of \$783,233. The attached report details the major variances and provides estimates as we continue through the year.

Scope of WSBA Program Review

At its January 2023 meeting, the Board of Governors approved five priorities for the current fiscal year (1) increasing member engagement in WSBA's volunteer community, (2) establishing a process for a WSBA program review, (3)

supporting rural practice, (4) developing a strategic plan for the future of WSBA's office space, and (5) increasing WSBA's commitment to diversity, equity, and inclusion. Now begins – and in many cases continues – the real work of turning these goals into action. Attached, please find a memo detailing next steps and an initial report on the goal of establishing a process for WSBA program review.

Congratulations to New Governors-Elect!

The application deadline for the congressional district positions closed at 5pm on February 15. Congratulations to Allison Widney and Governor Matthew Dresden, the declared winners of District 3 and District 7 North respectively. Elections will begin on Wednesday, March 15 and close on Monday April 3 for Districts 6 and 8. The two candidates for District 6 are Todd Bloom and Kenneth Henrikson. The three candidates for District 8 are Paul C Burton, Governor Erik Kaeding and Kristina Larry.

As a reminder, the application deadline for the Governor At Large and President-elect positions is Monday, April 17. More information about the BOG elections and the above-mentioned candidates is available [online](#).

WSBA Sections Annual Reports

The 2021-2022 WSBA Sections Annual Reports are enclosed with this report along with a summary memo that includes information about participation in sections as well as the member benefits provided by sections. The work of these sections and the over 412 volunteer leaders is truly impressive and of tremendous benefit to WSBA and its members. A special thank you to Member Services and Engagement Manager Julianne Unite, Sections Program Specialist Carolyn McGregor, Sections Program Coordinator Noah Baetge, Member Services and Engagement Administrative Assistant Chelle Gegax, and Director of Advancement Kevin Plachy who all play critical roles in supporting sections in achieving their goals.

Family Law Deskbook, 3d edition is out

Released at the end of 2022, the three-volume third edition of WSBA's *Washington Family Law Deskbook*, including over 80 sample forms and checklists, is the result of three years of work and the contributions of over 100 Washington legal practitioners, including the three co-editors-in-chief, Mary L. Hammerly, Cheryll D. Russell, and Boaz Weintraub. Interviewed in *Washington State Bar News*, Russell said, "I hope practitioners will use the Deskbook as a jumping-off place to help them direct their research and to focus on the issue being researched. One of the consequences of this pandemic has been the reduced opportunities for practitioners to get together to discuss issues. The Deskbook is really a mentoring resource." The Washington State Law Library posted a rave review on its blog, <https://medium.com/walawlibrary/family-law-practice-gets-a-refresh-with-new-edition-of-washington-family-law-deskbook-56d370f36384>, noting, "Around here we get pretty excited about Washington State Bar Association deskbooks. And we get REALLY excited when a new edition comes out. So you can imagine the giddiness with which the library received the newly released third edition of the *Washington Family Law Deskbook*."

Through a joint publishing agreement with LexisNexis, the Deskbook is available in print, eBook, and online versions. It is also available online, via annual subscription, through Fastcase. Free subscriptions to the Fastcase online version

of this and all WSBA deskbooks are available to county law libraries, law school libraries, and Qualified Legal Services Providers in Washington state.

None of this work would be possible without the steady leadership of Senior Legal Editor Margaret Morgan and the expert cat-herding of Project Coordinator Adam Ray.

APEX Awards Nominations are Open

WSBA is seeking nominations for the 2023 [APEX Awards](#), which acknowledge professional excellence and celebrate the best in professionalism, diversity, innovation, service, and justice. If you know someone making a positive difference in the legal community or the legal profession, submit a nomination form to barleaders@wsba.org. It's often helpful to include specifics and details, and to encourage friends and colleagues to send letters and emails of support!

Award recipients will be selected at the WSBA Board of Governors meeting in May and notified shortly thereafter. Please help us recognize the best in the profession and legal community — submit your nomination today. The deadline for submissions is February 28.

Attachments

Memo Re Scope of Program Review
FY23 First Quarter Financial Update
FY22 Sections Annual Reports
Litigation Report
Quarterly Discipline Report
Media Report
Member Demographics Report

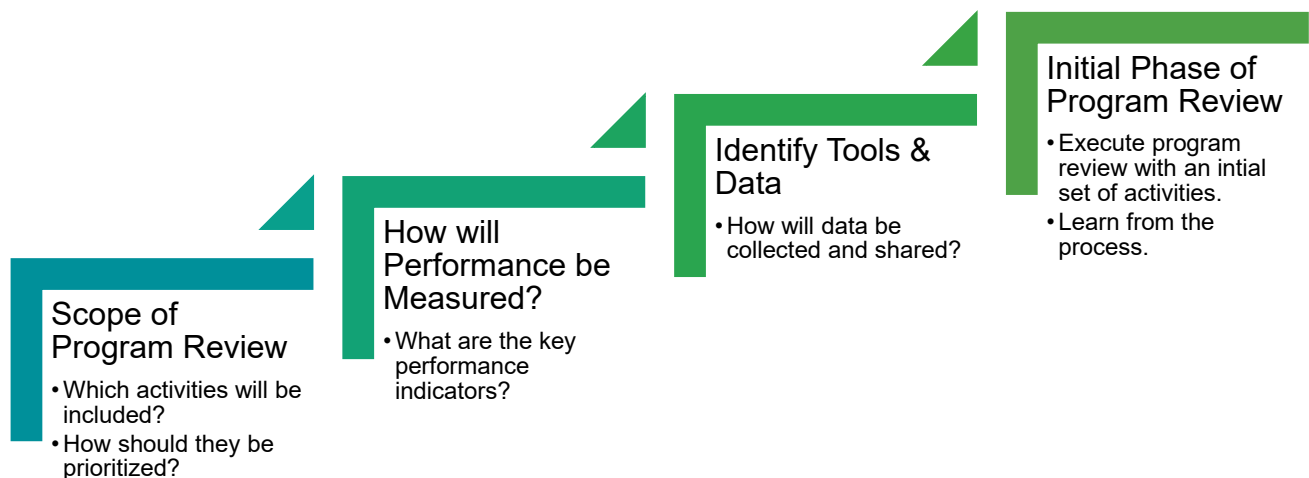
TO: WSBA Board of Governors
FROM: Executive Director Terra Nevitt
DATE: February 15, 2023
RE: Scope of WSBA Program Review

At the January 13-14, 2023, meeting, the Board of Governors identified establishing a process for WSBA program review as a priority for the FY23 fiscal year. The stated purpose of this priority is “To develop, implement, and institutionalize a process that will enable the BOG to understand and identify what programs the WSBA is reviewing, how effective the programs are at achieving the goals and mission, and whether or not anything needs to change.”

WSBA most recently conducted a comprehensive program review from 2008 to 2010 following a successful member referendum to reduce the WSBA license fee. The stated purpose of that review was to examine how to best utilize WSBA resources to accomplish the WSBA’s stated mission through its guiding principles. As a part of the program review, the organization looked at 21 programs as well as completed work already in progress to review all of WSBA’s standing committees. With respect to programs, factors examined in that process included: how the program furthered the WSBA’s mission and Guiding Principles; how the program was structured, staffed, and funded; the program’s history and achievements; problems, concerns, or issues raised; and the program’s costs compared to benefits. In reviewing committees, the work focused on streamlining processes rather than evaluating the purpose, work plan and accomplishments of each committee.

The prior program review arose out of a financial crisis and was shaped by the need to respond to the referendum. As articulated in the purpose statement above, an ongoing approach to program review should be focused on improving the effectiveness of WSBA programs.

As outlined in the January meeting materials, I anticipate approaching this goal in four parts.



Since the January meeting, I have worked with the Executive Leadership team on part one, determining the scope of program review. This involves (1) identifying what a program is, (2) choosing the criteria for determining which programs should be included in program review, and (3) establishing the criteria for determining which programs should be prioritized for program review.

What is a program?

WSBA engages in a myriad of activities including carrying out regulatory processes, functions, and decision-making; policy making activities; administration of entities; communications activities; services designed to support members; activities designed to promote access to justice and equity in the legal profession and system; and operational activities. Some things we might identify as a “program” have one primary activity, while others have multiple activities within them. An example of the former is the Moderate Means Program. This program is a partnership between WSBA and Washington’s three law schools, designed to serve moderate income clients with a network of attorneys and limited license legal technicians (LLTs) who offer assistance in family, housing, consumer, and unemployment law cases at reduced fees scaled to the client’s income. An example of the latter is the Member Wellness Program, which provides telehealth consultations and referrals to third-party providers, but also engages in education through a newsletter and CLE presentations, facilitates peer advising, provides support with job search, and facilitates mindfulness groups. While we might choose to evaluate Member Wellness as a whole, we might also evaluate the effectiveness of each activity separately.

Oxford Languages defines a program as “a set of related measures or activities with a particular long-term aim.” Using this as a starting point, **we can define a “program” for purposes of program review as an activity or set of activities carried out by the same person or team, with a common set of costs, and with the same goal or purpose.** Using this definition does not exclude any WSBA activities, but instead suggests a way to group them together for purposes of review.

Criteria for Determining Which Programs to Include

While all of WSBA’s activities can be included in the definition of “program”, not all will be appropriate for program review by the Board of Governors. Some may be appropriate to omit because to include them could expose the organization to legal risk, others may be appropriate to exclude because the management of the activity may be outside the purview of the Board of Governors – this might include some operational and regulatory functions. Additionally, in terms of using staff and board time and resources efficiently, it would be wise to narrow the scope of program review to those activities that are most likely to have an impact on achieving the purpose of program review.

In approving program review as an organizational priority, the Board indicated that we will know we have successfully achieved the goal when “WSBA can compare discretionary programs in a structured and comprehensive way to make decisions about resource allocations.” This statement suggests that in determining the scope of program review we

should focus on those areas in which the Board has significant discretion and in areas where there might be a question about resource allocation.

Therefore, I suggest we use the following criteria for determining which programs to include in program review:

- Programs for which the Board of Governors has autonomous discretion over the budget and the ability to sunset.
- Programs for which the Board of Governors has clear authority to direct the goals and desired outcomes of the work.
- Programs that do not consist of a purely operational function or a function for which the Supreme Court retains authority for directing the goals or the outcomes of the work.

Note that in addition to looking at functions that WSBA currently engages in, we may also want to examine those functions which are authorized under GR 12.2 but that WSBA does not currently carry out.

Criteria for Determining How to Prioritize Programs for Review

There are several questions to be answered before determining WSBA's ongoing capacity for program review, including how we will measure performance, what data and tools will be used, and the extent to which evaluation will be conducted in-house vs outsourced to a consultant. Still, it is likely that we will want to prioritize to ensure appropriate use of organizational resources. I suggest using the following criteria for determining which programs to prioritize for program review on an annual basis:

- Programs which have a significant budget impact.
- Programs that are the relevant to current organizational priorities and goals.
- Programs that have not been reviewed in the prior five years.

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors

From: Tiffany Lynch, Director of Finance

Subject: FY 2023 First Quarter Financial Update

Date: January 31, 2023

GENERAL FUND

The December 31, 2022 financials marks the end of the first quarter of fiscal year 2023. With 25% of the year complete, the General Fund is outperforming against budget with revenue and indirect expenses on target and direct expenses favorable to budget. The General Fund net income is \$783,233 as of December 31, 2022. Below is a narrative which highlights the major variances and estimates moving forward.

REVENUE

Total revenue is favorable to budget at 26% (\$288,154) which includes the following areas of note:

- a. *Interest Income* is favorable to budget for the year by \$88,332 (440%). When the budget was initially developed, interest rates were much lower than they have been over the past few months we under budgeted this revenue source. We expect to continue to earn additional revenue throughout the year at an even higher rate as we are planning to increase our investments in CDs and Treasuries beginning in February.
- b. *Bar Exam Fees* are favorable to budget by \$95,070 (8%) due to timing of the collection of fees for the Winter 2023 exam. This is on track with our expectations for fees as the winter exam is typically a smaller exam than the summer exam. Fees collected for the Summer 2023 exam will come in between February and May.
- c. *Donations & Grant Revenue* in the Diversity and Public Service Programs cost centers is at budget for the year. This is funding received annually from the Washington State Bar Foundation to support WSBA programming.
- d. *Seminar Registrations* in the New Member Education cost center are favorable to budget for the year by \$54,221 (778%) due to the addition of three seminars in October and November that were not included in the original budget. Therefore, we expect additional revenue throughout the rest of the year as originally planned, above what has been collected so far.
- e. *Licensing Fees* are slightly unfavorable to budget by \$175,207 (1%). The bulk of fees are collected in January and pro-rated on a monthly basis, and the budget assumes an even timing distribution of revenue between each month. Revenue from late fees (assessed after February 1st) and newly admitted members are not earned until after February so revenue will increase and level out closer to budget later in the year. To date, we have collected 84% of attorney license fees for the 2023 renewal period which is consistent with prior year trends.
- f. *Pro Hac Vice* revenue is unfavorable to budget by \$26,262 (7%). Revenue is collected based on

timing of applications and not particularly cyclical. We will continue to monitor this revenue source as the year progresses for indications of any concerns but at this time there is nothing significant indicating a departure from budget.

EXPENSES

Total expenses are favorable to budget by 3% (\$635,379), which includes the following areas of note:

- a. *Direct Expenses* are favorable to budget by 15% (\$393,548). Direct program costs such as board/council/taskforce meetings, event expenses, supplies, staff travel, etc. vary depending on the timing of activities. It is normal for WSBA's direct expenses to run lower than budget in the first half of the year. We expect spending in these areas to pick up as we move into the second half of the fiscal year.
- b. *Indirect Expenses* are favorable to budget by 1% (\$241,830).
 - i. Salaries, Taxes, & Benefits had a combined savings of \$146,363. The largest amount of savings is attributed to unfilled positions for salaries, medical, and retirement contributions. Areas trending above budget include temporary staffing salaries (timing due use of seasonal employees for licensing renewals) and employer taxes for FICA (costs will likely continue to run over through the rest of the year).
 - ii. Other Indirect Expenses had a combined savings of \$95,467 mainly due to lower cost YTD for rent and legal fees.

CONTINUING LEGAL EDUCATION (CLE)

The CLE fund includes CLE Seminars, CLE Products, and Deskbook cost centers which collectively have budgeted a surplus of \$217,235 for FY 2023. December 31, 2022 results reflect an actual surplus of \$343,355. Revenue is favorable to budget by 11% (\$206,165) due to higher product sales. This is a seasonal trend caused by year-end MCLE reporting requirements. Expenses unfavorable to budget by 5% (\$82,881), mostly due to timing of direct expenses that have not been incurred yet for seminars held later in the fiscal year.

CLIENT PROTECTION FUND (CPF)

The Client Protection Fund (CPF) budgeted a surplus of \$45,788 for FY 2023. Actual results as of December 31, 2022 reflect a surplus of \$248,779. Revenue from member assessments is favorable to budget by 11% (\$77,840), and interest income (which was not budgeted) has earned \$45,049 and will continue to earn interest through the rest of the fiscal year. Overall expenses are favorable to budget by 18% (\$122,260), mainly due to direct expenses for Gifts to Injured Clients which are paid out towards the end of the fiscal year.

SECTIONS FUND

The Sections Operations cost center represents the collective total of financial activity for all 29 sections. Sections budgeted a loss of (\$254,951) for FY 2023. Actual results as of December 31, 2022 reflect a surplus of \$20,749, mainly related to timing of programming and Section activities which are planned throughout the year at different times.

TO: Terra Nevitt, Executive Director

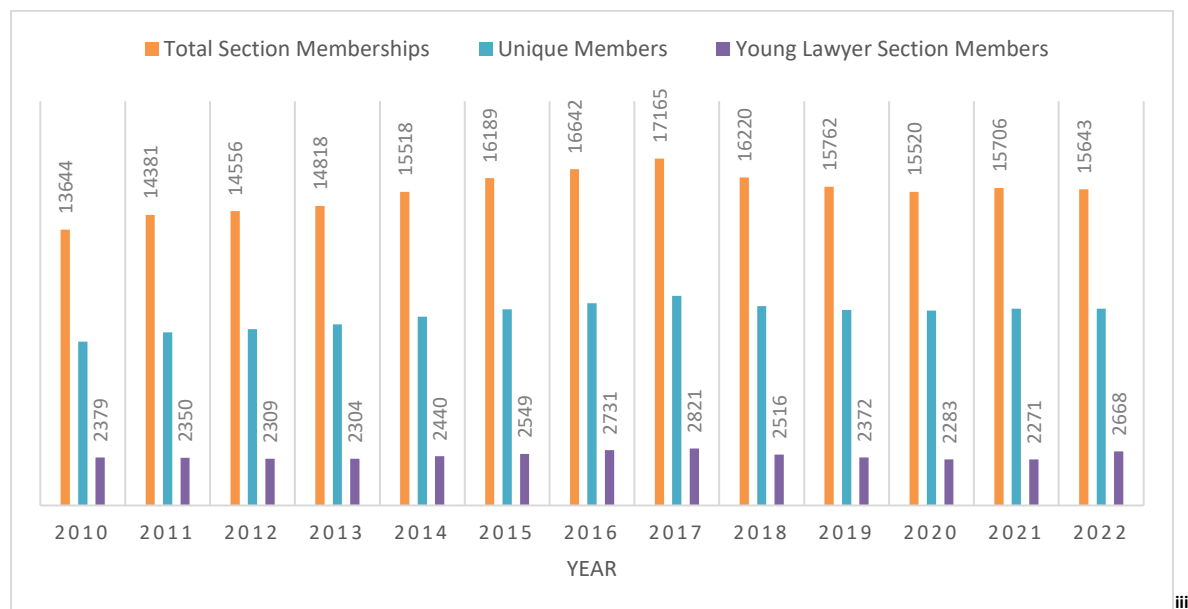
FROM: Kevin Plachy, Director of Advancement
 Julianne Unite, Member Services and Engagement Manager
 Carolyn MacGregor, Sections Program Specialist
 Noah Baetge, Sections Program Coordinator
 Chelle Gegax, Member Services and Engagement Administrative Assistant

RE: WSBA Sections 2022 Annual Summary Memo & Section Annual Reports

DATE: January 30, 2023

Washington State Bar Association (“WSBA” or “Bar”) Sections are entities of the Bar created and tasked to carry on the work of the WSBA and further their purposes as defined in individual section bylaws. Approximately one-quarter of all WSBA members belong to one or more of the WSBA’s 29 sections.¹ Each year, section executive committees (also referred to as “section leaders” collectively) and WSBA staff work together to increase and improve the benefits and support available to section members. Sections generally rely on membership dues, CLE registration revenue, and publication royalties to fund their activities. Per the WSBA Bylaws XI.K, each WSBA section is required to submit an annual report to the WSBA Executive Director.

Section Membership Numbers Over the Years²



¹ Based on [December 1, 2022, WSBA Member Demographic Reports](#) and December 12, 2022, data from WSBA Regulatory Services Department.

² Reflects calendar/licensing year and based on December 12, 2022, data from WSBA Regulatory Services Department.

Summary of WSBA Sections for 2022 (January 1, 2022 – December 31, 2022):

- **15,554** section memberships.³
- **Over 412** section leader volunteers across all 29 sections.⁴
- **\$30** average dues amount to join a section in 2022 (range \$20-\$40). Current law student rate is \$17.66⁵ (as of October 1, 2022). Law student rate was \$18.75 (January 1-September 30, 2022).

In FY2022, WSBA sections provided the following member benefits⁶:

- **70** section-sponsored educational programs with WSBA: CLE seminars (20) and mini-CLEs (50).⁷
- **\$62,672** awarded in scholarships donations and/or grants.⁸
- **11** law school/student and new lawyer outreach events/benefits.
- **Over 305** legislative bills reviewed/drafted.
- **21** newsletters produced.
- **16** receptions or forums (non-CLE).
- **6** awards given.

Sections Team: Internal Highlights & Goals in 2022

The “Sections Team” is comprised of 2.68 WSBA FTEs dedicated to the support and success of the 29 WSBA Sections through close partnership with section executive committees. In addition, several other staff members/departments throughout WSBA provide section-related support at different times, including staff from finance/accounting, CLE, legislative, and communications.

The Sections Team provided valuable benefits to section members through the following:

- Provided guidance on WSBA policies and procedures pertaining to sections.
- Supported activities to foster sustainable sections.
- Supported a pipeline of future leaders.
- Facilitated collaboration between sections and other WSBA programs/efforts.
- Assisted with section member recruiting efforts.

The Sections Team highlights during FY2022 include:

- Hosted the second virtual-only Fall Section Leaders Orientation in November 2021, which included various speakers including WSBA President Brian Tollefson, Executive Director Terra Nevitt, and other WSBA staff leadership. Members of the BOG Member Engagement Workgroup

³ Based on [December 1, 2022, WSBA Member Demographic Reports](#). Section memberships range between 72 – 2,279 members.

⁴ Based on committee member totals pulled from Personify for FY22. Includes Young Lawyer Liaisons; does not include BOG liaisons.

⁵ The law student rate mirrors the per-member charge for a given fiscal year.

⁶ Unless otherwise cited, all information was gathered from the completed FY2022 annual reports received from 26 of the 29 section executive committees.

⁷ Based on data obtained from WSBA-CLE and accounting team on December 16, 2022.

⁸ Based on year-to-date actual scholarships/donations/grant expense budget line in the September 2022 Monthly Financial Reports.

WASHINGTON STATE BAR ASSOCIATION

joined to discuss engaging with and bringing issues before the Board. The orientation also included sessions on court rules, legislative and comment policy, and sections best practices.

- Presented the annual Spring Section Leaders Meeting virtually in April 2022, inviting WSBA leadership to join in presenting on WSBA updates, the Bar Structure Study, budget planning, and an open dialogue with seven BOG members.
- Assisted sections and provided staff support for sections that held virtual, hybrid, and in-person events (e.g., receptions, panels, and roundtables), as sections began to incorporate in-person attendance into event planning.
- Provided ongoing guidance and support to navigate evolving WSBA Volunteer and Guest COVID-19 policies.
- Continued monthly publication of the *Sections Bulletin*, adding a regular Diversity Spotlight item. The *Bulletin* is intended to provide section leaders with up-to-date information regarding WSBA matters; best practice tips; supplemental resources regarding leadership, diversity, and educational development; and to connect sections with existing and relevant WSBA programs.
- Provided individualized support to executive committees, including, but not limited to: design and implementation of member surveys; virtual, hybrid, and in-person event planning; financial and data analysis; guidance through the bylaws amendment approval process; and facilitation of section newsletter review and production.
- Completed a successful budgeting process, including review of budget histories and follow-up with sections before budgets were submitted to the Budget & Audit Committee.
- Engaged in ongoing collaboration with CLE, Legislative, Communications, and Finance staff to update materials and processes related to sections.
- Launched a Sections Lunch Discussion Series, with the initial topic of “The Future of Open Sections Night.”
- Maintained and updated the online “Volunteer Toolbox,” including section leader meeting recordings/materials, new tools, and resources to help section leaders implement their activities (e.g., templates, meeting tools, and policies).
- Worked closely with IT staff and section officers to administer section executive committee elections for all 29 sections.

Sections Team: Internal Goals for FY2022

The primary areas of focus for the Sections Team in FY2022 will be supporting section member and section leader recruitment; using improved communications and tools for virtual meetings and events; continuing to refine the section elections process; exploring innovative member benefit ideas; promoting collaboration among sections; fostering relationships between sections and the Board of Governors; and continuing engagement with section leaders through the annual spring update session, fall orientation programming, and occasional virtual discussion forums.

WSBA FY2022 Section Annual Reports

Included with this memo are the FY2022 sections annual reports submitted by 26 of 29 section executive committees.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Administrative Law Section
Chair or Co-Chairs:	Lea Dickerson, incoming Chair; Bill Pardee, outgoing Chair
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor, Sections Program Specialist
Board of Governors Liaison:	Brett Purtzer
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The purpose of the Administrative Law Section is to seek participation of all interested members of the Bar to benefit section members, their clients, and the general public by: Exchanging ideas and sharing knowledge in administrative law, including the Washington Administrative Procedure Act, Public Records Act, and Open Public Meetings Act, through CLEs, publications, meetings, and other means of communication; Initiating and implementing common projects; Improving and facilitating the administration of justice in administrative law through the review of pending legislation and regulations, the development of proposed statutes, and the promotion of uniformity in legislation and administration; and providing other services that may benefit section members, the legal profession, and the public.	
Strategy to Fulfill Purpose:	
The Section’s Diversity Outreach Committee actively solicits and recruits individuals to join the Administrative Law Section through recruiting events. The Section’s Nominating Committee actively	

solicits and recruits individuals to join the Section' Executive Committee when openings arise. The Section's CLE Committee routinely hosts and puts on Mini-CLEs concerning various topics in administrative law. The Section's Legislation Legislative Committee tracks pending legislation, writes articles on legislative activity and agency actions, and where appropriate gives feedback back to the WSBA Legislative Liaison on pending legislation of concern to the section. The Section's Newsletter Committee publishes a Newsletter that includes articles on administrative law, and advertises events like the Section's CLEs; the Homan Award Committee solicits and reviews nominations for the Homan Award and awards it to individuals who have shown a strong dedication and commitment to administrative law through their actions and accomplishments. The Section's Publications and Practice Manual Committee ensures that the Section's Public Records Act Deskbook and Administrative Law Practice Manual are updated regularly and published.

How does the entity's purpose help further the mission of the WSBA "to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice"?

The Section's purpose furthers this mission through the exchange of ideas and sharing of knowledge via publications the Section produces (The Public Records Act (PRA) Deskbook & Administrative Law Practice Manual); the CLEs it sponsors and produces; the Newsletter it publishes with articles and case law summaries; tracking proposed legislation and agency actions and best practices; and providing current knowledge on administrative law to the public and members of the Bar. It serves to better the practice of administrative law in Washington through both knowledge and awareness, which aids members of the Bar in championing justice.

2021-2022 Entity Accomplishments:

Between October 1, 2021 and September 30, 2022, the Executive Committee held regular monthly meetings via Zoom. It hosted a fall picnic in 2022 for board members. The Section awarded the Frank Homan award for 2021 to John Gray, and held an in-person reception at Mercato's in December 2021 for the 2021 Homan Award recipient as well as provided a Zoom link to attend remotely. The Section produced four mini-CLEs by webinar. It selected the 2022 Homan Award Winner. It published its Newsletter and continued to track a number of bills during the 2022 Legislative Session. The Section posts details about its accomplishments in its Newsletters and Meeting Minutes.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Mini-CLE program
2	Annual Board Retreat
3	Mentoring program
4	Homan Award Recipient
5	Publish Newsletter

Please report how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

The Administrative Law Section is involved in all areas of administrative law of interest to Washington lawyers, including Washington State administrative law, federal administrative law, tribal administrative law, and interstate compact administrative law. We recognize that most attorneys in Washington practice some type of administrative law, even if they never directly apply the Washington Administrative Procedure Act. The Section welcomes anyone as a member who has an interest in administrative law. Our members include: Assistant attorneys general; Public agency in-house attorneys; City attorneys (on private contract as well as municipal employees); County prosecutors; Private practitioners who represent clients subject to government regulation; Judicial officials; and Administrative Law Judges. The Section’s Executive Committee strives to recruit members and board members from historically underrepresented backgrounds, LGBTQ+ attorneys, young/new attorneys, and attorneys from all over the state. The Section’s Diversity and Outreach co-chairs have focused primarily on both creating awareness within the Section leadership about bias, equality and equity while developing a mentorship program that is designed to provide guidance and support to new and underrepresented attorneys as they begin their practice in administrative law. Instead of working directly with minority bar associations, we are focused on developing a Section that is inclusive and supportive of minorities in the practice area which we hope will foster a diverse population for the practice in the future. In addition, the Section tries to recruit attorneys for the Section Executive Committee and sub-committees who have been practicing for a broad range of years, including attorneys who are planning for retirement and attorneys who have just begun their careers. We encourage all board and committee members—including new attorneys—to serve in all leadership positions, including as Section officers and Committee chairs. The Section’s Young Lawyer Liaison is a voting member of the Section’s Executive Committee, and past Young Lawyer Liaisons have gone on to other leadership roles, including President.

Please describe the relationship with WSBA staff and the Board of Governors.

For example:

- *Quality of WSBA staff support/services*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

We regularly communicated with our Section liaisons. The WSBA staff liaisons attend Section meetings when invited. The liaisons coordinate with the Section’s graphic designer and WSBA legal counsel to review content in the draft Newsletter before publication. WSBA staff assist with mini-CLEs. The Section also interacted with WSBA staff regarding legislation related to administrative law.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

1	Newsletters/publications produced
4	Mini-CLEs produced
0, due to COVID pandemic	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
0, due to COVID pandemic	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
1 Reception both in person and via	Hosted Homan Award Reception indoors and remotely

	Zoom for recipient John Gray	
	1 Board Picnic	Hosted outdoor picnic
	1 Homan Award given to 2021 recipient John Gray (1 Homan Award Nomination and Vote for 2022 recipient)	Recognitions/Awards given
	1 by hosting a remote networking event for current law students and alumni	New Lawyer Outreach events/benefits
	Several	Bills Tracked During the 2022 Legislative Session

**Entity Detail & Demographics Report:
To Be Completed by WSBA Staff**

Size of Entity:	15
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	255
Number of Applicants for FY22 <i>(October 1, 2021 – September 30, 2022)</i>	6
How many current volunteer position vacancies for this entity?	1
FY21 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$15,038.91
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$6,526.20

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to October 1, 2021 – September 30, 2022(FY22)

provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Animal Law Section of the WSBA
Chair or Co-Chairs:	Leila Arefi-Pour
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Nam Nguyen and Kari Petrasek
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The purpose of the Section shall be to seek the participation of all interested members of the Bar and other interested non-Bar members.	
Strategy to Fulfill Purpose:	
By providing a forum for members to exchange ideas, study, and understand laws, regulations, and case law pertaining to all areas of Animal Law. By providing full-day, half-day and mini CLEs for the benefit of section members, other interested members of the Bar and other interested non-Bar members; by sending representatives from the Section to speak at and participate in the annual Animal Law Summit; and by holding regular meetings to conduct the business of the Section. By publishing and furnishing to members of the section written materials and documents subject to approval by the Bar and/or the Continuing Legal Education Committee of the Bar to further the objectives of the Section. 4 By providing an animal law list serve to members. By publishing informational pamphlets to the public on legal issues pertaining to animals. By undertaking such	

other service consistent with these and the Bar’s Bylaws, and applicable rules and policies, as may be of benefit to the members, the legal profession, and the public. By acting as a liaison between the Bar, its Board of Governors, Animal Law Sections of other States, counties, and cities

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

The Animal Law Section’s purpose helps further the mission of the WSBA by providing resources, a forum for professionals handling animal related cases, information, and educational opportunities. Animal law and animal related cases are a niche area of the law. There are generally no or very few specific laws that are dedicated to the practice of animal law. So, practitioners taking on animal cases must think outside the box and employ laws from every area of law. Without the animal law section, this important area of law would go unrecognized by the bar essentially ignoring the suffering of our nonhuman animal friends and the attorneys who take on these difficult cases.

2021 -2022 Entity Accomplishments:

Animal Law CLE 10/12/2022- Animal Law in Practice- A Collection of Case Studies.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Listserv updates
2	Mini CLE’s and 2023 CLE
3	Form bank for animal law cases
4	Guides for practitioners on state laws.
5	Advice for Law students wishing to pursue animal law as part of their practice in WA.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

In selecting its nominees, it has been the responsibility of the nominating committee to bear in mind the need for broad representation on the executive committee, based on geography, diversity of practice, special expertise, and other factors of diversity.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

Sally Romero and Rex Nolte were invaluable for the CLE. We could not have done it without them.

SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits: <i>For example:</i> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	Click or tap here to enter text.	Newsletters/publications produced
	Click or tap here to enter text.	Mini-CLEs produced
	Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	Click or tap here to enter text.	Receptions/forums hosted or co-hosted
	Click or tap here to enter text.	Recognitions/Awards given
	Click or tap here to enter text.	New Lawyer Outreach events/benefits
	Click or tap here to enter text.	Other (please describe):
	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	Click or tap here to enter text.	Bills reviewed
	Click or tap here to enter text.	Bills tracked
	Click or tap here to enter text.	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	9	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	90	

Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	0
Number of current volunteer vacancies for this entity	7
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$2,114.46
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$1,527.67

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Business Law Section
Chair or Co-Chairs:	Shaina Johnson
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Bryn Peterson
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The purpose of the Section is to benefit the members of the Section and their clients: (a) by encouraging research and study, and the development of best practices, in the area of business law in the State of Washington, and sharing these efforts through continuing legal education where possible and appropriate; (b) by participating in the development of state legislation and regulations in order to improve and facilitate the administration of justice in the area of business law; and (c) by undertaking such other services relating to the area of business law as may be of benefit to members of the Section, members of the Bar, and the greater public.	
Strategy to Fulfill Purpose:	
We spent time this year trying to determine whether Section members are ready to return to in person events and how to bring people together after several years of remote activities. We had some successes and some learning opportunities. The repurposed Privacy and Data Security Law Committee was very active and had successful events both virtually and in person, while the	

Securities Law Committee was able to return to holding its annual Northwest Securities Institute in person.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

The Section seeks to promote professionalism among our members by helping to build and foster personal relationships among business attorneys across the state and by providing a forum for the discussion and exchange of ideas leading to the improvement of the laws relating to these areas of law.

2021 -2022 Entity Accomplishments:

The Securities Committee’s annual program, the Northwest Securities Institute, was held virtually and in person. The Securities Committee also held a dinner reception with Judge Robart this fall. The Privacy and Data Security Committee held two events this year, a Career Paths in Privacy Law Panel in January and a presentation on Top Privacy Issues for Washington Business Lawyers in September. The Section also provided comments to the BOG’s Ethos meetings on the structure of the bar. Meanwhile, the Section has continued its tradition of strong legislative involvement, with the active review of numerous proposed bills throughout the legislative session. Specifically, the Section supported proposals by the Corporate Act Revisions Committee for legislation updating various provisions of the Washington Business Corporation Act. The Section also donated \$3,000 to the nonprofit Communities Rise.

Looking Ahead: 2022-2023 Top Goals & Priorities:

- | | |
|----------|--|
| 1 | Continue the Section’s strong tradition of legislative participation. |
| 2 | Continue to seek feedback to determine whether, how, and to what extent we should proceed with virtual/in person programming initiatives as we come out of the pandemic. |
| 3 | Continue to improve upon the programming initiatives from recent years, including planning an in person annual meeting. |
| 4 | Actively recruit more members to participate in the Section. |
| 5 | Click or tap here to enter text. |

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

Even as compared to other segments of the legal profession, the business law bar is historically lacking in diversity. The Section has tried to promote a culture of diversity, equity, and inclusion, particularly with respect to the constitution of our executive committee. Women and racial and ethnic minorities currently represent almost 50% of our executive committee.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

<ul style="list-style-type: none"> • <i>Quality of WSBA staff support/services, including technology solutions</i> • <i>Involvement with Board of Governors, including assigned BOG liaison</i> • <i>Ideas you have on ways WSBA can continue to strengthen/support your entity.</i> 		
<p>We believe the Section’s relationship with the WSBA staff and governors has been fruitful. The WSBA staff has always been willing to help. We appreciate the lengths to which the WSBA staff always goes to acknowledge the contributions of the section leaders.</p>		
<p>SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:</p> <p><i>For example:</i></p> <ul style="list-style-type: none"> • <i>\$3000 Scholarships, donations, grants awarded;</i> • <i>4 mini-CLEs produced</i> 	Click or tap here to enter text.	Newsletters/publications produced
	1	Mini-CLEs produced
	Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	3	Receptions/forums hosted or co-hosted
	Click or tap here to enter text.	Recognitions/Awards given
	Click or tap here to enter text.	New Lawyer Outreach events/benefits
	\$3,000 to Communities Rise	Other (please describe): Donation
	Click or tap here to enter text.	Other (please describe):
<p>SECTIONS ONLY: Please quantify your section’s 2021-2022 legislative activity.</p>	15 (estimate)	Bills reviewed
	6 (estimate)	Bills tracked
	Click or tap here to enter text.	Comments proposed
	1	Bills proposed/drafted
<p>Entity Detail & Demographics Report: To Be Completed by WSBA Staff</p>		
Size of Entity:	21	

Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	1240
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	15
Number of current volunteer vacancies for this entity	1
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$34,247.46
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member- Charge.</i>	\$27,856.92

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Cannabis Law Section
Chair or Co-Chairs:	Alexis Hartwell-Gobeske
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Erik Kaeding, Mary Rathbone
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The sections mission is to: provide education for its members on legal topics related to cannabis law; provide opportunities for engagement and networking for members; provide a forum for discussion about topics of common interest to members; provide advice to the bar on proposed legislation, court rules and other matters; provide resources and education to regulators and legislators; provide such other services as benefit the public and the bar.	
Strategy to Fulfill Purpose:	
Provide valuable CLE opportunities, hold monthly open section meeting that include discussion of current legal topics in the cannabis industry, provide a resources page as a valuable resource for members, and host an annual meeting of the members to facilitate discussion and obtain member feedback.	

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?	
The section furthers the mission of the board by hosting educational programming, networking events, and providing informational resources to its members. These actions assist with developing well informed, capable and highly competent legal practitioners within the field of cannabis law which aids integrity within the legal profession and serves the public.	
2021 -2022 Entity Accomplishments:	
The section increased member involvement by increasing and filling the number of EC position. A larger executive committee provides a wider range of ideas and perspectives. The section also hosted multiple mini-CLE seminars that were well attended and held monthly open meeting for the benefit of the section for planning and housekeeping purposes and the members as a forum for discussion of legal topics relevant to the members.	
Looking Ahead: 2022-2023 Top Goals & Priorities:	
1	Increase the number of CLE seminars
2	Curate educational and networking opportunities for attorneys new to the practice of cannabis law
3	Seek input from the membership about possibly broadening the scope of section to include additional highly regulated and emerging industries
4	Maintain and update the Resources page
5	Foster diversity, equity, and inclusion within the section
Please describe how this entity is addressing diversity, equity, and inclusion: <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i>	
The section encourages diversity among its executive committee and membership – the executive committee is currently comprised of diverse individuals - those new to the practice of law, practitioners located in diverse areas of the state whose practice might vary from those in the greater Seattle area, and various age groups. The diverse makeup of the executive committee fosters a wide breadth of perspectives and opinions that help the section develop valuable and inclusive programming for its members. The section continues to make diversity and inclusion a priority at the executive committee level and within the membership as a whole and encourages the bar to provide suggestions as to how we can take further action to promote equitable conditions for members from historically underrepresented backgrounds.	
Please share feedback regarding the support and engagement provided by WSBA. <i>For example:</i>	
<ul style="list-style-type: none"> • <i>Quality of WSBA staff support/services, including technology solutions</i> 	

- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

Carolyn MacGregor has been a wonderful resource for our section and has assisted the section through bylaw amendments, creating additional committee positions, and currently discussions on broadening the section scope. The board of governors liaison was not significantly involved in our section. The section holds monthly meetings and the section liaison can take a more active role by attending our meetings.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

0	Newsletters/publications produced
2	Mini-CLEs produced
0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
0	Receptions/forums hosted or co-hosted
0	Recognitions/Awards given
0	New Lawyer Outreach events/benefits
Annual member meeting: 1	Other (please describe):
Click or tap here to enter text.	Other (please describe):

SECTIONS ONLY: Please quantify your section’s 2021-2022 legislative activity.

Click or tap here to enter text.	Bills reviewed
Click or tap here to enter text.	Bills tracked
Click or tap here to enter text.	Comments proposed
Click or tap here to enter text.	Bills proposed/drafted

**Entity Detail & Demographics Report:
To Be Completed by WSBA Staff**

Size of Entity:	9
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	72
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	9
Number of current volunteer vacancies for this entity	0
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$1,798.57
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member- Charge.</i>	\$1,359.75

¹ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Civil Rights Law Section
Chair or Co-Chairs:	Breanne Schuster (2022/2023; Laura Sierra, Past Chair (2021/2022)
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Alec Stephens
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The mission of the Civil Rights Law Section (CRLS) is to educate and advocate for civil liberties and equal rights in the context of civil rights law and the legal issues of Washington State residents, with particular focus on those who have traditionally been denied such rights and equal treatment under the law including, but not limited to, racial, ethnic, or religious minorities; elderly; gay, lesbian, bisexual or transgendered; immigrants; mentally or physically disabled; impoverished; and homeless. The section also focuses on issues involving civil liberties including freedom of speech, freedom from state-promulgated religion, and privacy rights.	
Strategy to Fulfill Purpose:	
The CRLS: (1) sponsors CLEs on civil rights law and provides a forum for activities with civil rights organizations throughout the state; (2) provides a network for communications with the civil rights organizations throughout the State; (3) submits to the Board of Governors or other appropriate Bar	

entity, recommendations concerning proposed legislation or court rules that impact legal practice in the area of civil rights; and (4) recognizes and honors individuals and organization advancing civil rights in the State of Washington.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

Our Section’s mission is to educate and advocate for civil liberties and equal rights in the context of civil rights law and legal issues of Washington State residents. In pursuit of this mission, we believe that anti-racism, racial equity, and community-centered lawyering are central to the fair administration of justice and to advancing and protecting the civil rights of all people.

2021 -2022 Entity Accomplishments:

Reviewed legislative bills; produced 1 CLE; co-sponsored 1 CLE;

Looking Ahead: 2022-2023 Top Goals & Priorities:

- | | |
|----------|--|
| 1 | Continue holding the WSBA accountable for systemic racism and push for civil rights, equity, diversity and inclusion to the BOG and within WSBA. |
| 2 | Offer and promote more CLEs addressing policies and practices that enforce civil rights protections, including systemic changes that recognize traditionally marginalized communities. |
| 3 | Grow our membership and increase networking opportunities so that we can connect with other advocates in the community dedicated to the same mission. |
| 4 | Follow and support legislation that leads to the end of mass incarceration. |
| 5 | Educate our membership on local and national civil rights matters via newsletters, listserv, and volunteer opportunities. |

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

Our Section is dedicated to enhancing diversity amongst ourselves and the WSBA as a whole. In 2022, our Section arranged for JustLead trainers to instruct Executive Committee members at the annual retreat on mindfulness techniques necessary to build racial equity awareness and promote selfcare. This year, we will seek to engage in a similar training, even if more informally. Moreover, for the 2022 session, the CRLS reviewed and proposed updates to it Values Statement that outlines our collective commitments (that will also be followed this year) as follows: We commit to the following actions as we pursue our Section’s mission during this next session: to actively challenge and confront our open and implicit biases; to actively challenge others’ open and implicit biases; to amplify the voices of those challenging open and implicit biases; to reach out to and build sustainable relationships with marginalized communities; to continue our support and partnership with Minority Bar Associations; to seek opportunities to educate the BOG on the issues of anti-racism; to bring representation into our Section and the BOG from historically marginalized communities; to promote ethical

accountability by equipping the profession to identify and appropriately report biased, discriminatory, and prejudicial conduct in violation of the Rules of Professional Conduct and the Code of Judicial Conduct; to hold CLEs on racial equity and justice; to advocate for legislatively expanding civil liberties by educating and lobbying our legislators; to actively divest from white supremacist culture through our own individual and collective actions. White supremacy includes, but is not limited to, the following characteristics: perfectionism, individualism, sense of urgency, defensiveness, worship of the written word, power hoarding, either/or thinking, paternalism, and fear of open conflict. Our Section is also committed to the Washington Race Equity & Justice Initiative, which is an effort to “coordinate and grow a sustainable statewide community of legal and justice system partners in Washington State who can more effectively and collaboratively work toward eradicating racially biased policies, practices, and systems.” We are currently working together with other sections and advocates in line with this commitment and our Past Chair served as the Chair of one of the Initiative’s Sub-Committee’s drafting a proposed change to the Rule 12.2.c Analytic Statement.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

We continue to be highly appreciative of the support we have received from the WSBA, especially from our liaison Carolyn McGregor. We are also very grateful to have had Alec Stephens as our BOG liaison. Alec is a pioneer for civil rights that we all look up to. He has a wealth of knowledge about the WSBA and civil rights that enhanced the services we were able to provide to our members. He is also selfless – using his experience only to better the community he serves. As part of the Washington Race Equity & Justice Initiative, three of our members, including our immediate past chair are on the GR12 Subcommittee and are actively working with the WSBA General Counsel and other members to update the interpretation and approach to GR12 to better align with the stated goals of the Bar.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

0		Newsletters/publications produced
2		Mini-CLEs produced – Upholding the Right to Vote, Sept. 12, 2022; Student Disciplinary Process CLE – April 27, 2022
1		Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
1		Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
0		Receptions/forums hosted or co-hosted
3		Recognitions/Awards given
0		New Lawyer Outreach events/benefits

	1	Other (please describe): Developed a CRLS Facebook account for membership drive and visibility
	1	Other (please describe): Developed a LinkedIn Presence
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	7	Bills reviewed
	30+	Bills tracked
	1	Comments proposed
	1	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	12	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	176	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	5	
Number of current volunteer vacancies for this entity	1	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$6,944.72	
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$5,959.88	

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Construction Section
Chair or Co-Chairs:	Jennifer Beyerlein, Bart Reed
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Serena Sayani / Kevin Fay
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
Our bylaws provide the following: “The purposes of this Section are to promote the education of Washington State Bar Association members in laws, regulations, and administrative and court decisions affecting such procurement and construction, the sound development of relevant laws and regulations, to cooperate in that endeavor with the American Bar Association and its sections and to promote the objects of the Washington State Bar Association (hereinafter referred to as ‘WSBA’).”	
Strategy to Fulfill Purpose:	
To keep our members engaged and up to speed on current issues in our industry, we host CLEs, forums, and had previously provided writing competition for law students. Due to lack of participation, we have pivoted from a writing competition to unrolling a mentoring/lunch program for students to get to know construction attorneys. We also provide Section members updated legal materials including jury instructions, contracts, and a desk book. We are also looking at the possibility of working with Seattle University to re-start their construction law course.	

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

Through the Section, our members are provided opportunities to become educated on the latest hot topics in the industry and provide a higher quality of service to their clients. We are also making efforts at expanding visibility of construction through work with law schools and young lawyers. We serve the public by making form residential contracts available to the public for use on residential construction.

2021 -2022 Entity Accomplishments:

Updated standard form construction contracts and created new forms for design-build guaranteed maximum price; held a very successful mid-year CLE in June, including a judges panel with judges from King County Superior Court and the Court of Appeals. Held an in-person social event for the Section located at the Smith Tower. Re-started the quarterly news letter after a hiatus.

Looking Ahead: 2022-2023 Top Goals & Priorities:

- | | |
|----------|--|
| 1 | Spring Forum: We are currently looking for locations to have an in-person event for members in an iconic/unique building in Seattle. In years past, we have had a guest speaker for one hour (of CLE credit), followed by a dinner where we have a welcome opportunity to catch up with members outside of the office/court room/board room. |
| 2 | Road Trip CLE: Benton County Bar moved from 2022 to Spring 2023 – likely March 23. We intend to continue this event in a different location of the state and already have topics and locations in mind. This year, the event may have an in-person option. |
| 3 | Mid-Year CLE: Planning for this event has started and we look forward to great turnout again. |
| 4 | Law Student Engagement: We have decided to suspend the writing competition and explore new ways to spend competition prize money, all in an effort to inspire student interest in the Section. We have decided upon Lunch with a Lawyer to provide access to Construction attorneys for students in all three Washington-based law schools. We will be evaluating this over the next year. |
| 5 | In-Person Winter Mini-CLE: We are currently planning on returning to hold a mini-CLE to take place in early 2023. Pre-COVID, this was a yearly event with dinner and a CLE credit, held at Cutters. We are investigating having an ethics-themed CLE. |

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

The Construction Law Section continues to engage lawyers from diverse backgrounds. We are proud to have several members on the executive council who are women, people of color, and people who are under 40 or over 60. We value a culture of inclusion. To

encourage engagement and interaction, this year again we discounted our Mid-Year CLE price for new lawyers, government lawyers, and small firms.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

Click or tap here to enter text.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

1	Newsletters/publications produced
Click or tap here to enter text.	Mini-CLEs produced
Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
1	Receptions/forums hosted or co-hosted
	Recognitions/Awards given
Click or tap here to enter text.	New Lawyer Outreach events/benefits
1	Other (please describe): New Design-Build residential form contracts; update prior form contracts; jury instructions, etc.
1	Other (please describe): Lunch with Lawyer program for law students to have lunch with a member(s) of the Construction Section [reimbursed by Section]

SECTIONS ONLY: Please quantify your section’s 2021-2022 legislative activity.

0	Bills reviewed
Various	Bills tracked

	0	Comments proposed
	0	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	16	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	502	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	7	
Number of current volunteer vacancies for this entity	0	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$24,492.35	
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member- Charge.</i>	\$12,982.15	

¹ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Creditor – Debtor Section
Chair or Co-Chairs:	Bruce Medeiros
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn Mac Gregor
Board of Governors Liaison:	Matthew Dresden
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
Provide continuing legal education programs on topics of interest to the section membership with the purpose of devoting revenue generated from said programs to debt related legal clinics or debt related education organizations; Provide communication amongst members of the section; Review and comment on proposed creditor-debtor legislation.	
Strategy to Fulfill Purpose:	
The Section sponsors continuing legal education programs that generate revenues which are then distributed, in the form of grants, to statewide legal programs or debt related education organizations. The Section also publishes a newsletter for section members.	
How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?	

See above	
2021 -2022 Entity Accomplishments:	
1) Provide grant funding of \$5,000.00 to various low income legal clinics across Washington; 2) Provide quality CLE programs, including co-sponsorship of the annual Northwest Bankruptcy Institute (NWBI); 3) Review and comment on proposed creditor-debtor related legislation referred to section executive committee by the WSBA lobbyist; 4) Publication of the section’s semi-annual newsletter; and 5) Maintain active discussions amongst section members via the section’s list serve.	
Looking Ahead: 2022-2023 Top Goals & Priorities:	
1	Increase Membership and CLE Revenue to fund larger grants
2	Review ways to increase diversity, equity and inclusion within section membership
3	Continue high quality legal education presentations, including looking at cross-selling CLE programs with other sections.
4	Review and comment, when appropriate, on proposed creditor-debtor related legislation
5	Publication of section newsletter
Please describe how this entity is addressing diversity, equity, and inclusion: <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i>	
<p>The Creditor Debtor Section’s Executive Committee is aware of the need to be inclusive in all our activities. We are inherently diverse in that some of us represent creditors, some of us represent debtors, and others represent both. The Executive Committee strives to recruit candidates that represent members from historically underrepresented backgrounds. We strive to take positive steps to deal with those issues and the Section welcomes any member of the Bar that is interested in a substantive area of practice that we are involved with. We also strive to embrace the cultural differences that make interaction amongst us more interesting. The Section has not utilized the services of the WSBA Diversity Specialist and have not had any contact with or from that person. The Executive Committee continues to keep its focus on the issues of diversity and inclusion, together with the issue of avoiding inappropriate discrimination in our activities.</p>	
Please share feedback regarding the support and engagement provided by WSBA. <i>For example:</i>	
<ul style="list-style-type: none"> • <i>Quality of WSBA staff support/services, including technology solutions</i> • <i>Involvement with Board of Governors, including assigned BOG liaison</i> • <i>Ideas you have on ways WSBA can continue to strengthen/support your entity.</i> 	

Click or tap here to enter text.

SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits: <i>For example:</i> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	1	Newsletters/publications produced
	0	Mini-CLEs produced
	1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	0	Receptions/forums hosted or co-hosted
	0	Recognitions/Awards given
	0	New Lawyer Outreach events/benefits
	0	Other (please describe):
	0	Other (please describe):
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	1	Bills reviewed
	1	Bills tracked
	0	Comments proposed
	0	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	15	
Membership Size: (for Sections Only) (As of September 30, 2022)	456	
Number of Applicants for FY23 (October 1, 2021 – September 30, 2022)	8	
Number of current volunteer vacancies for this entity	0	

FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$22,171.00
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member- Charge.</i>	\$13,948.05

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Dispute Resolution Section
Chair or Co-Chairs:	Mel Simburg
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Alec Stephens, Jr.
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The Section promotes the use of appropriate dispute prevention and resolution processes.	
Strategy to Fulfill Purpose:	
By providing resources, developing programs, and addressing issues to: <ul style="list-style-type: none"> • Enhance the skills of dispute resolution practitioners; • Educate the public in the availability and use of party-determined solutions; • Assist the growth and development of dispute resolution services in the State of Washington. 	
How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?	
Educating members of the Bar and the public about Dispute Resolution serves to bring awareness to nonlitigation methods of resolving disputes. These methods can be more efficient, less expensive, faster, allow party control of the process, provide for the use of experts in the subject matter as	

decision-makers, and allow privacy in the dispute resolution process. We also serve members of the Bar by bringing CLE opportunities in DR subjects and procedures, by holding networking events, and by providing channels to communicate with other Section Members and with other DR professionals or interested parties. We also monitor legislation and comment on legislation to further ensure the integrity and utility of DR processes.

2021 -2022 Entity Accomplishments:

We began the fiscal year with an Executive Committee Zoom retreat with the theme of addressing “Issues of Concern to the Profession; Matters of Policy.” That event started the process of revising our Section Mission Statement, which concluded in August 2022 with adoption of a revised Mission Statement. We amended the Bylaws in 2022 to change the name by dropping “Alternative” and becoming the “Dispute Resolution” Section. The Bylaw amendments also included adding “Inactive Members” of WSBA as eligible Members of the Section. We discussed issues of DEI in dispute resolution and in operating the Section. The Executive Committee held two mini-retreats on DEI and has added to its monthly agenda time for focusing on an aspect of DEI each month. In October 2021, we held a successful online conference with several partners outside the State of Washington, including participants from British Columbia, entitled “Northwest Collaborative Futures Conference: Deconstructing Artificial Borders.” We collaborating on the repeat presentation of a WSBA-CLE presentation on Arbitrator Ethics, which took place on December 1, 2021. And we supported the International Practice Section on a CLE that took place December 8, 2021 entitled “Tips to Resolving Disputes Cross Border.” We have resumed the “Happy Hour NW,” which is a Thursday evening open-ended Zoom discussion and networking opportunity for our Members. We are continuing to work cooperatively with the law schools in Washington State to provide DR training and to help with moot DR presentations/competitions. We provided comment to legislators about our concern that the new statute prohibiting confidentiality in resolution of discrimination and abuse matters could affect the confidentiality provisions of the employer-employee mediations, but no exception was made for confidentiality in mediation submission agreements. We continue to work on transition of our website and on making more use of the Listserv, which our Members seem to be doing and appreciating. We have added an option for Members to opt-in to receive a newsletter curated by Lexology that provides summaries of recent developments and cases involving arbitration and mediation. We have scheduled for November 10, 2022 a free CLE in “Collaborative Law Outside of Family Law.” And we are looking into the feasibility of resuming the Northwest Dispute Resolution Conference.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Investigate the feasibility of resuming the Northwest Dispute Resolution Conference.
2	Continue cooperation with other organizations to present a major Northwest Dispute Resolution Conference annually and other DR CLEs and networking opportunities.
3	Outreach to Section Members and beyond our Section.
4	Integrate DEI into our outreach, in addition to age and geographic diversity.

5 Click or tap here to enter text.

Please describe how this entity is addressing diversity, equity, and inclusion:
How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

We have held two mini-retreats to discuss DEI issues. We have added DEI to our monthly Executive Committee meetings to discuss an aspect of DEI each month. We are bringing out information about each other and our individual backgrounds to better appreciate the diversity we have. We are seeking ways to add DEI to our outreach efforts to WSBA members across the State and to others outside of WSBA.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

We have enjoyed close communications with and great support from our WSBA staff liaison and other WSBA personnel. They have helped us accomplish our projects and helped us negotiate WSBA filings and permissions. Our staff liaison does attend our monthly meetings when she can.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

We post content and blogs on our website. We are expanding use of our listserv.

Newsletters/publications produced

Mini-Cle scheduled for Nov. 10, 2022.

Mini-CLEs produced

We cooperated on one half-day and one 1.5-hour CLE that took place in December 2021.

Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA

In October 2021 we held a two-day CLE with multiple sponsoring organizations.

Co-sponsored half-day, full-day and/or multi-day CLE seminars with *non*-WSBA entity

Click or tap here to enter text.

Receptions/forums hosted or co-hosted

	Click or tap here to enter text.	Recognitions/Awards given
	We have cooperated with the law schools on events and ADR competitions.	New Lawyer Outreach events/benefits
	Monthly “Happy Hour” web conferences.	Other (please describe):
	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section’s 2021-2022 legislative activity.	HB 1795	Bills reviewed
	Click or tap here to enter text.	Bills tracked
	HB 1795	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	14	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	323	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	8	
Number of current volunteer vacancies for this entity	3	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$14,440.86	
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$20,434.48	

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

4

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Elder Law Section
Chair or Co-Chairs:	Meredith Grigg
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor, Section Program Specialist
Board of Governors Liaison:	Carla Higginson
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
Improve WSBA members' understanding of the legal needs of older adults in Washington; (2) Create a cooperative structure through which WSBA members can work together to better understand Elder Law issues and effective problem solving approaches; (3) Provide legal assistance to older adults in Washington; (4) Serve as a liaison between the WSBA, BOG, Section members and other organizations serving older adults; and (5) Facilitate opportunities for research, advocacy and publications in the field of Elder Law.	
Strategy to Fulfill Purpose:	
The Elder Law Section: (1) hosts regular CLE programs on issues impacting older adults; (2) monitors legislation impacting older adults and shares information with members; (3) maintains an active listserv for section members to collaborate and consult on elder law issues; (4) holds monthly meetings for the executive committee that include the WSBA staff liaison and BOG liaison; and (5)	

sponsors a summer intern to provide legal assistance to low-income seniors at a nonprofit legal aid organization.	
How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?	
The Section provides legal education, advice and consultation, and legislative updates with members. The Section sponsors a legal intern to provide free legal services at a nonprofit legal services organization.	
2021 -2022 Entity Accomplishments:	
The Elder Law Section: (1) hosted regular CLE programs (at least 2x/year) on issues impacting older adults; (2) monitored legislation impacting older adults, shared legislative information with members, and provided comment to the legislature when necessary; (3) maintained an active listserv for section members to collaborate and consult on elder law issues; (4) held monthly meetings for the executive committee that included the WSBA staff liaison and BOG liaison; and (5) sponsored a summer intern to provide legal assistance to low-income seniors at a nonprofit legal aid organization.	
Looking Ahead: 2022-2023 Top Goals & Priorities:	
1	Provide educational opportunities for section members
2	Maintain an active section listserv for mentorship, collaboration and consultation
3	Sponsor a legal intern at a non-profit legal aid organization
4	Monitor legislation impacting older adults and engage Section members in legislative information-sharing and comment when appropriate
5	Collaborate with WSBA, BOG and Washington State Bar Foundation to achieve goals
Please describe how this entity is addressing diversity, equity, and inclusion: <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i>	
The Section sponsors a legal intern to work with a Washington legal services organization. Internships at legal services organizations are traditionally unpaid, which means the intern must have a separate source of income or support to participate. Therefore, these internships are not available to many students and disproportionately unavailable to BIPOC students. Sponsorship by the Section opens the opportunity to all students and encourages a more diverse and inclusive pool of applicants. In addition, the Section leadership has regular discussion about strategies for making the Section open and available to all WSBA members in an effort to create a more diverse and inclusive Section.	
Please share feedback regarding the support and engagement provided by WSBA. <i>For example:</i>	
<ul style="list-style-type: none"> • Quality of WSBA staff support/services, including technology solutions 	

<ul style="list-style-type: none"> • <i>Involvement with Board of Governors, including assigned BOG liaison</i> • <i>Ideas you have on ways WSBA can continue to strengthen/support your entity.</i> 		
<p>The Section has a good working relationship with liaisons from WSBA, BOG and Washington State Bar Foundation. Our liaisons have been very involved in Section activities and business and extremely helpful to Section leaders.</p>		
<p>SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits:</p> <p><i>For example:</i></p> <ul style="list-style-type: none"> • <i>\$3000 Scholarships, donations, grants awarded;</i> • <i>4 mini-CLEs produced</i> 	0	Newsletters/publications produced
	0	Mini-CLEs produced
	2	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	0	Receptions/forums hosted or co-hosted
	0	Recognitions/Awards given
	0	New Lawyer Outreach events/benefits
	1	Other (please describe): \$8,000 scholarship
	Click or tap here to enter text.	Other (please describe):
<p>SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.</p>	4	Bills reviewed
	4	Bills tracked
	0	Comments proposed
	0	Bills proposed/drafted
<p>Entity Detail & Demographics Report: <i>To Be Completed by WSBA Staff</i></p>		
Size of Entity:	18	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	609	

Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	11
Number of current volunteer vacancies for this entity	0
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$38,291.76
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$19,137.22

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

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It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Environmental and Land Use Law Section
Chair or Co-Chairs:	Chair: Donya Burns; Chair Elect: Martha Wehling
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor, Sections Program Specialist
Board of Governors Liaison:	Hunter Abell
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The ELUL Section is a formal association of attorneys, other professionals, and law students who share a common focus and interest in the practice of environmental and land use law. Our Section represents a diverse membership with individuals, drawn from law firms, solo practice, government, private industry, and public interest groups, who often represent different sides of an issue, but who are all committed to civil and professional cooperation for the benefit, protection, and enhancement of our communities and Washington State. Accordingly, our Section endeavors to continually and regularly provide opportunities and forums for the interchange of ideas surrounding environmental and land use law.	
Strategy to Fulfill Purpose:	
ELUL section activities fulfill the Section’s purpose in the following ways:	

- We support the environmental and land use bar’s need to maintain current understanding of legal developments by hosting educational (CLE) events and gatherings for lawyers, law students, and professionals to provide opportunities for communication and collaboration. Our CLEs often include individuals with differing opinions on issues, to show various sides of land use or environmental issues and legal positions. Our networking events strive to engage members in a fun and casual manner so that the person behind the client is known. Our educational events also frequently include a “view from the bench,” which provides practitioners with insight into what our court and administrative judges need and wish to see to effect justice.
- We provide opportunities for our membership to discuss and debate current issues through the use of our website (blog), social media accounts (Facebook and LinkedIn), and our email ListSERV.
- We share information about bills in the Washington Legislature that are relevant to environmental and land use law, to keep our members up-to-date on relevant bills as a resource to further collaboration and discussion.
- To ensure that law students can contribute and learn through the section, we co-host a social event for the students with law students and practitioners. We also support law students with fellowship awards. Not only does this expose students to the field, but it promotes involvement by attorneys and furthers civility and professionalism by creating an environment of inclusion and open communication.
- Finally, we offer social events designed to support camaraderie and the Bar’s professional networking needs.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

The ELUL Section furthers WSBA’s mission to serve the public and members of the bar by supporting communication and collaboration between them. In practice, the ELUL Section supports this communication through our newsletter and events, which are open anyone – members and the general public. We also provide email updates on legislative bills, which are shared as a member benefit.

The ELUL Section ensures integrity of the legal profession by providing formal spaces for educational opportunities and civil discourse on ethics and environmental and land use legal issues. Due to our membership’s strong disagreements on legal issues, professionalism is essential to our Section’s continued success in supporting communication and collaboration. Our educational events also frequently include a “view from the bench” to provide opportunities for the court and administrative judges to share insights with practitioners.

Finally, we champion justice by our dedication to uplift law students. In practice, this effort is clear through our fellowship grants for students who take unpaid legal internships in environmental or land use law and our continued efforts to provide students with opportunities to learn from lawyers and professionals. It is also clear through our decision to cohost an event with the Civil Rights Section in 2020 that was specifically focused on environmental justice.

2021 -2022 Entity Accomplishments:

Typically, ELUL’s main event is a three-day Midyear Conference and Membership Meeting held each spring. The ELUL Section also typically holds an in-person mini-CLE that includes ethics credit.

In 2022, the ELUL Section hosted its Midyear Conference at Suncadia as a hybrid (in person and virtual event). This was the Section’s first in-person conference in two years and it was well-attended.

Additionally, the Section continued providing articles with its user-friendly on-line newsletter and social media.

We have also continued to provide legislative updates this past legislative session with targeted environmental and land use bill information sent to members by the list-serve so members can keep up with the ever-changing legislative sessions. Given the diversity of membership, the Section does not take positions on any particular bill. We were proud to provide law students an opportunity to support the Section and assist with these legislative updates.

For our soon-to-be and young lawyers, we have typically held annual networking receptions in both Seattle and Spokane. For the first time in two years, we hosted our in-person event in Seattle in the Spring of 2022. The event was co-hosted with the King County Bar Association’s Environmental and Land Use Law Section as well. It was a pleasure to provide networking opportunities for students and lawyers.

Finally, this year we were able to continue our highly successful grant program that awards funds to students who participate in activities that further their interest and commitment to the practice of environmental or land use law. We have increased our grants this year in comparison to previous years.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Maintain our record of providing events and CLEs to our membership
2	Identify and improve opportunities for networking and communicating with Section membership
3	Endeavor to increase membership and diversity in the Section in terms of individual attributes, practice areas, and geographic location, among others, potentially through additional partnerships with other organizations or WSBA Sections.
4	Continue efforts to provide pertinent and timely legal issues analyses through online platforms.
5	Maintain fiscal and financial responsibility, which will allow continued development of programming as well as additional outreach and grants.

Please describe how this entity is addressing diversity, equity, and inclusion:
How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

The ELUL Section is always pleased to support new and incoming attorneys. The Section provides law student fellowships to students working on an unpaid internship position each year. The past two years, the Section increased the number and amount of the grants to provide additional support for new members of the profession.

The Section also creates opportunities for law students to network with attorneys and participate in the section. The 2022 ELUL law student networking event was co-hosted with King County Bar Association’s Environmental and Land Use Law Section and invited numerous students to network with attorneys and learn about the Section. Students also volunteered with the Section’s legislative team to learn about legislative legal tracking and work with ELUL Executive Committee members. The Section also allows law students to attend the Section's mini-CLEs at no cost.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

We have established good working relationships and appreciated the role served by the WSBA staff member and BOG liaison assigned to our section. WSBA staff has been particularly helpful in addressing financial issues and requirements and in innovating our CLE approaches in the face of the current public health issues in Washington. We include WSBA staff on our meeting and event invitations, and regularly communicate any updates for our Section.

Overall, we are interested in upgrading the level of communications between the Board of Governors and the committee. A written update from the BOG regarding information relevant to the Sections would be useful.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

5	Newsletters/publications produced
2	Mini-CLEs produced
1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
1	Receptions/forums hosted or co-hosted
Click or tap here to enter text.	Recognitions/Awards given
1	New Lawyer Outreach events/benefits
3	Other (please describe):

		Law Student Fellowships rewarded
	2	Other (please describe): Scholarships for Public Interest/Service Attorneys to attend the Midyear Conference
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	0	Bills reviewed
	208	Bills tracked
	0	Comments proposed
	0	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	14	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	770	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	7	
Number of current volunteer vacancies for this entity	0	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$46,838.73	
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$33,672.87	

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	WSBA Family Law Section
Chair or Co-Chairs:	Elizabeth Helm
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Sunitha Anjilvel and Kari Petrasek
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
<p>The purpose of the Family Law Section is to involve all interested members of the WSBA in order to benefit its members, their clients, and the general public by:</p> <ul style="list-style-type: none"> • Providing the opportunity and forum for the interchange of ideas in all areas of law affecting families and juveniles; • Initiating and implementing common projects, including but not limited to an annual meeting; • Reviewing pending legislation and court rules, providing input and timely responses to pending and proposed legislation and court rules and development of proposed statutory enactments to improve and to facilitate the administration of justice within the Section’s area of interest and expertise. 	

- Host CLE’s to improve the quality of family law practice; and undertaking such other service and participation of our members as may be of benefit to the members, the legal profession, and the public.

Strategy to Fulfill Purpose:

Legislative Efforts: FLEC works with BOG staff and the legislative review process to promote and enhance our ability to perform the section’s legislative duties. Of particular importance is to identify potential unintended consequences of draft legislation. FLEC’s BOG liaison reports monthly to our committee members and this contributes, we believe, to ongoing communication with current BOG members and keeping our membership informed. FLEC strategy is to work collaboratively with a variety of legislative, judicial, other section and bar association or community groups on a variety of legislative and educational issues of interest to our membership.

Education Programming and CLEs: Despite the ongoing pandemic, we continued to present the annual Family Law Midyear program (virtually again in 2022) with the capable assistance of WSBA technical staff. We did not present a Basic Skills seminar this past year due to Covid-19 limitations and because we are updating the curriculum to include guidance as to best practice for both in-person and video litigation practices and in particular to address race equity programming concerns. We look forward to an in person (possibly Hybrid) 2023 Mid-Year. We also plan to put on a winter CLE and continue to work on developing our CLE programming.

Workgroups and Collaboration: Our members continue to be involved in important and impactful collaborations. (i.e. Workgroup with Judge Forbes on simplifying/streamlining RCW 26.09.191).

Member Engagement: We continue to evaluate and seek input from our membership and other members of the legal community to better serve our communities. We host a list serve for our members which offers an important forum for sharing information and expertise. We are improving our presence on the Family Law Section website. We are also considering whether to implement either a lunchtime CLE series or a quarterly newsletter to our membership. We also have discussed having a law student representative on FLEC.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

We seek to recruit new members to the executive committee to emphasize diversity, including age and length of time in practice, geographic representation and encourage legal professionals of all of diverse backgrounds to participate, to assure that in our service, we incorporate and honor diverse perspectives in our work. It is our goal in the upcoming 2022-2023 year to make even more headway to advance the WSBA’s REJI goals and to challenge structural inequities. We maintain a list serve for section members to discuss legal issues and to build community. This gives practitioners, particularly in a pandemic, a safe way to seek advice and information from other legal professionals. We have surveyed our membership to gather a wide range of viewpoints and to help guide the section’s future activity. We work to provide education and scholarship to new members or those who are disadvantaged in our community so that attendance can be broad-based. We are currently in the process of revamping our Basic Skills Seminar to assist new legal professionals or those new to family law and to be more comprehensive providing training for both virtual practice/in-person practice and

around equity concerns. We provide scholarship grants for this seminar as well as our annual mid-year. We provide a means of membership engagement at seminars; list serves and at informal settings (pandemic permitting). We believe these efforts contribute to professionalism and collegiality. We have circulated the civil legal needs report and the legal deserts report to assist our development of activities and be mindful of ways in which we can work in partnership with others in our legal community to assist the public and our members. We worked this past year with the legislature (UUCCTA, UFLAA, HB 1901), in virtual workgroups, on the simplification/streamlining of RCW 26.09.191. We continue to advocate for WSBA policies which recognize the sections expertise and the need for timely comment on pending legislation to avoid unintended negative consequences. We have been an active part of the discussions around bar structure and maintain our position that a unified bar will most benefit our membership. These collaborative activities demonstrate FLEC’s efforts to foster professionalism and collegiality. Our committee members also actively participate and respond on the Section list serves and at the Section Leaders monthly meetings and this approach keeps membership educated, engaged in legal discussions in civil forums, up-to-date and interacting with our legislators and trial courts and is an integral part of contributing to justice.

2021 -2022 Entity Accomplishments:

In a year where multiple organizations were challenged by a reduction of volunteers (generally believed to be a result of pandemic fatigue), the Family Law section continued its active work. The annual mid-year was a success with attendance maintained at our historic levels. We continued our annual analysis of pending legislation in our subject areas and maintained relationships with influential legislators. Our greatest accomplishments with respect to legislation included UUCCTA, UFLAA and HB 1901. We strengthened our relationships with WSBA staff while asserting our perspective on a variety of issues. WSBA was dealing with a number of “big picture” policy considerations such as long-range planning and structure analysis. Throughout those processes, FLEC made sure that section considerations were not forgotten. In fact, we made sure that sections were protected in these critical areas. FLEC itself held regular meetings that generally lasted most of a day (far longer than those by other sections) and our process allowed for deep discussions on all of our issues with input from various perspectives. FLEC meetings are conducted with respect for all members’ input, an approach that is not always mirrored at other WSBA meetings. We continue to build and maintain relationships with other sections. We continue to have membership interest in serving on FLEC, a sign of our section’s wellbeing. Our finances are maintained in a thoughtful manner with budget considerations discussed by the entire FLEC. In the past year, our executive committee invited guest speakers to help us be informed and to enhance our work for the family law community – In 2021-22 these speakers included: • Michael Cherry, Practice of Law Board, re Artificial Intelligence • Judge Jennifer Forbes, Superior Court Judges Association, re CONDUCT (CJC) CANON 2, RULE 2.2-IMPARTIALITY AND FAIRNESS AND RULE 2.6-ENSURING THE RIGHT TO BE HEARD • Jim Wilcher, Web Design, re possible update to Section website. We anticipate a very active 2023 as we continue our work on behalf of the Family Law Section members and the general family law community and the public.

Looking Ahead: 2022-2023 Top Goals & Priorities:

- | | |
|----------|---|
| 1 | Improve Member Engagement and Communication with specific emphasis on advancing diversity, equity and inclusion to achieve the organizational goals as set forth in the WSBA Diversity Council’s recommendations and the REJI commitments that the WSBA has endorsed. Access to Justice remains a central goal of the work we do on FLEC and within our section to advance our service to the public. |
|----------|---|

2	Improve legislative relations impacted by WSBA policy. Continue to review, comment and testify regarding family-law related legislation. Continue to review and comment regarding proposed court rules.
3	Collaborative Participation with Judicial and Legislative Workgroups. Work to improve FLEC’s relationship with BOG. FLEC’s liaison to BOG has worked hard to improve the existing relationship and those efforts will continue.
4	Partnership with organizations (internal and external) to Improve practice opportunities and public service in legal deserts and marginalized communities.
5	Revamp current curriculum for Basic Skills to address diversity and equity concerns and consider additional scholarship opportunities to enhance more diverse and broad-based attendance. Continue to present high quality education and seminars to our membership and the legal community. Continue to emphasize equity, diversity and inclusion and the need to address structural inequities not only as to FLEC itself but also with respect to all FLEC activities.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

We have implemented surveys to our membership to broaden input from a variety of perspectives and circulated both the civil legal needs reports (2003 and 2015 updates) and small town and rural deserts report to members for consideration in our future work. We are currently revamping our CLE curriculum (Basic Skills) for new practitioners to family law to promote and incorporate consideration of race equity concerns. We are exploring the use of scholarship funds to enhance attendance to CLE programming for those from marginalized and traditionally underrepresented communities to implement in the 2021 year. We have engaged in a concerted effort to engage and recruit committee members of diverse background to our committee and help us to hear a wider range of viewpoints. We continue to evaluate our practices and our recruiting methods to better engage with underrepresented communities and to ensure that we are connecting with and responding to the needs of all family law attorneys in Washington State.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

For the most part since the inception of the Family Law Section, FLEC has maintained a regular presence at the Board of Governors meetings. Our current Liaison – Nancy Hawkins – has continued a strong Family Law Section presence at the meetings. We are pleased with the improvements we have seen in our relationship with the BOG; we are dedicated to moving in a positive direction. FLEC works well with WSBA staff and makes payments to

WSBA to cover the cost of any staff support we receive. They are routinely helpful in identifying CLE locations, obtaining budget and contract information, and handling administrative issues we otherwise would struggle to navigate. Our staff liaison has been professional, knowledgeable and provided consistent and courteous assistance. They are timely in responding to any questions we ask and also help us to understand WSBA policy and navigate our obligations. WSBA staff played a critical role in the success of the Midyear CLE which was managed remotely again this year. They have also been responsive to feedback from our Section regarding WSBA policies and how they impact the Section, membership recruitment and participation. We continue to hold the same concerns regarding BOG support of our Section and how BOG implemented policy may negatively impact our ability to serve our membership. FLEC works with WSBA staff and makes payments to WSBA to cover the cost of any staff support we receive.

<p>SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits:</p> <p><i>For example:</i></p> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	0	Newsletters/publications produced
	0	Mini-CLEs produced
	1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	0	Receptions/forums hosted or co-hosted
	0	Recognitions/Awards given
	0	New Lawyer Outreach events/benefits
	Click or tap here to enter text.	Other (please describe):
	Click or tap here to enter text.	Other (please describe):
	<p>SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.</p>	7
7		Bills tracked
9		Comments proposed
0		Bills proposed/drafted
Entity Detail & Demographics Report:		

To Be Completed by WSBA Staff	
Size of Entity:	17
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	1013
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	7
Number of current volunteer vacancies for this entity	0
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$60,602.50
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member- Charge.</i>	\$21,701.72

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	WSBA Health Law Section
Chair or Co-Chairs:	Maddie Haller, Chair
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Carla Higginson
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
As set forth in the Health Law Section (HLS) Bylaws approved by the WSBA Board of Governors on July 27, 2017, the purposes of the HLS are: to further the knowledge of section members and the WSBA in the areas of law involving both federal and local health care; to form an available working unit to assist in the activities of the WSBA; and to otherwise further the interests of the WSBA and the legal professional as a whole.	
Strategy to Fulfill Purpose:	

¹ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.
October 1, 2021 – September 30, 2022 (FY22)

The HLS engages in a wide variety of educational activities to engage and provide support to members of the WSBA who practice health law or otherwise work within the healthcare field. We use the HLS list serve to share information on professional opportunities and various time-sensitive updates.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

The HLS offers thoughtful educational programs to discuss complex issues in healthcare and works to advance equity in the delivery of healthcare through advice to clients and serves the public through raising awareness of important issues that affect the delivery of patient care. This past year, we offered three half-day CLEs on fundamentals of health law to provide ongoing content for our members. In addition, we hosted professional development activities that further the mission of the WSBA.

2021 -2022 Entity Accomplishments:

Key accomplishments include: Education: three half-day CLEs focused on the fundamentals for health lawyers. Outreach and Professional Development: We organized and hosted a Professional Development Panel Discussion targeted at newer lawyers and students. We also organized a full-day outreach program targeted at law students to further interest in health law and provide an opportunity for health laws to present. Scholarships: We received approval for a recurring scholarship program for law students and/or new lawyers to attend an American Health Lawyer or similar conference.

Looking Ahead: 2022-2023 Top Goals & Priorities:

- | | |
|----------|---|
| 1 | 2022 Network Opportunity to bring section members together for in-person connection and promote section membership |
| 2 | Offer web-based webinars on emerging issues |
| 3 | Collaborate with WSBA on a Legal Lunch |
| 4 | Host a volunteer event for section members |
| 5 | Click or tap here to enter text. |

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

The Health Law Section addresses geographic diversity through the members of our executive committee, and our concerted efforts to host events throughout the state, especially virtually. HLS membership has broad practice diversity, with members representing physicians, medical examiners, hospitals, patients, medical device companies, and telemedicine. The Health Law Section actively seeks out meaningful intersections with other areas of law and develops relationships with other WSBA and WSBA section leaders to

create programming and other opportunities designed to advance the evolution of the practice of law and maximize our collective contribution to the greater good. Members of the HLS are actively supporting their clients navigate legal issues and remove barriers to diversity, equity and inclusion and addressing social determinants of health that create barriers to care.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

HLS has a good relationship with the WSBA and are able to access information relatively quickly when it is an issue that has been answered/managed previously. We continue to wrestle with the budgeting process with regard to events. We do have regular attendance by BOG liaisons.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

0	Newsletters/publications produced
0	Mini-CLEs produced
3	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
3	Receptions/forums hosted or co-hosted
0	Recognitions/Awards given
1	New Lawyer Outreach events/benefits
Click or tap here to enter text.	Other (please describe):
Click or tap here to enter text.	Other (please describe):

SECTIONS ONLY: Please quantify your section’s 2021-2022 legislative activity.

Click or tap here to enter text.	Bills reviewed
Click or tap here to enter text.	Bills tracked

	Click or tap here to enter text.	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	10	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	394	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	8	
Number of current volunteer vacancies for this entity	0	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$12,527.91	
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$10,427.92	

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

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It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	WSBA Indian Law Section
Chair or Co-Chairs:	Danielle Bargala
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Hunter Abell
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
As described in our Bylaws, the Indian Law Section’s purpose is to seek the participation of all interested members of the Bar, and of county and local bar associations, in order to benefit such members, their clients and the general public.	
Strategy to Fulfill Purpose:	
Our strategy to fulfill this purpose is also in our Bylaws: (a) By providing the opportunity for exchange of ideas in the area of Indian law; to further the development of this area of the law; to communicate useful information pertaining to Indian law to members of the Bar; and to improve the application of justice in this field, all in conformity with the Bylaws of the Bar; (b) By initiating and implementing common projects; (c) By review of pending legislation and development of proposed statutory enactments to improve and to facilitate the administration of justice within the Section’s area of interest; (d) By undertaking such other service as may be of benefit to the members, the legal profession and the public.	

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

The ILS works each year to ensure that members interested in Indian law have opportunities to further their knowledge and network together. Indigenous communities are often underserved, so championing justice is at the core of every Indian law attorney’s work. ILS allows those attorneys to network together and learn for the purpose of serving those communities.

2021 -2022 Entity Accomplishments:

In June 2022 we held our annual CLE virtually which was a success. The CLE had 97 registrants. The ILS also began planning a robust mentorship event to occur in FY 2023. Further, the ILS is preparing now to provide newsletter content beginning January 2023.

Looking Ahead: 2022-2023 Top Goals & Priorities:

- | | |
|----------|---|
| 1 | Providing Mentorship to law students and young lawyers in the practice area |
| 2 | Hosting an in-person CLE |
| 3 | Publishing a newsletter at least once annually, preferably 3-4 times each year |
| 4 | Fund scholarships for young Native students |
| 5 | Streamlining handoff of board/executive board responsibilities |

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

Diversity is part and parcel of the ILS mission. Native Attorneys are often drawn to Indian law and frequently take leadership roles in the Section. For instance, the 2021-2022 Chair and Chair-Elect are both members of a tribe and approximately five at-large members are also members of a tribe. The ILS welcomes members of other under-represented groups as well.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

Our WSBA staff liaison has been instrumental in the success of the section. Attendance at meetings was reliable and communication was excellent. We are well-supported by this staff member. Our contact with the Board of Governors Liaison was less reliable over the last year and we hope to re-establish this connection and representation.

SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits: <i>For example:</i> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	1	Newsletters/publications produced
	Click or tap here to enter text.	Mini-CLEs produced
	Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	Click or tap here to enter text.	Receptions/forums hosted or co-hosted
	1	\$10,000 Donation to Northwest Indian Bar Association for scholarships
	Click or tap here to enter text.	New Lawyer Outreach events/benefits
	Click or tap here to enter text.	Other (please describe):
	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	Click or tap here to enter text.	Bills reviewed
	5	Bills tracked
	Click or tap here to enter text.	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	15	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	329	

Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	4
Number of current volunteer vacancies for this entity	0
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$36,090.23
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$15,933.62

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Intellectual Property Section
Chair or Co-Chairs:	Dario A. Machleidt
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Matthew Dresden & Kevin Fay
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
Pursuant to Section 1.01 of the IP Section’s bylaws: In general, the Section strives to promote the practice of intellectual property law, including by promoting the participation of, and furthering the knowledge of, all interested members of the Bar and of other state and local bar associations, as to intellectual property law, in order to benefit the Section members, their clients and the general public.	
Strategy to Fulfill Purpose:	
To that end, the Section may: (A) Provide the opportunity and forum for the interchange of ideas and education in areas of law relating to intellectual property rights, including patents, trademarks, copyrights, trade secrets and unfair competition, including, without limitation: (1) Sponsoring and providing continuing legal education events; preparing and publishing a Section newsletter and website; and providing assistance and financial support as to the activities of other organizations that promote the purposes, goals, or activities of the Section; (2) Promoting the understanding of	

intellectual property laws through outreach activities to new Section members and law students, including by providing financial support to law students attending law schools in Washington State; (3) Promoting Section members through intellectual property-related networking, referrals, speakers' panels and press contacts; (B) Promote cooperation between sections within the Bar and between the Bar and other groups having common interests in the proper development and administration of the law relating to intellectual property rights; (C) Review, comment on, and make recommendations related to pending legislation and propose statutory enactments to improve and to facilitate the administration of justice within the Section's area of interest; (D) Promote the development of industry and the useful arts by encouraging the establishment, maintenance, respect for and utilization of intellectual property rights that fairly balance the limited monopoly enjoyed by the owner of intellectual property rights with the benefit to society derived from the creation of useful subject matter protectable by those rights; (E) Assist in familiarizing other members of the Bar with intellectual property law; and (F) Undertake such other service as may be of benefit to the Section members, the profession and the general public.

How does the entity's purpose help further the mission of the WSBA "to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice"?

The WSBA IP Section encourages ethics, civility, professionalism, and competence in its membership and provides CLEs with ethics presentations to promote the same.

2021 -2022 Entity Accomplishments:

1) Put on the WSBA IP Section's 27th Annual IP Institute CLE, included nationally recognized IP practitioners, specifically Judge Albright of the U.S. District Court for the Eastern District of Texas. 2) Put on an IP Timely Topics CLE (involving regionally prominent practitioners). 3) Put on an IP Licensing CLE (involving regionally prominent practitioners). 4) Put on a Mini-CLE in Eastern Washington on IP issues.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Provide high quality but affordable CLEs to attorneys interested in IP-focused issues.
2	Continue to grow Section membership.
3	Provide outreach to law students and new lawyers with respect to education and IP Section activities/benefits.
4	Provide scholarships to law students who show a demonstrated interest in IP law.
5	Provide networking opportunities (virtual as necessary and in-person when possible) for Section members, including new annual dinner and networking event.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

The WSBA Section strives to nominate a slate of potential board member candidates from all backgrounds, ethnicities, geographies, and business structures to promote diversity and inclusion.

The Section also strives to host CLEs with speakers from all backgrounds, ethnicities, and business structures. The WSBA IP Section does not discriminate in its membership. People of all backgrounds, geographic locations, and business structures (e.g., in-house, solo, general practice, boutique law firms, non-IP law-practicing attorneys, and law students) are treated equitably and afforded the same opportunities to participate in all section activities.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

The WSBA Section has a great relationship with the WSBA staff and the Board of Governors. The WSBA Section appreciates the support that it receives from the WSBA staff and the Board of Governors.

SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

0	Newsletters/publications produced
1	Mini-CLEs produced
4	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
0	Receptions/forums hosted or co-hosted
0	Recognitions/Awards given
0	New Lawyer Outreach events/benefits
0	Other (please describe):
0	Other (please describe):

SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.

Click or tap here to enter text.	Bills reviewed
Click or tap here to enter text.	Bills tracked
Click or tap here to enter text.	Comments proposed

	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	10	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	860	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	2	
Number of current volunteer vacancies for this entity	1	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$36,758.26	
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$15,716.02	

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	International Practice Section
Chair or Co-Chairs:	Eriko “Elly” Baxter
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Matthew Dresden
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The International Practice Section (the “IPS”) is broadly focused on the practice of law internationally, which includes the study legal developments in various jurisdictions and practice areas including immigration, business, tax, trade, intellectual property, privacy, and international dispute resolution, as well as providing a community for our members connect with and support each other. Our members represent a wide variety of backgrounds and practices, including full-time and part-time practitioners, government, business, non-profit, foreign lawyers, academia, internationally-focused law students, retired professionals, and those who are simply intellectually interested.	
Strategy to Fulfill Purpose:	
The IPS’s strategy has been three-pronged: education, mentorship, and community/communication. We recruit speakers for and host CLEs on a wide variety of	

topics relating to the practice of international law and collaborate with other organizations on CLEs. We also provide a CLE through our annual spring event where experienced lawyers present a topic of their expertise through a panel discussion. Further, we provide a mentorship program that matches practicing lawyers with law school students interested in the international practice of law to assist with their professional development. We also provide a law student with real-world experience and networking opportunities through our Huneke Fellowship program. Finally, we communicate with our members through our section listserv, and encourage our members to connect with each other through it and our networking receptions.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

The IPS provides professional development and educational services for members of the Bar. Our educational services help ensure that attendees are informed and up to date on legal developments, which contributes to maintaining the integrity of the legal profession. Further, our CLE program focuses on international law, which often introduces unique legal viewpoints to US lawyers, and thus provides our legal community great opportunities to think critically about championing justice in the light of world trends and standards.

2021 -2022 Entity Accomplishments:

1. The IPS made 11 mini-CLEs (totaling 14 CLE credits) available at no additional cost to Section members. Two of those 11 mini-CLEs were for ethics, providing 2.5 ethics credits in total. Also, two mini-CLEs were provided free of charge to everyone, including non-IPS members. After each free CLE, the IPS’s membership number increased, presumably, in part, as a result of successfully attracting prospective members through those CLEs.
2. The IPS held a virtual Spring Event that included a 1.5-hour panel discussion on cannabis and psychedelic law. One of three panelists was a Canadian attorney experienced in the area of law.
3. The IPS awarded a \$1,000 scholarship to our 2021-2022 Huneke Fellow, University of Washington 3L Abby Jiang. Abby attended almost all IPS Executive Committee monthly meetings and assisted our Mentorship Program by, among other things, promoting the program among law students in Washington. The IPS selected Aldrin Jude Panganiban, 2L at University of Washington School of Law, as the 2022-2023 Huneke Fellow.
4. The IPS administered a foreign lawyer/law student Mentoring Program to foster business relationships and to provide an opportunity to learn about legal practice in each other’s home countries and practice areas. Seven mentors and 14 mentees participated the program this year.
5. The IPS held the annual meeting in September in an outdoor setting of a local restaurant. 46 people attended, including non-IPS members and law students. The Incoming Chair and Outgoing Chair received much positive feedback, including an email expressing the writer’s passion to join the IPS EC and an offer to provide a CLE from a prestigious law firm.

6. Upon explaining the IPS Sponsorship Program, Davis Wright Tremaine agreed to continue to be our Special Event Sponsor by contributing \$2,000 to support our activities. The IPS also recognized Dorsey & Whitney, Harris Bricken, and University of Washington School of Law as our Special Event Sponsors based on their in-kind contributions to our section. The IPS greatly appreciates their generous contributions to us.

7. According to the WSBA Member Licensing Counts as of October 3, 2022, 11 out of 29 sections achieved a membership increase compared to the previous year, and the IPS achieved the second-top membership increase in number, increasing by 22 members, following the Family Law Section (increasing by 25 members, achieving 2.53% increase). Also, the IPS achieved the second-top membership increase rate, which is 9.82%, following the LGBT Law Section (12.15% increase by adding 13 members).

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Increase membership
2	Continued CLE programming
3	Host in-person events for members
4	Promote discourse regarding diversity, equity, and inclusion
5	Click or tap here to enter text.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

Our board consists of diverse members from various practice areas and backgrounds. We promote inclusion by encouraging discourse from all board members during each meeting with regard to section planning and programming. We also focus on fostering a relationship with foreign trained attorneys at the University of Washington Law School through mentorship opportunities and IPS events.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

The IPS appreciates excellent support from the WSBA staff throughout the year. Carolyn MacGregor, Julianne Unite, and other WSBA staff were extremely helpful to us in navigating us to navigate compliance with WSBA rules and regulations. The IPS is a very active section and thus constantly faces questions in how to achieve our goals, such as our section webpage updates, ideas to implement e-newsletter, and an in-person annual general meeting under

COVID restrictions. WSBA staff’s approaches, manners, and communications are always professional, kind, punctual, helpful, and thoughtful in order for us to achieve our goals. It may often be difficult to work with lawyers for various reasons; however, WSBA staff ALWAYS maintain their professional demeanor which we appreciate, respect, and take our hats off for.

The WSBA MiniCLE team also greatly supported the IPS. Shanthi Raghu has been indispensable for the success of the IPS’s CLE program. Our EC members regularly communicate with her for our monthly CLEs, and we truly appreciate her professional responses and guidance in providing our CLEs. The IPS uses not only the WSBA’s webinar tool but also law firms’ tools, which make the CLE process a little complex. But Shanthi is always willing to support us to make sure everything is in place, including when we had a Zoom meeting with a sponsoring law firm right before holiday season. Kevin Plachy also helped us during the first few months of this term. When we accidentally had a delay in process in fall, Kevin acted quickly and brought everything back to where it should be. Rex Nolte is another strong supporter for us especially during the CLEs. When we showed a video clip first time through the WSBA webinar tool, he graciously agreed to stay until the video ended. Also, there were multiple times he acted promptly by sending the CLE links to registrants when the producer/EC member received emails from those registrants who misplaced the links. We felt very secure and greatly supported by the WSBA MiniCLE team’s outstanding services.

We have been privileged to have Matthew Dresden as our BOG liaison, who is our former Chair and also is a long-time member of our section. Matthew is always open for discussion, and attends our EC meetings and provides us with detailed updates on the BOG’s activities. This year, the potential issues concerning the Bar Structure had been heavily discussed, and because Matthew knows the IPS very well, we could fully rely on his opinions and professional judgement, which we could trust to be beneficial to our Section.

<p>SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:</p> <p><i>For example:</i></p> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	Disseminated 61 emails via section listserv, announcing section activities and other beneficial information to section membership	Newsletters/publications produced
	11 mini-CLEs produced	Mini-CLEs produced
	Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity

	Hosted 2 annual events: spring event in June (virtual) and annual meeting in September (in person)	Receptions/forums hosted or co-hosted
	\$1,000 scholarship awarded	Recognitions/Awards given
	Provided 2 free mini-CLEs to everyone, including non-IPS members	New Lawyer Outreach events/benefits
	Click or tap here to enter text.	Other (please describe):
	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	Click or tap here to enter text.	Bills reviewed
	Click or tap here to enter text.	Bills tracked
	Click or tap here to enter text.	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	14	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	246	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	6	
Number of current volunteer vacancies for this entity	0	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$16,336.94	

Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$9,410.30
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¹ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Juvenile Law Section
Chair or Co-Chairs:	Michael Addams
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn McGregor
Board of Governors Liaison:	Brett Purtzer
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The Juvenile Law Section (JLS) provides an opportunity for legal professionals who work with juveniles and their families in child welfare and juvenile justice to meet together and work collaboratively on issues facing their clients.	
Strategy to Fulfill Purpose:	
The JLS holds monthly meetings open to all section members to come together and discuss issues relevant to their practices. The Executive Committee is designed to have representatives from across the juvenile justice systems as well as subcommittees designed to identify and promote issues of interest to JLS members. The JLS hosts CLEs and promotes training opportunities to its members.	
How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?	

The JLS furthers this mission by providing a space for practitioners to come together to share ideas, support one another, and to collaborate on matters relevant to section members.

2021 -2022 Entity Accomplishments:

The JLS provided a free 1 hour CLE to its members in March 2022

Looking Ahead: 2022-2023 Top Goals & Priorities:

1 Fill vacant executive committee positions

2 Provide at least 3 hours' worth of CLE opportunities to members

3 Engage young lawyers and law students

4

5 Click or tap here to enter text.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

The JLS is intentional in its communications within the executive committee and the section at large. All perspectives are welcomed and encouraged.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

Click or tap here to enter text.

SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

Click or tap here to enter text.

Newsletters/publications produced

1

Mini-CLEs produced

Click or tap here to enter text.

Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA

Click or tap here to enter text.

Co-sponsored half-day, full-day and/or multi-day CLE seminars with *non*-WSBA entity

Click or tap here to enter text.

Receptions/forums hosted or co-hosted

	Click or tap here to enter text.	Recognitions/Awards given
	Click or tap here to enter text.	New Lawyer Outreach events/benefits
	Click or tap here to enter text.	Other (please describe):
	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	All bills relevant to the section	Bills reviewed
	14	Bills tracked
	0	Comments proposed
	0	Bills proposed/drafted

**Entity Detail & Demographics Report:
To Be Completed by WSBA Staff**

Size of Entity:	17
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	141
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	7
Number of current volunteer vacancies for this entity	7
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$5,741.43
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$3,802.79

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

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It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Labor and Employment Law Section
Chair or Co-Chairs:	Tina Aiken
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Alec Stephens
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The purpose of the Section shall be to seek the participation of all interested members of the Bar including plaintiff's and defense counsel from both the public and private sectors and state and local bar associations to benefit such members, their clients, and the general public.	
Strategy to Fulfill Purpose:	
The Section provides a forum for members to exchange ideas in all areas of labor and employment law, it hosts an annual CLE and business meeting, and it undertakes such other service as may be of benefit to the members, the legal profession, and the public.	
How does the entity's purpose help further the mission of the WSBA "to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice"?	

The Section coordinates events that keep practitioners informed on the latest developments in employment law, which promotes competency and ethical practice in the Bar.

2021 -2022 Entity Accomplishments:

Our Section coordinates events that keep members informed on the latest developments in labor and employment law, which promotes competency and ethical practice in the Bar. The Section also provides a forum for members to exchange ideas about this area of the law. In past years, our Section has hosted an annual CLE and three or four mini-CLEs each year. However, the uncertainty surrounding COVID-related restrictions resulted in fewer seminars this past year. Like other sections, our Section pivoted from hosting in-person seminars to a virtual education format at the beginning of the pandemic. These virtual CLEs have been well-attended. In November 2021, our Section’s annual CLE was entirely virtual and well attended despite not having the in-person draw. As in the past, we strove for interactive panel discussions and speakers from around the state, to feature the breadth and depth of all the various perspectives in our Section. In June 2022, our Section hosted a webinar mini-CLE on the reemployment rights and protections from workplace discrimination that servicemembers are entitled to under the Uniformed Services Employment and Reemployment Rights ACT. The CLE also covered the ethics involved in representing servicemembers and veterans. In August 2022, our Section hosted a webinar mini-CLE that provided practical guidance on accommodating religious preferences. In addition, our Section sponsored a summer grant program for law students from law schools within the State. The summer grant program provides a stipend to students working in labor or employment law during the summer in Washington for a government entity, non-profit, or union. One student is selected from the University of Washington, Seattle University, and Gonzaga University. Our Section’s portion of the grant is \$7,500 per student, and each school contributes an additional amount toward their student’s stipend.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Plan and host the Section annual CLE
2	Plan and host 3-4 mini CLEs
3	Plan and host monthly virtual meetings on current labor and/or employment law issues
4	Sponsor a summer grant program for law students from law schools within the State
5	Plan and implement networking opportunities for young lawyers and law students

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

Our Section seeks to increase the diversity of its membership and CLE speakers. We strive to provide speaking and other leadership and development opportunities to those from historically underrepresented backgrounds. This is an emphasis in all our planning and outreach activities.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

The WSBA staff has been essential in organizing and assisting with /providing support for our virtual format CLEs – we have required staff’s assistance with managing and using the ON24 platform.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

Click or tap here to enter text.	Newsletters/publications produced
2	Mini-CLEs produced
1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
Click or tap here to enter text.	Receptions/forums hosted or co-hosted
3	Recognitions/Awards given: Three \$7,500 grants awarded to law students
Click or tap here to enter text.	New Lawyer Outreach events/benefits
Ongoing	Other (please describe): Section List Serve to provide Section Members a means of communicating with other practitioners in the Labor & Employment area
Click or tap here to enter text.	Other (please describe):

SECTIONS ONLY: Please quantify your section’s 2021-2022 legislative activity.

Click or tap here to enter text.	Bills reviewed
Click or tap here to enter text.	Bills tracked
Click or tap here to enter text.	Comments proposed

	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	15	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	973	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	9	
Number of current volunteer vacancies for this entity	0	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$54,079.39	
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$44,090.05	

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	LEGAL ASSISTANCE TO MILITARY PERSONNEL (LAMP)
Chair or Co-Chairs:	STEPHEN CARPENTER PAUL APPLE (ELECT)
Staff Liaison: <i>(include name, job title, and department if known)</i>	CAROLYN MACGREGOR (Section Program Specialist)
Board of Governors Liaison:	HUNTER ABLE
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
LAMP addresses matters related to the rendition of appropriate and efficient legal service to members of the armed forces of the United States.	
Strategy to Fulfill Purpose:	
Promoting the objectives of the WSBA with respect to military affairs. Establishing liaison between the WSBA, the Armed Forces of the United States, and federal, state, and local government agencies involved in military and veteran affairs to better serve the legal needs of the servicemembers and their dependents. Providing information to licensed legal professionals, both active duty and reserve. Encouraging continuing legal education to foster the ability to provide legal representation to military personnel, veterans and their dependents within the state of Washington.	

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?	
Washington State is home to a large military community that is continually seeking legal guidance on significant assortment of legal issues. This community is composed of Veterans, Active Duty and Reserve Servicemembers and their dependents.	
2021 -2022 Entity Accomplishments:	
LAMP created a Facebook and LinkedIN social media presence; LAMP provided Mini-CLEs for Its members and the public on Military Discharge Upgrades (November 17) Military Justice Reform (March 10) and DOHA Security Clearance Law (July 14); LAMP published Bi-Monthly Articles entitled “Chair’s Corner” which “neutrally” addressed military legal issues.	
Looking Ahead: 2022-2023 Top Goals & Priorities:	
1	Increase membership size
2	Expand our list of attorney referrals to offer legal assistance to Veterans
3	Increase awareness of LAMP in partnership with WA Law School to create a student run LAMP Legal Clinic to offer legal assistance to Veterans
4	Partner with other Family Law and Housing right Sections to present CLEs that focus on Military members, family members, and Veteran issues.
5	Click or tap here to enter text.
Please describe how this entity is addressing diversity, equity, and inclusion: <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i>	
The LAMP section continues strives to increase diversity in membership and participation in our section particularly in Leadership positions. The veteran and military population and their dependents is a very diverse and includes women, several ethnic, and LGBTQ communities. LAMP will continue to reach out to invite all in our profession who share our interest in providing legal assistance and support to our active & reserve military, retirees, dependents, and veterans in our communities to join our Section.	
Please share feedback regarding the support and engagement provided by WSBA. <i>For example:</i> <ul style="list-style-type: none"> • <i>Quality of WSBA staff support/services, including technology solutions</i> • <i>Involvement with Board of Governors, including assigned BOG liaison</i> • <i>Ideas you have on ways WSBA can continue to strengthen/support your entity.</i> 	
Excellent. Very responsive.	

SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits: <i>For example:</i> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	4	Newsletters/publications produced
	3	Mini-CLEs produced
	0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	0	Receptions/forums hosted or co-hosted
	1	Recognitions/Awards given
	0	New Lawyer Outreach events/benefits
	0	Other (please describe):
	0	Other (please describe):
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.		Bills reviewed
	Reviewed SB 5874 Higher Education Tuitions-military Residency- Modification	Bills tracked Passed signed into law June 9, 2022 modifying RCW 28B.15.012
	Click or tap here to enter text.	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	10	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	81	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	5	

Number of current volunteer vacancies for this entity	1
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$3,405.12
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$1,897.55

¹ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	LGBT Law Section
Chair or Co-Chairs:	Peder Punsalan-Teigen
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Click or tap here to enter text.
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The Lesbian, Gay, Bisexual, and Transgender Law Section strives to support understanding among WSBA members of the legal needs of lesbian, gay, bisexual, and transgender residents of Washington, assist LGBT residents and those who represent them, better understand how their legal needs can be met, support research, education and collaboration by section members on issues of sexual orientation and gender identification. Promote the study of LGBT law and report on changing law and regulations as they affect LGBT people and communities, assist in legislative work and act as a liaison between the WSBA its Board of Governors, LGBT Organizations, and the public.	
Strategy to Fulfill Purpose:	
The Section fulfills this purpose through direct community engagement opportunities, including social and networking opportunities for members. The Section also provides at least one CLE for WSBA	

members each year. The Section has also worked with other community-focused organizations to promote collaboration on social and networking events, as well as mentorship programs and events.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

The Section’s involvement in research and presentation on changing areas of LGBTQ+-specific law promotes continuing knowledge development/sharing and community-specific competence within the legal community – thereby promoting ethical and professional practice, which has an immediate effect on justice for the community and community members as litigants, educators, counsel, judges, and members of the profession generally. The Section further promotes respect and civility within the legal community and between judges, lawyers, staff, and clients. The Section’s educational programming includes discussions of best practices to ensure we are meeting the needs of all LGBTQ+ Washingtonians, including addressing implicit and explicit bias and homophobic and transphobic behavior and language in the courtroom. In addition, at our annual meeting each year we strive to discuss issues of professionalism that members may have come in contact with over the past year, ensuring that we are consistently serving our members’ needs and addressing membership concerns. We also devote a significant portion of our educational programming to address respectful and inclusive language that further promotes the overall integrity and inclusivity of the profession.

2021 -2022 Entity Accomplishments:

During FY 2021-2022, the Section has focused on providing in-person social and networking events for members. For example, in September the section hosted a member meet-and-greet event in Seattle that was hosted by a local LGBT-owned business. The Section also worked to plan an in-person CLE, which will take place in late October. At the same time, the Section has continued to leverage the use of the Zoom platform to facilitate participation of Section members across Washington during all Section meetings.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Host one half-day CLE and two lunch-hour/mini CLEs.
2	Co-host either a CLE or social event with another Section and/or community organization.
3	Develop a collaborative mentorship program for law students and/or new attorneys.
4	Continue to establish relationships with colleges and universities throughout Washington State.
5	Continue to focus on engaging and serving members in all parts of Washington State.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

The Section is focused on serving lawyers and legal professionals who serve the LGBTQ+ community, which in itself is a very diverse community comprising individuals and families from various racial, ethnic, religious, national origin, gender, and socioeconomic backgrounds. Our efforts over the past year continued to focus on better serving Section members outside the Seattle area, as well as those in Seattle. In FY 2021-2022, the Section took steps to actively ensure that we were contacting not only our current membership, but also other community organizations and sources for prospective members, to ensure ongoing inclusion. We continue to encourage members of the WSBA of all backgrounds to consider joining our section, as well as our section's Executive Committee!

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

The Section appreciates the ongoing, strong relationship with the WSBA staff and Staff Liaison and Board of Governors/BOG Liaison as well as their helpful guidance. The monthly Section meetings have included informative updates on broader issues facing the WSBA, as well as the potential impact of these issues on the Section membership, as well as the legal profession within Washington and have helped to ensure that Section members are aware of opportunities to get involved. We look forward to further working with both of our BOG Liaisons and the WSBA staff and Staff Liaison over the coming year.

SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

0	Newsletters/publications produced
0	Mini-CLEs produced
1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
0	Receptions/forums hosted or co-hosted
0	Recognitions/Awards given
0	New Lawyer Outreach events/benefits
Hosted 1 member social/networking event.	Other (please describe):

	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	0	Bills reviewed
	0	Bills tracked
	0	Comments proposed
	0	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	10	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	120	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	4	
Number of current volunteer vacancies for this entity	0	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$4,286.13	
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$2,531.30	

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Friday, December 3: please submit by emailing to Sections Program Specialist Carolyn MacGregor carolynm@wsba.org.

Name of Entity:	Litigation Section
Chair or Co-Chairs:	Susan Nelson
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Jordan Couch
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The Litigation Section strives to be the voice of civil litigators practicing in Washington State. The Section is involved in a wide range of activities that interest those who handle civil matters in superior or federal courts. Activities include review and formal input concerning legislation and rule making, annual midyear trial skills seminar and support for litigation skills training.	
Strategy to Fulfill Purpose:	
Continue with current programs focused on litigation skills, professionalism, diversity and mentorship.	

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

By focusing on core fundamentals of professionalism and diversity while pursuing justice for our clients.

2021-2022 Entity Accomplishments:

Support of WSBA’s Trial Advocacy Program. Review and comment on legislative bills relevant to the section and its membership. Scholarship and/or grant programs at all three WA Law Schools. Continuation of mentorship program, including recruitment and pairing of experienced litigators as mentors and law students/young attorneys as mentees.

Looking Ahead: 2022-2023 Top Goals & Priorities:

- | | |
|----------|--|
| 1 | Support of WSBA’s Trial Advocacy Program |
| 2 | Review and comment on legislative bills relevant to the section and its members |
| 3 | Scholarship and/or grant programs at all three WA Law Schools |
| 4 | Continuation of mentorship program, including recruitment and pairing of experienced litigators as mentors and law students/young attorneys as mentees. |
| 5 | Educational events – annual Trial Skill CLE seminar |

Please report how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

We actively ensure that our CLE programs include diverse speakers/presenters. We try to ensure both practice, geographic, and ethnic diversity on our Executive Committee. We will continue to promote diversity within our section leadership and in the presenters and speakers at section programs and identify outreach opportunities to increase diversity in our membership and leadership

Please describe the relationship with WSBA staff and the Board of Governors.

For example:

- *Quality of WSBA staff support/services*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

WSBA Staff has been wonderful to work with and responsive when we have questions. Staff has also been helpful in assisting our section in complying with WSBA requirements. In the past, BOG Liaison was engaged, participated and was most helpful in providing insight and outreach for the BOG to our section. This year Jordan Couch has been engaged and provided necessary information for our section to follow developments within the Bar Association as a whole.

<p>SECTIONS ONLY: Please quantify your section's 2022-2023 member benefits:</p> <p><i>For example:</i></p> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	0	Newsletters/publications produced
	0	Mini-CLEs produced
	1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	0	Receptions/forums hosted or co-hosted
	\$6,000	Scholarships, donations, grants arranged for WA Law Schols
	3	Law School outreach events/benefits coordinated
	2	Other (please describe): Mentor Program; Listserve. Unable to host Annual Reception/Dinner for Supreme Court.

**Entity Detail & Demographics Report:
To Be Completed by WSBA Staff**

Size of Entity:	11
Membership Size: (for Sections Only)	1026

<i>(As of September 30, 2021)</i>	
Number of Applicants for FY22 <i>(October 1, 2021 – September 30, 2022)</i>	2
How many current volunteer position vacancies for this entity?	5
FY21 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$45,028.61
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$22,824.16

ⁱ The Access to Justice Board (not regulatory, but applicable to the distinction herein) and Regulatory Boards (Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) are not required by Bylaws or Court Rule submit an annual report to WSBA. However, as part of the administration of monitoring of Regulatory Boards, the Boards listed herein typically provide an annual report to the Court and WSBA should be provided this same report an annual basis.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Low Bono Section
Chair or Co-Chairs:	Marya Noyes
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Brett Purtzer
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The underlying purpose of “low bono” is to increase the availability of legal representation and legal services to clients of moderate means. Clients of moderate means are individuals who have a need or a want for legal representation or legal services, but who cannot qualify or pro bono legal assistance and who typically cannot afford the cost of traditional law firm representation or legal services. These individuals comprise the majority of those seeking resolution of, or planning for, legal issues and legal matters. The Low Bono Section is a community of lawyers, LLLTs, other legal professionals, and law students committed to identifying solutions, creating systems, and developing projects to increase the overall availability and affordability of legal representation and legal services.	
Strategy to Fulfill Purpose:	
See Bylaws 2.1 Developing and providing resources for members, regardless of field or area of practice, who are dedicated and committed to providing low bono legal services, defined as legal and law-related services provided with the intent to increase accessibility of legal services for people of	

moderate financial means. 2.2 Providing a forum and opportunity for education, training, and sharing of forms, practice tips, client counseling techniques, alternative forms of conflict resolution, and other resources to and among members of the Section. 2.3 Developing “best practices” and “alternative practices” for providing competent, current, efficient, and economical professional services while being mindful of the clients’ moderate means.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

The Low Bono Section provides a forum and opportunity for education, training, sharing of forms, practice tips, client counseling techniques, and alternative techniques for conflict resolution. The section provides its members with free mentorship opportunities, discounted admission to low-bono-oriented CLEs, networking and referral opportunities with other low bono professionals, leadership development opportunities, and more.

2021 -2022 Entity Accomplishments:

1. Developed and conducted CLE on Minor Guardianships.
2. Reviewed and publicly commented on Senate Bill regarding parenting plan changes.
3. Expanded social media sites and actively posted about the section and its events.
4. Published three “Access to Justice Champions” newsletters, with articles written by lawyers, LLLTs, and members of the public.
5. Kept membership steady during the pandemic.
6. Held virtual monthly meetings with social hour afterwards.
7. Increased use of section list-serve.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Continue to increase membership, with a focus on diversity, equity, and inclusion.
2	Improve outreach and communications about the section.
3	Develop and conduct CLE on protection order statute and other topics.
4	Increase law student and young lawyer/LLLT membership and participation.
5	Increase active engagement on relevant legislation.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

The Low Bono Section has been created to increase diversity and inclusion into the legal community as well as public participation in the legal system. Our Executive Committee continues to encourage participation by a diverse group of people. All meetings are accessible remotely, with meeting information published in advance. Executive Committee meetings are held at a later hour of the day, typically on the second Wednesday of the month to encourage more people to participate, including members with small children who may have trouble meeting during workday hours. We continue to host social time after these meetings and invite all Section Members to the meetings and to the post-

meeting socials. The Executive Committee plans to hold several in-person meetings in 2023 to bolster interpersonal communications and provide greater networking opportunities.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

The section receives excellent support from WSBA staff.

SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

3	Newsletters/publications produced
1	Mini-CLEs produced
Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
Click or tap here to enter text.	Receptions/forums hosted or co-hosted
Click or tap here to enter text.	Recognitions/Awards given
Click or tap here to enter text.	New Lawyer Outreach events/benefits
12	Other (please describe): Monthly meetings with post-meeting happy hour
Click or tap here to enter text.	Other (please describe): Increased list-serve and social media outreach

SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.

1	Bills reviewed
2	Bills tracked
Click or tap here to enter text.	Comments proposed
Click or tap here to enter text.	Bills proposed/drafted

Entity Detail & Demographics Report: To Be Completed by WSBA Staff	
Size of Entity:	8
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	77
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	3
Number of current volunteer vacancies for this entity	0
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$4,523.09
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member- Charge.</i>	\$2,005.50

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Real Property, Probate & Trust Section
Chair or Co-Chairs:	Devin McComb, Chair, October 2022 - October 2023
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Serena Sayani and Brent Williams-Ruth
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The purpose of the Section is to: (a) Assist our members in achieving the highest standards of competence, professionalism, and ethics in their practices,(b) Assist the Legislature in the enactment and improvement of the laws affecting real property, probate, trusts, and estates and to assist the Judiciary in the just administration of those laws, (c) Support the WSBA with regard to those matters which concern the practice of law in the areas of real property, probate, trusts and estates, and (d) Otherwise serve our members by helping them realize their professional goals.	
Strategy to Fulfill Purpose:	
For FY 2022-2023, the RPPT Section will continue to work with the WSBA to engage and educate members and lawyers in general with high quality CLEs and an in-person Mid-Year meeting, a timely newsletter and listserv and other opportunities for members and lawyers in the community to get involved with education and the general improvement of the practice of our areas of law. The Section will continue to work closely with legislative leaders, the Section’s legislative subcommittee	

and executive committee to ensure that the laws affecting real property, probate, trusts and estate continue to evolve with the practice and provide a good framework for practitioners and meet the needs of the state’s general population.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

Through member engagement and education, the RPPT Section provides opportunities for education, mentoring and practical support for its members and Washington lawyers in general with an emphasis on providing timely resources for the ever-changing practice of law, responding to requests from legislators and otherwise reviewing pending legislation to address access to justice issues and developing the next generation of practitioners.

2021 -2022 Entity Accomplishments:

The biggest accomplishments in 2021-2022 were the continuation of Section membership (as evidenced by our roster numbers) and a return to an in-person Annual Mid-Year Meeting at Skamania Lodge. While lawyers across the state have returned to in-person work, our Section had a tremendously successful Mid-Year meeting, while also hosting several hybrid presentations (with speakers both remote and present). It cannot be overemphasized how much work and planning went into the Mid-Year meeting, with the initial plan being a fully-remote meeting, than an in-person only meeting, and then back to fully-remote at one point as COVID surged in January 2021. Section leaders and members also worked together with WSBA leaders and legislators on multiple legislative subcommittees to assist with the review, comment and drafting of the Omnibus Bill that was passed in 2021. There was a brief interruption in our newsletter as editors managed workflow issues, but we have returned to the normal course of publishing this valuable Section resource. The RPPT Section continues to engage new and young lawyers through the Fellow Program and fosters those relationships and mentors the newer practitioners who frequently serve as executive committee members for the Section following completion of their service as Fellows.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Continue to maintain high standards and produce high-quality, relevant CLE programs and newsletter articles for the education and benefit of members, practitioners and Washingtonians. .
2	Continue mentoring and engaging new and young lawyers through the Fellows program, offering scholarships to the Midyear and opportunities for participation as seminar speakers and newsletter authors.
3	Continue to lead practitioners by providing resources in a changing and dynamic practice area.
4	Continue to work closely with legislators and WSBA staff to assist in changes to laws relating to the areas of real property, probate, trusts and estates
5	Continue to work closely with WSBA leaders and staff to ensure a robust partnership for the benefit of Washington lawyers and the public.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

Diversity continues to be an important issue to RPPT and the RPPT is intentional in ensuring that diversity is a top priority in leadership and engagement for CLEs and newsletter articles. When recruiting individuals to serve on the RPPT executive committee, join the Section, serve as seminar speakers and newsletter authors, RPPT makes significant efforts to be inclusive. As a result of these efforts RPPT is doing very well in maintaining diversity in areas it can control: gender, age, ethnicity, small firm/large firm, geography.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

We have consistently worked close with the WSBA staff, including new relationships as a result of changing roles within the WSBA. In this FY, we worked particularly closely with the WSBA leadership and staff (particularly Sally Romero) in planning the Mid-Year meeting (and re-planning it as plans changed). We are excited to have practitioners from both of our disciplines as BOG Liaisons for 2022-23.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits:

For example:

- *\$3000 Scholarships, donations, grants awarded;*
- *4 mini-CLEs produced*

1	Newsletters/publications produced
0	Mini-CLEs produced
5	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
1	Receptions/forums hosted or co-hosted
Click or tap here to enter text.	Recognitions/Awards given
Click or tap here to enter text.	New Lawyer Outreach events/benefits
Click or tap here to enter text.	Other (please describe):

	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	Click or tap here to enter text.	Bills reviewed
	Click or tap here to enter text.	Bills tracked
	Click or tap here to enter text.	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	25	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	2279	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	4	
Number of current volunteer vacancies for this entity	0	
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$154,625	
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$80,952	

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Senior Lawyers Section
Chair or Co-Chairs:	Eleanor Doermann
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Jordan Couch
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The Senior Lawyers Section is open to all WSBA members, although to be a voting member, one must be an active or inactive member of the Washington State Bar Association who is age 55 or older or has been in practice in any jurisdiction for at least 25 years. As one of the few Association sections that does not focus on a particular area of the law, the Section provides information about navigating the practice of law, life transitions and developments in the law.	
Strategy to Fulfill Purpose:	
The Section provides benefits to members by holding an annual meeting including CLE sessions. The Section also presents other CLE programs on-	

line which focus on a broad range of topics, and publishes a newsletter, Life Begins, with articles of interest to senior lawyers.

How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?

The Senior Lawyer’s Section advocates for the unique professional needs of older attorneys to the Bar as a whole, and fosters sharing of knowledge of attorneys with many years of experience.

2021 -2022 Entity Accomplishments:

We initiated and accomplished Bylaw revisions at the Bar and Section levels and approved by the Supreme Court, making it possible for attorneys with inactive Bar status to participate as full members of the Section and its Executive Committee.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1 Expand Section membership.

2 Continue and expand education offerings.

3 Regular publication of “Life Begins”

4 Identify and address concerns of the next generation of Senior Lawyers

5 Click or tap here to enter text.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

Senior Lawyer Section members have been mostly lawyers who have retired or are nearing retirement. They have been mostly white males, since that was the makeup of the bar when they commenced practice. A primary goal of our section is to expand its membership to all lawyers now in the senior category – to include the huge generation of Baby Boomers and diversity of lawyers of every race, sexual orientation, religion and culture. Our Executive Committee now has 4/12 women and 1 LGBT member. Our age diversity is increasing as well, with several attorneys who entered the profession as a second career, and a new Young Lawyer Liaison.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

Senior Lawyers Section receives excellent support from WSBA staff. Carolyn McGregor is our staff liaison. Kevin Plachy and Julianne Unite have played pivotal roles in assisting us

with our most recent initiative to modify Bylaws as they pertain to Section participation of non-active members. .		
SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits: <i>For example:</i> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	3	Newsletters/publications produced
	1	Mini-CLEs produced
	0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	0	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	0	Receptions/forums hosted or co-hosted
	0	Recognitions/Awards given
	0	New Lawyer Outreach events/benefits
	1	Other: Bylaw change to allow full participation of inactive members
	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section’s 2021-2022 legislative activity.	0	Bills reviewed
	0	Bills tracked
	0	Comments proposed
	0	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	13	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	222	
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	11	

Number of current volunteer vacancies for this entity	0
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$7,111.65
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$5,357.71

¹ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	Solo and Small Practice Scetion
Chair or Co-Chairs:	Shashi Vijay and Jordan Couch
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Jordan Couch
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
<i>To help solo and small practice attorneys ethically conduct a profitable, satisfying business by acting as a clearing house for qualified law practice management and technology information.</i>	
Strategy to Fulfill Purpose:	
Through online resources, educational materials, networking events and mentoring opportunities	
How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?	
<i>Our CLE’s help lawyers run the business end of their practices ethically and efficiently which in turn fosters better relations with other counsel and the courts. In particular, effective use of technology helps lawyers meet their obligations, manage trust accounts and manage communications with</i>	

clients and opposing counsel. On our list-serve, members frequently solicit advice and share experiences regarding legal issues and how to deal with opposing counsel, courts and staff.

2021 -2022 Entity Accomplishments:

•Maintained our membership close to 1000 members, which in turn enhances the value of our list serve. •Produced 4 mini CLEs which are free to our members. Each of them have been excellently received and had great feedback from our members. •We exceeded our budget projections with our mini-CLE’s. We have found mini-CLE’s to be more successful in reaching Section members, with attendance far exceeding the attendance we might get from a full-day CLE. •Produced the Solo & Small Firm Conference in partnership with WSBA and sponsored a reception. •Continually enhanced content on our WSBA web pages. •Hosted a couple member events.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Continue to increase diversity on the EC
2	Co-sponsor a networking event with another section and/or minority bar association
3	Continue to help restore the annual WSBA Solo & Small Firm Conference into the premier solo and small firm networking event it was before
4	Co-sponsor CLE’s or other events at law schools or with other legal groups (i.e. WSAJ)
5	Continue to work on creating a mentorship program to help recruit and train young/new lawyers.

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

Our membership is as diverse as WSBA membership. We recruit minorities to serve on the EC. We also plan to invite some minority bar associations to provide liaisons to our EC. Note: At least three of our existing EC members are also members of minority bar associations. Diversity is always one of our goals when selecting speakers for our CLE and webinars.

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

WSBA staff are responsive to our requests for help. Our goal is to foster a productive, collaborative relationship with WSBA staff focusing on what we can do within the existing administrative structure. We will continue to push where we believe bureaucracy is

unnecessarily hampering the work of the sections. We also have a decent working relationship with our BOG liaison.

SECTIONS ONLY: Please quantify your section’s 2021-2022 member benefits: <i>For example:</i> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	Click or tap here to enter text.	Newsletters/publications produced
	6	Mini-CLEs produced
	1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	Click or tap here to enter text.	Receptions/forums hosted or co-hosted
	Click or tap here to enter text.	Recognitions/Awards given
	1	New Lawyer Outreach events/benefits
	1	Other (please describe): A two-day conference on Designing Your Future
	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section’s 2021-2022 legislative activity.	Click or tap here to enter text.	Bills reviewed
	Click or tap here to enter text.	Bills tracked
	Click or tap here to enter text.	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	10	

Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	881
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	3
Number of current volunteer vacancies for this entity	2
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$34,588.34
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member- Charge.</i>	\$31,694.59

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	WSBA Tax Section
Chair or Co-Chairs:	Kristi Richards
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor
Board of Governors Liaison:	Nam Nguyen, District 10; Brent Williams-Ruth, At Large
Purpose of Entity: <i>May be stated in Bylaws, Charter, Court Rule, etc.</i>	
The purposes of the Section are to further the knowledge of the members and the Bar in areas of the law involving federal, state, and local taxation, and to assist in the activities of WSBA and further the interests of the legal profession.	
Strategy to Fulfill Purpose:	
We strive to host events and maintain an informational website providing member benefit, whether for networking, for further continued legal education on a variety of tax topics, by offering scholarships, and furthering relationships among private practitioners and government attorneys.	
How does the entity's purpose help further the mission of the WSBA "to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice"?	

The Section works to provide CLEs for all members on a variety of topics, we support the tax clinics with donations which furthers representation for low income taxpayers in WA and helps provide training for LLM students, we encourage member volunteer work with the federal tax clinics, and we continue to sponsor the Tax Section scholarship to promote opportunities for law students seeking to practice in the tax field in Washington. The structure of the Tax Section also encourages collaboration, with the co-chair model, and partnering government practitioners with private practitioners on both the state and federal side.

2021 -2022 Entity Accomplishments:

The Tax Section continued to successfully operate committees and hold events during COVID-19 restrictions; it monitored the ongoing WSBA workgroup issues; it continued to work with the Tax Court to support pro bono assistance to taxpayers; the Taxation Section awarded a \$5,000 scholarship as well as donations to the two tax clinics in the state of Washington to support low income taxpayer assistance; the estate planning subcommittee held ongoing informative CLEs and discussions on a variety of useful topics.

Looking Ahead: 2022-2023 Top Goals & Priorities:

1	Increase engagement with Section members by holding in-person networking events and virtual events, including receptions for tax judges
2	Provide Section members with mini-CLEs and other CLE opportunities regarding emerging issues and practical topics
3	Continue to address DEI for the Section members and committee
4	Increase pro bono service and involvement in low income taxpayer clinics, tax court needs, and explore other avenues for similar service.
5	Contribute reasonable input to legislature on proposed tax laws related to taxpayer due process with DOR and general unintended consequences related to proposed tax law changes and updates

Please describe how this entity is addressing diversity, equity, and inclusion:

How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?

The Taxation Section continues to support the DEI co-chairs in efforts to provide education to and seek input from the board, committees, and membership

Please share feedback regarding the support and engagement provided by WSBA.

For example:

- *Quality of WSBA staff support/services, including technology solutions*
- *Involvement with Board of Governors, including assigned BOG liaison*
- *Ideas you have on ways WSBA can continue to strengthen/support your entity.*

We have had limited interaction with the BOG liaison but have felt supported by the WSBA staff who are available to answer questions and provide guidance.

<p>SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits:</p> <p><i>For example:</i></p> <ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	Click or tap here to enter text.	Newsletters/publications produced
	3	Mini-CLEs produced
	Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	Click or tap here to enter text.	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	3	Zoom Townhall EC meeting (encourage involvement); reception/happy hour; tax commissioner Rettigreception
	1	Recognitions/Awards given (\$5,000 scholarship / tax LLM student)
	1	New Lawyer Outreach events/benefits
	2	Other (please describe): (2021 \$2K donations; 2022 \$1K donations to UW/Gonzaga tax clinics)
	Click or tap here to enter text.	Other (please describe):
<p>SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.</p>	Click or tap here to enter text.	Bills reviewed
	Click or tap here to enter text.	Bills tracked
	Click or tap here to enter text.	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted

**Entity Detail & Demographics Report:
To Be Completed by WSBA Staff**

Size of Entity:	28
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	626
Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	26
Number of current volunteer vacancies for this entity	0
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$12,788.06
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member- Charge.</i>	\$22,070.28

¹ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

WSBA ENTITY ANNUAL REPORT

FY 2022: October 1, 2021 – September 30, 2022

The mission of the Washington State Bar Association is to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice.

Instructions: In accordance with the WSBA Bylaws, Committees, Other Bar Entities (excluding Regulatory Boards¹), Councils, and Sections must submit an annual report to the Executive Director. The information below should reflect the activities and outcomes from the fiscal year October 1, 2021 – September 30, 2022. Information in the annual report will be provided to the Executive Director and Board of Governors, and may be published for other purposes, such as *Bar News*, volunteer recruitment messaging, and other WSBA activity-based reporting.

It is recommended that completion of the annual report be a collaborative effort with members of your entity, the BOG liaison, and staff liaison.

Submission Deadline is Monday, October 17: Please submit by emailing to Sections Program Specialist Carolyn MacGregor at carolynm@wsba.org.

Name of Entity:	World Peace Through Law Section
Chair or Co-Chairs:	Randall Winn, Chair
Staff Liaison: <i>(include name, job title, and department if known)</i>	Carolyn MacGregor, Sections Program Specialist
Board of Governors Liaison:	Brent Williams-Ruth
Purpose of Entity:	
The World Peace Through Law Section of the Washington State Bar Association seeks to promote the rule of law and peaceful resolution of disputes among states and peoples, and to foster education on international laws and human rights.	
Strategy to Fulfill Purpose:	
Provide or support educational opportunities such as CLE and non-CLE programs; provide or support fora for sharing information about and discussing law, peace, and human rights; and support other efforts to study and promote law, peace, and human rights.	
How does the entity’s purpose help further the mission of the WSBA “to serve the public and the members of the Bar, to ensure integrity of the legal profession, and to champion justice”?	

<p>Our purpose is to serve the public and members of the Bar by informing and reminding Bar members of the need and the means to protect human rights worldwide through the rule of law.</p>		
<p>2021 -2022 Entity Accomplishments:</p>		
<p>Produced monthly mini-CLE programs. We also partnered with other WSBA sections (Civil Rights) to produce CLEs that appeal to those sections as well as ours.</p>		
<p>Looking Ahead: 2022-2023 Top Goals & Priorities:</p>		
1	Produce mini-CLEs accessible online	
2	Provide information and discussions concerning law, peace, and human rights	
3	Within the rules of WSBA, support efforts to promote the rule of law, peace, and human rights	
4	Click or tap here to enter text.	
5	Click or tap here to enter text.	
<p>Please describe how this entity is addressing diversity, equity, and inclusion: <i>How have you elicited input from a variety of perspectives in your decision-making? What have you done to promote a culture of inclusion within the board or committee? What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? Other?</i></p>		
<p>We seek input from our entire membership through our listserve. Our Executive Committee intentionally included CLEs and other programs that highlighted populations from, and attorneys serving, underrepresented backgrounds. For example, our January CLE concerned Legal and practical aspects of welcoming refugees; our September CLE on upholding the right to vote included content on race-based signature rejection rates.</p>		
<p>Please share feedback regarding the support and engagement provided by WSBA. <i>For example:</i></p> <ul style="list-style-type: none"> • <i>Quality of WSBA staff support/services, including technology solutions</i> • <i>Involvement with Board of Governors, including assigned BOG liaison</i> • <i>Ideas you have on ways WSBA can continue to strengthen/support your entity.</i> 		
<p>We've had a good relationship with WSBA staff – they are responsive and professional, and we could not accomplish our goals without them. Our BOG liaison, Brent Williams-Ruth, has been an engaged and supportive member of our executive committee. We have every confidence that this high level of staff support for sections will continue.</p>		
<p>SECTIONS ONLY: Please quantify your section's 2021-2022 member benefits: <i>For example:</i></p>	<p>We regularly use our member listserve to advise our members of upcoming events</p>	<p>Newsletters/publications produced</p>

<ul style="list-style-type: none"> • \$3000 Scholarships, donations, grants awarded; • 4 mini-CLEs produced 	and CLEs. We do not publish a newsletter.	
	5	Mini-CLEs produced
	1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with WSBA
	1	Co-sponsored half-day, full-day and/or multi-day CLE seminars with <i>non</i> -WSBA entity
	Click or tap here to enter text.	Receptions/forums hosted or co-hosted
	Click or tap here to enter text.	Recognitions/Awards given
	Click or tap here to enter text.	New Lawyer Outreach events/benefits
	Click or tap here to enter text.	Other (please describe):
	Click or tap here to enter text.	Other (please describe):
SECTIONS ONLY: Please quantify your section's 2021-2022 legislative activity.	Click or tap here to enter text.	Bills reviewed
	Click or tap here to enter text.	Bills tracked
	Click or tap here to enter text.	Comments proposed
	Click or tap here to enter text.	Bills proposed/drafted
Entity Detail & Demographics Report: To Be Completed by WSBA Staff		
Size of Entity:	7	
Membership Size: (for Sections Only) <i>(As of September 30, 2022)</i>	132	

Number of Applicants for FY23 <i>(October 1, 2021 – September 30, 2022)</i>	4
Number of current volunteer vacancies for this entity	1
FY22 Revenue (\$): For Sections Only: <i>As of September 30, 2022</i>	\$6,470.30
Direct Expenses: <i>As of September 30, 2022. For Sections, this does not include the Per-Member-Charge.</i>	\$2,886.50

ⁱ Supreme Court Boards (Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board and Practice of Law Board) provide annual reports to WSBA to support its responsibility under [GR 12.3](#), to provide oversight and monitor compliance with applicable rules and orders. Boards have the option to use the WSBA template or to share their annual reports to the Washington Supreme Court.

WASHINGTON STATE BAR ASSOCIATION

Office of General Counsel

To: The President, President-elect, Immediate Past-President, and Board of Governors
 From: Julie Shankland, General Counsel
 Lisa Amatangel, Associate Director, OGC
 Date: February 13, 2023
 Re: Litigation Update

No.	Name	Brief Description	Status
1.	<i>Block v. WSBA, et al.</i> , No. 15-cv-02018-RSM (W.D. Wash.) (“ <i>Block I</i> ”)	Alleges conspiracy among WSBA and others to deprive plaintiff of law license and retaliate for exercising 1st Amendment rights.	<p>On 02/11/19, the Ninth Circuit affirmed dismissal of claims against WSBA and individual WSBA defendants; the Court also vacated the pre-filing order and remanded this issue to the District Court. On 12/09/19, the United States Supreme Court denied plaintiff’s Petition of Writ of Certiorari.</p> <p>On 12/13/19, the District Court reimposed the vexatious litigant pre-filing order against Block; Block filed a notice of appeal regarding this order on 01/14/20 (“Block I – Appeal II”). Block filed an opening brief in Block I – Appeal II on 11/06/20; WSBA filed its answering brief on 01/07/21. Block’s optional Reply Brief was due on 01/28/21. Block filed a reply brief on 04/26/21 along with a motion for extension. The Ninth Circuit set this matter for consideration without oral argument on 06/08/21. On 07/02/21 the Ninth Circuit affirmed the dismissal of Block II pursuant to the original vexatious litigant order.</p> <p>On 09/10/20, Block moved to vacate the vexatious litigant order; WSBA opposed the motion and it was denied. In response to the district court’s denial of Block’s motion to vacate, on 10/01/20, Block filed a motion for an indicative ruling on whether the district court would vacate the vexatious litigant order if the appellate court remanded the case for that purpose. WSBA opposed the motion. Block filed a reply on 10/16/20. This motion was denied.</p>



			<p>On 09/09/21, Block filed a motion to vacate all decisions in this matter; WSBA filed an opposition on 09/20/21. This motion was denied on 09/28/21.</p> <p>Block appealed the order issued on 09/28/21. The Ninth Circuit opened a new appeal (9th Cir. No. 21-35922), “Block I – Appeal III”, in which Block’s opening brief was due 01/05/22. Block filed an untimely motion to extend the time to file her opening brief; WSBA opposed the motion on 02/07/22. Block filed an opening brief in Block I – Appeal III on 3/3/22. WSBA’s answering brief was due 5/4/22. After two extensions, Block filed a reply brief on 6/27/22.</p> <p>Update since last report: None (the appeal briefing is complete and we await further instructions from the Court of Appeals).</p>
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MEMO

To: Terra Nevitt, WSBA Executive Director
From: Douglas J. Ende, WSBA Chief Disciplinary Counsel & Director of the Office of Disciplinary Counsel
Date: February 16, 2023
Re: Quarterly Discipline Report, 4th Quarter (October - December 2022)

A. Introduction

The Washington Supreme Court's exclusive responsibility to administer the systems for discipline of licensed legal professionals (including disability systems) is delegated by court rule to WSBA. See GR 12.2(b)(6). Staff and volunteers carrying out the functions delegated by the Rules for Enforcement of Lawyer Conduct (ELC) act under the Supreme Court's authority. The investigative and prosecutorial function is discharged by the employees in the Office of Disciplinary Counsel (ODC), which is responsible for investigating allegations and evidence of professional misconduct and incapacity and prosecuting violations of the Washington Supreme Court's Rules of Professional Conduct.

The Quarterly Discipline Report provides a periodic overview of the functioning of the Office of Disciplinary Counsel. The report graphically depicts key discipline-system indicators for the 4th Quarter 2022. Note that all numbers and statistics herein are considered tentative/approximate. Final figures will be issued in the 2022 Discipline System Annual Report.

B. Public Dispositions & Other Information

• **Public Dispositions**

Suspensions:

Sara Herr-Waldroup, #43782, sixty-day suspension (*Stipulation*)

Aaron Lowe, #15120, three-year suspension

Resignations in Lieu of Discipline:

Kabbie Konteh, #41154

Henry Warren, #30360

Samuel Satterfield, #50057

Reprimands:

Garth Dano, #11226 (*Stipulation*)

Andrew Kim, #21959 (*Stipulation*)

Reciprocal Discipline:

Amelia Ostholthoff, #51434, five-month suspension (Oregon)

Victor Rivera-Nieves, #46967, three-year suspension (Virginia)

- **Interim Suspensions**

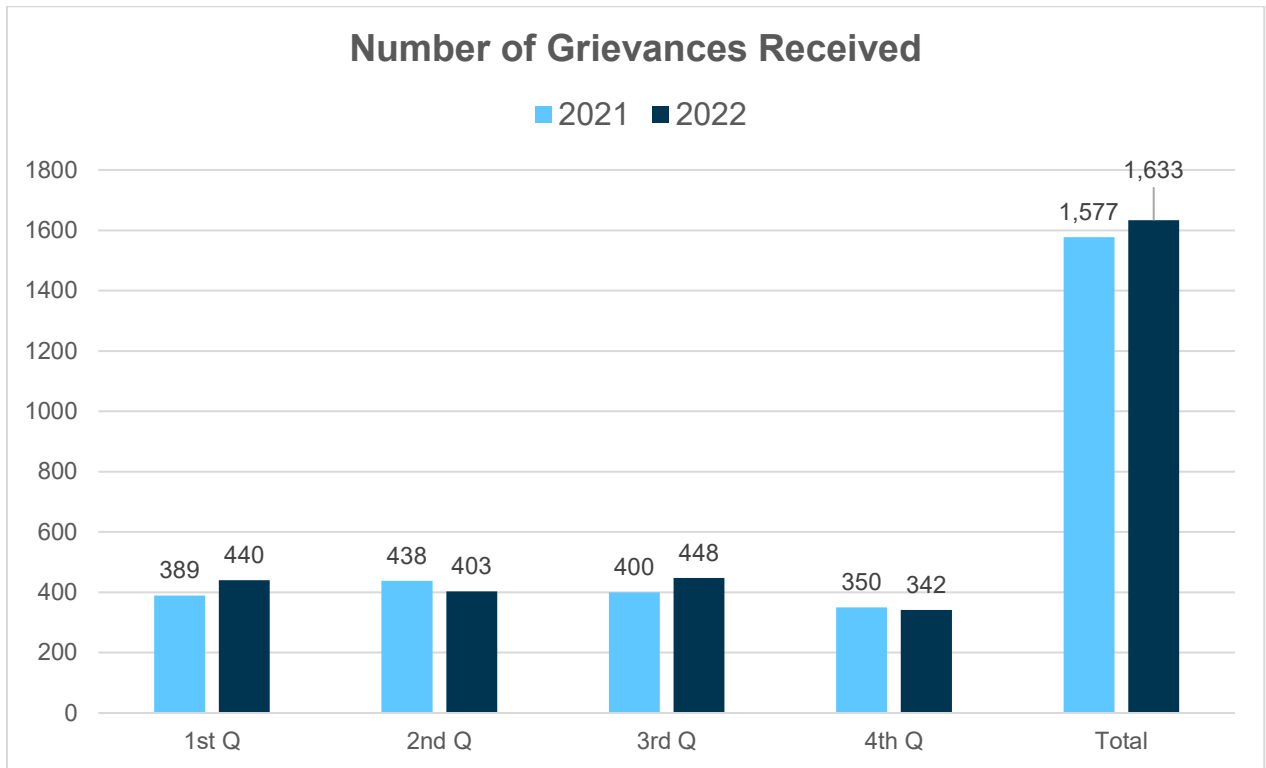
ELC 7.2:

Andra Blondin, #28268 (non-cooperation)

- **Hearings, Appeals, and Other Proceedings**

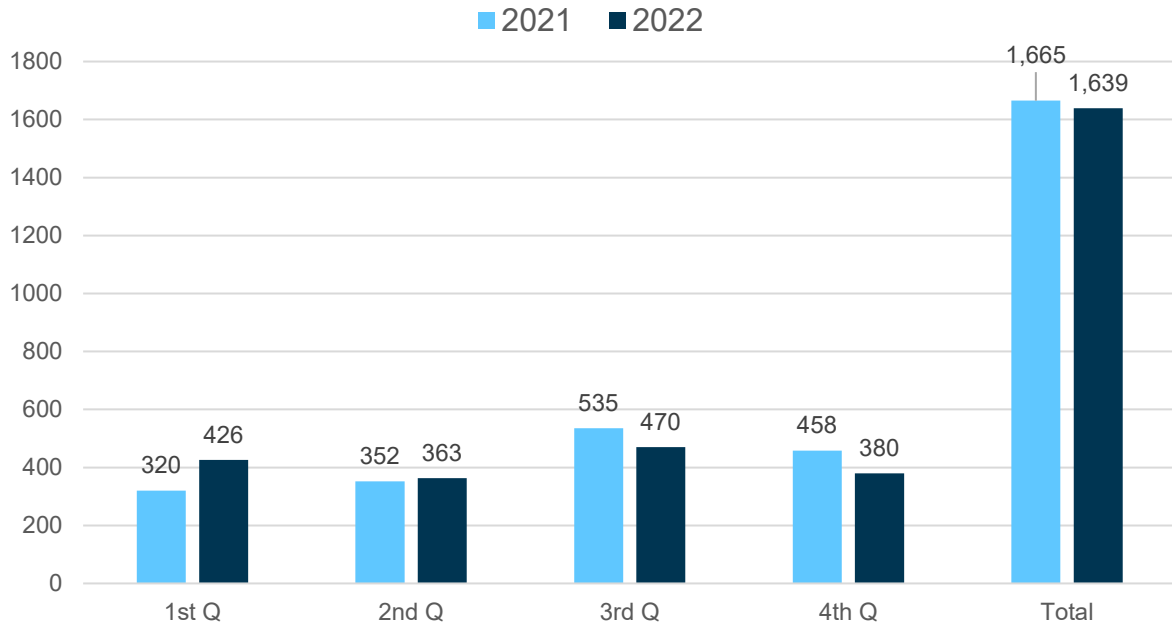
Three hearing were held this quarter and there was one default hearing.

C. Grievances and Dispositions¹

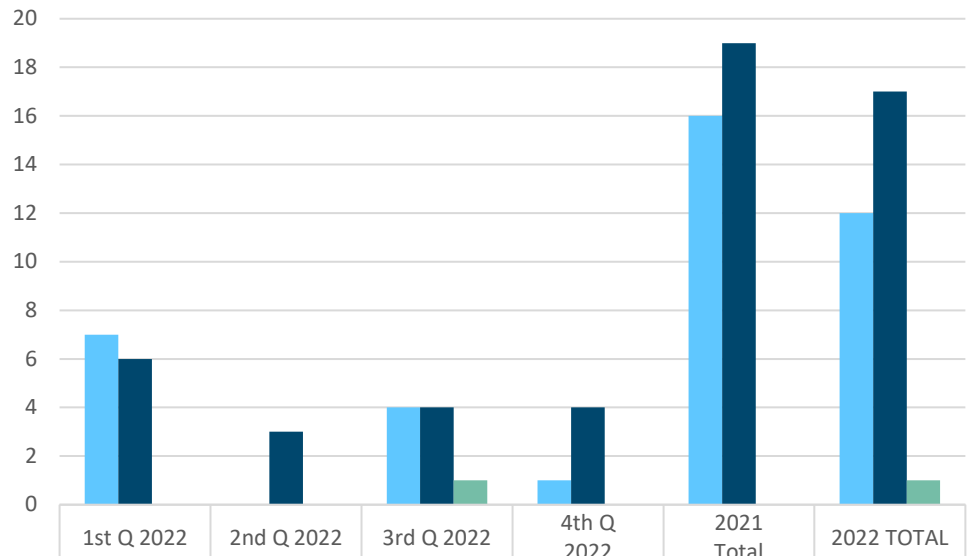


¹ These figures may vary from subsequent quarterly reports and statistical summaries owing to limitations on data availability at the time of issuance of these quarterly reports.

Number of Grievances Resolved

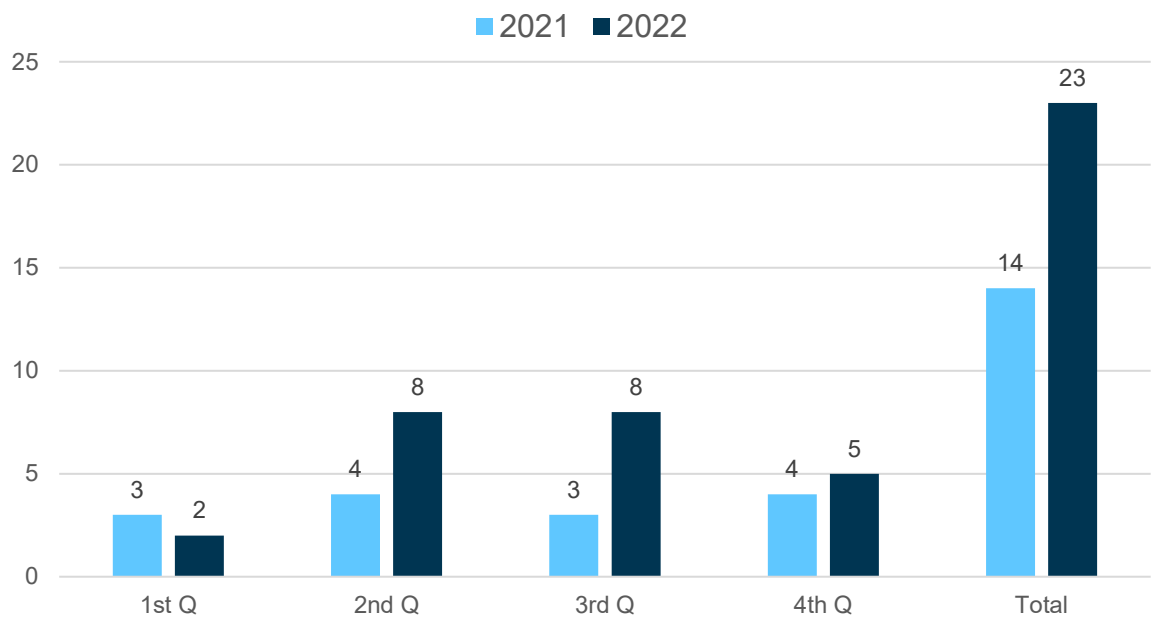


Diversion Statistics

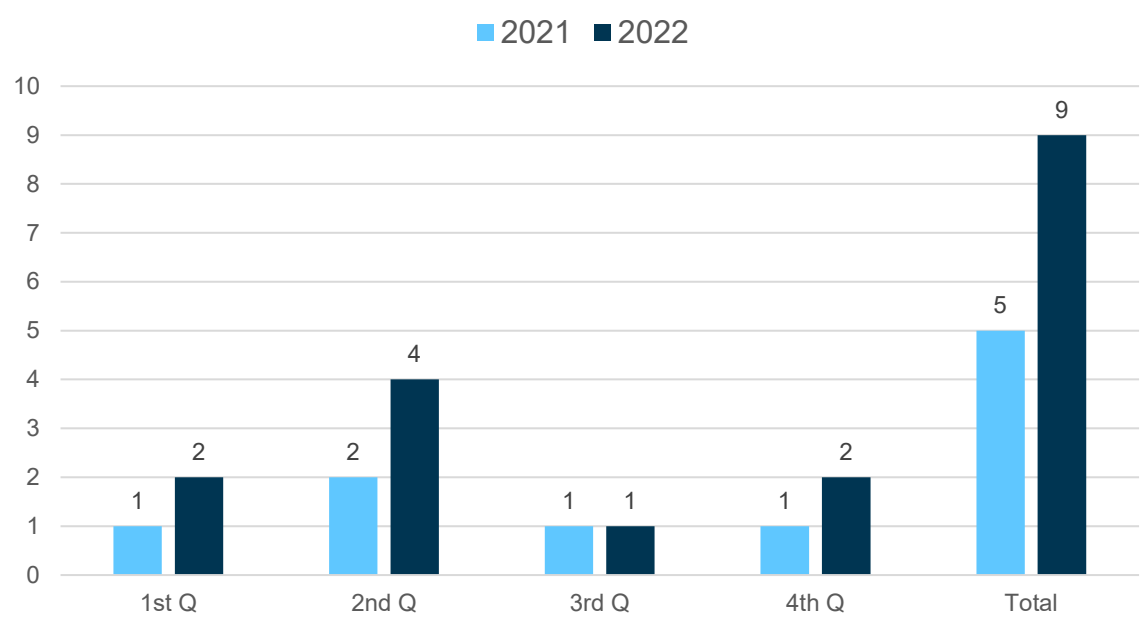


	1st Q 2022	2nd Q 2022	3rd Q 2022	4th Q 2022	2021 Total	2022 TOTAL
New Diversion Files	7	0	4	1	16	12
Completed Diversion Files	6	3	4	4	19	17
Terminated Diversion Files	0	0	1	0	0	1

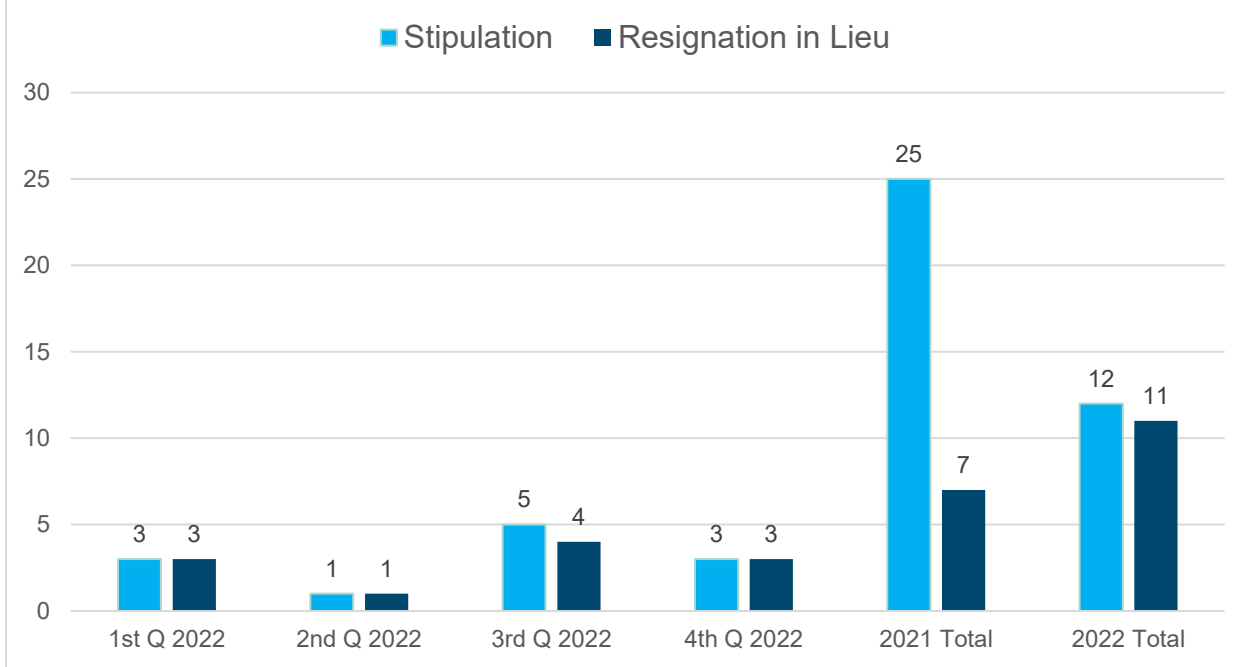
Formal Complaints Filed



Reciprocal Discipline Files Opened



Stipulations and Resignations in Lieu

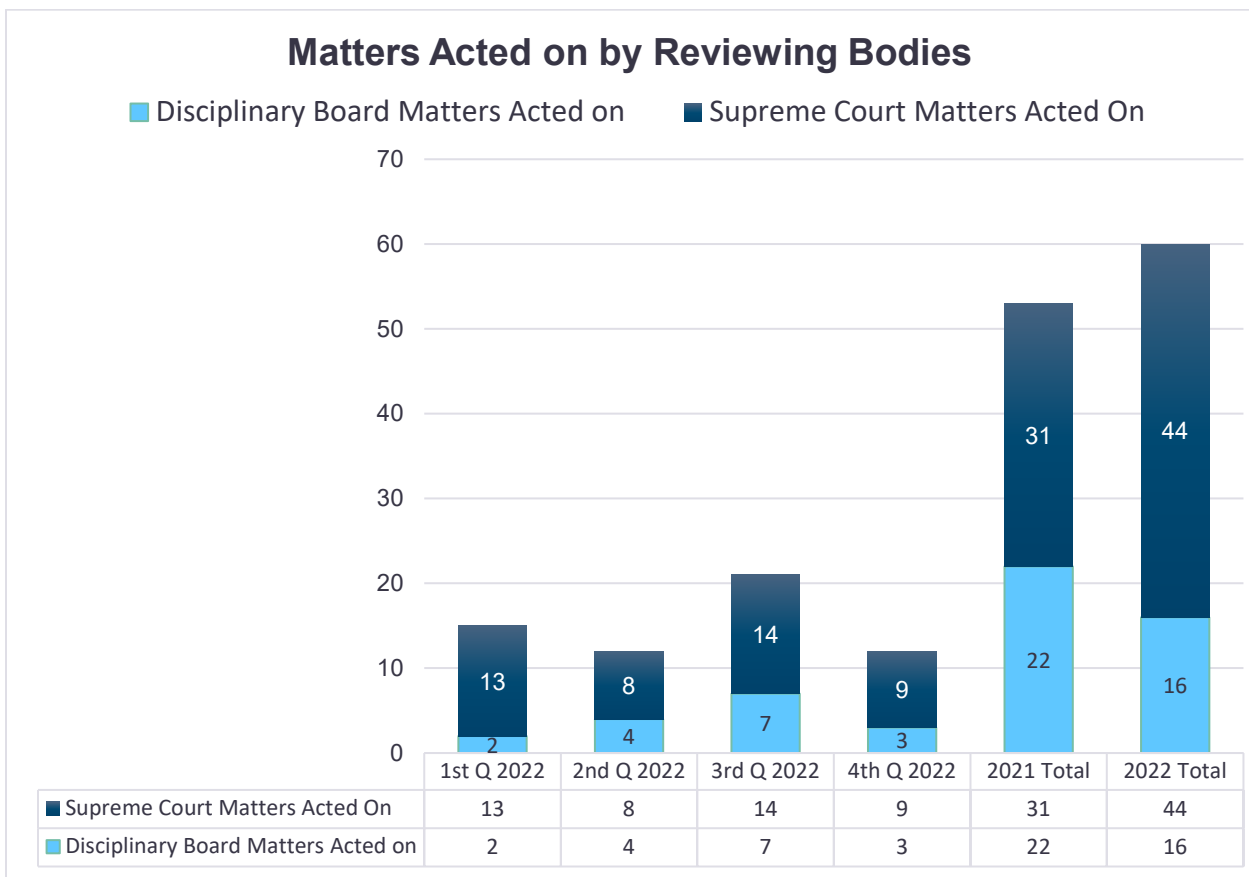


Hearings Held ²	Quarter Total
1 st Quarter	0
2 nd Quarter	2
3 rd Quarter	3
4 th Quarter	4
2022 Total	9
2021 Total	7

² Includes default hearings.

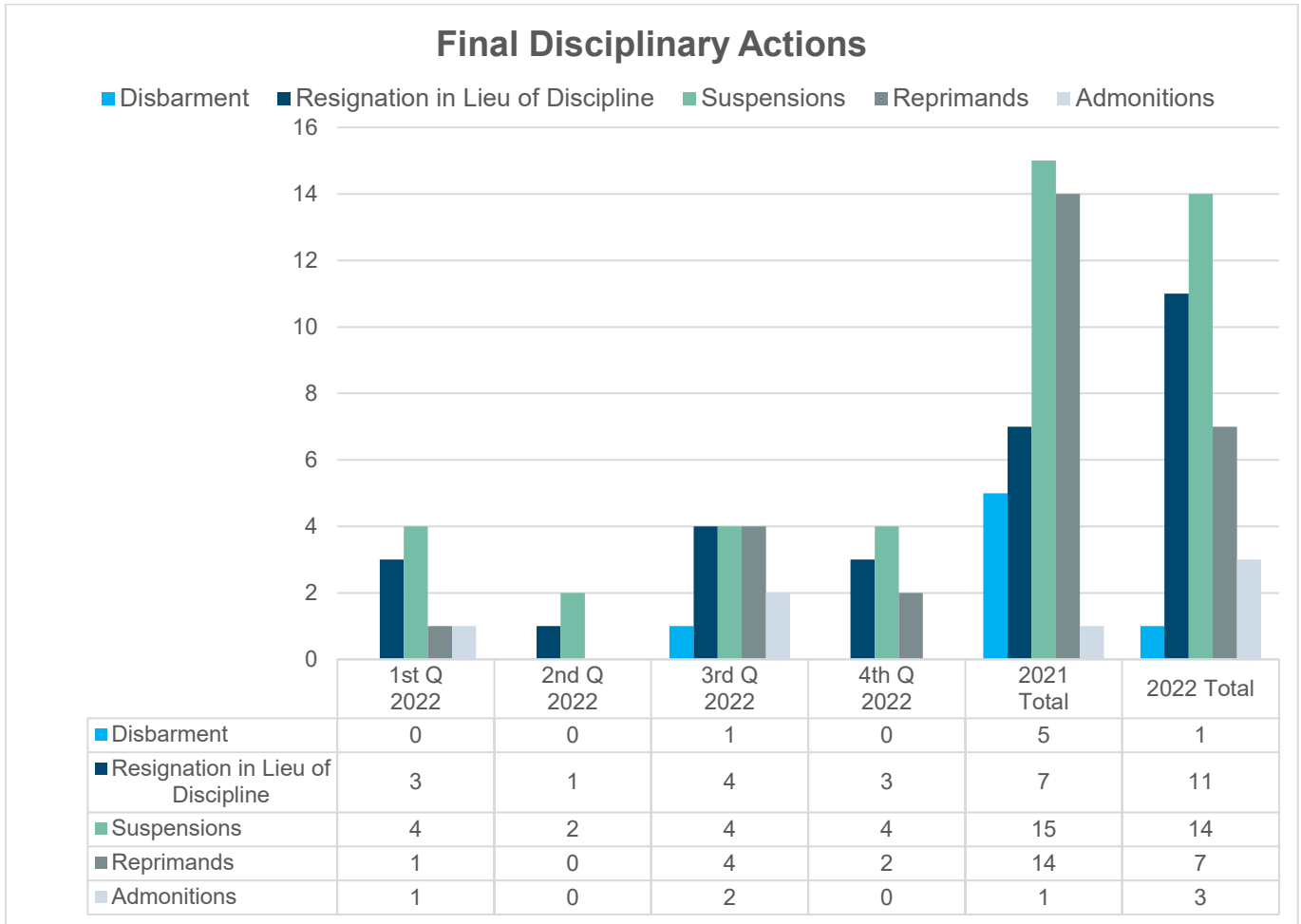
D. Pending Proceedings³

Open Proceedings	2021	2022
Ending 1 st Quarter	37	31
Ending 2 nd Quarter	38	41
Ending 3 rd Quarter	34	38
Ending 4 th Quarter	36	39



³ In the second table in this section, the Disciplinary Board numbers reflect Board orders on stipulations and following review after an appeal of a hearing officer’s findings.

E. Final Disciplinary Actions



F. Disability Found

Disability Found	Quarter Total
1 st Quarter	0
2 nd Quarter	1
3 rd Quarter	2
4 th Quarter	1
2022 Total	4
2021 Total	4

G. Discipline Costs⁴

Quarterly Discipline Costs Collected	Total
1st Quarter	\$25,415.10
2nd Quarter	\$22,106.13
3rd Quarter	\$10,961.01
4th Quarter	\$6,060.00
2022 Total	\$64,542.24
2021 Total	\$105,389.72

⁴ The cost figures may vary from amounts indicated in previous quarterly reports, statistical summaries, and annual reports, owing to limitations on the data available at the time of issuance of these quarterly reports and the final cost figures available after Accounting closes the monthly books.

WASHINGTON STATE BAR ASSOCIATION

MEMO

To: Board of Governors

From: Jennifer Olegario, Communications and Outreach Manager and Sara Niegowski, Chief Communications Officer

Date: Feb. 10, 2023

Re: Summary of Media Contacts, Jan. 2-Feb. 10, 2023

Date	Journalist and Media Outlet	Inquiry
Jan. 3	Marianna Wharry, Law.com	Public records request for Kabbie Konteh, #41154.
Jan. 5	Haley Day, <i>The Daily News</i> (Longview)	Inquired about status of Andra Ruth Blondin, #28268. Referred to Legal Directory.
Jan. 18	Jim Brunner, <i>The Seattle Times</i>	Asked for update regarding Stephen Pidgeon (reporter has been following since 2021). Provided formal complaint and notice to answer.
Jan. 23	Kevin Penton, Law360	Asked for more information about the new required ethics credit on the topic of equity, inclusion, and the mitigation of implicit and explicit bias. Responded with a link to more information and an offer to connect him with the MCLE chair.
Jan. 23, 2023	Emry Dinman, <i>The Spokesman-Review</i>	Generally: Can one person have two legal licenses (he found the same name in the Legal Directory)? Specifically: Wanted to know about a person applying for a city job.
Jan. 24	Carter Cox, Murrow News Service (WSU)	Sought comment or insights about former WSU head coach Nick Rolovich's lawsuit against defendants Washington State University, Pat Chun, and Governor Inslee. Referred to Labor and Employment Law and Civil Rights sections.
Jan. 25	Matthew Esnayra, <i>The Daily News</i> (Longview)	Inquired about the shortage of defenders in the state and what is being done about it. Referred to the Defender Association and Office of Public

		Defense, worked with them on talking points to bring public awareness about defense standards.
Jan. 30	Michele Gorman, Law360 Pulse	She's starting a monthly column about frictions between in-house and outside counsel. Sought sources for prospective first column about the ongoing increase in associate pay, and how that could affect/does affect the relationship between firm lawyers and their corporate clients. Referred to Corporate Counsel section.
Jan. 31	Marianna Wharry, Law.com	Public records request for Geoffrey Cross, #3089.
Feb. 2	Jim Brunner, <i>The Seattle Times</i>	Inquired about grievances or investigations against Daniel S. Friedberg, #28417. Sent standard media response.

Media Coverage

- ["Fairhaven's Ceci Lopez wins 2022 Local Hero Award from the Washington State Bar Association,"](#) Western Today (WWU), Jan. 18
- ["Cybersecurity, Implicit Bias Among New CLE Requirements,"](#) Law360, Jan. 27
- ["Attorney Disbarred for Collecting Fees While Leaving Cases Idle,"](#) Law.com, Feb. 10

WSBA Licensing Counts*

2/2/23 11:01:19 AM GMT-08:00

By Section **	All	Previous Year
Administrative Law Section	208	252
Animal Law Section	68	89
Antitrust, Consumer Protection and Unfair Business Practice	172	196
Business Law Section	1,100	1,242
Civil Rights Law Section	159	176
Construction Law Section	457	495
Corporate Counsel Section	945	1,088
Creditor Debtor Rights Section	422	463
Criminal Law Section	323	383
Dispute Resolution Section	253	318
Elder Law Section	549	613
Environmental and Land Use Law Section	707	773
Family Law Section	875	972
Health Law Section	353	390
Indian Law Section	297	331
Intellectual Property Section	759	867
International Practice Section	210	241
Juvenile Law Section	126	142
Labor and Employment Law Section	940	986
Legal Assistance to Military Personnel Section	65	80
Lesbian, Gay, Bisexual, Transgender (LGBT) Law Section	91	218
Liquor, Cannabis, and Psychedelics Law Section	59	71
Litigation Section	953	1,027
Low Bono Section	51	53
Real Property Probate and Trust Section	2,058	2,274
Senior Lawyers Section	187	219
Solo and Small Practice Section	773	882
Taxation Section	578	627
World Peace Through Law Section	108	137

By State and Province	
Alabama	23
Alaska	195
Alberta	9
Arizona	373
Arkansas	20
Armed Forces Americas	3
Armed Forces Europe, Middle East	23
Armed Forces Pacific	10
British Columbia	97
California	2,044
Colorado	299
Connecticut	44
Delaware	9
District of Columbia	367
Florida	284
Georgia	90
Guam	15
Hawaii	146
Idaho	520
Illinois	190
Indiana	50
Iowa	30
Kansas	31
Kentucky	53
Louisiana	44
Maine	17
Maryland	120
Massachusetts	95
Michigan	77
Minnesota	110
Mississippi	5
Missouri	74
Montana	179
Nebraska	19
Nevada	160
New Hampshire	16
New Jersey	58
New Mexico	79
New York	288
North Carolina	94
North Dakota	9
Northern Mariana Islands	6
Nova Scotia	1
Ohio	94
Oklahoma	48
Ontario	16
Oregon	2,748
Pennsylvania	80
Puerto Rico	6
Quebec	2
Rhode Island	18
South Carolina	32
South Dakota	11
Tennessee	62
Texas	444
Utah	191
Vermont	14
Virginia	283
Virgin Islands	2
Washington	30,584
Washington Limited License	1
West Virginia	6
Wisconsin	52
Wyoming	20

By WA County	
Adams	16
Asotin	23
Benton	373
Chelan	248
Clallam	148
Clark	937
Columbia	7
Cowlitz	124
Douglas	38
Ferry	7
Franklin	60
Garfield	3
Grant	121
Grays Harbor	104
Island	142
Jefferson	109
King	17,304
Kitsap	802
Kittitas	90
Klickitat	23
Lewis	102
Lincoln	12
Mason	89
Okanogan	82
Pacific	26
Pend Oreille	12
Pierce	2,352
San Juan	93
Skagit	268
Skamania	14
Snohomish	1,603
Spokane	1,974
Stevens	46
Thurston	1,691
Wahkiakum	10
Walla Walla	114
Whatcom	564
Whitman	67
Yakima	434

By Admit Yr	
1946	1
1947	2
1948	2
1949	1
1950	4
1951	12
1952	17
1953	14
1954	20
1955	9
1956	28
1957	20
1958	24
1959	28
1960	24
1961	21
1962	24
1963	28
1964	30
1965	44
1966	54
1967	51
1968	70
1969	80
1970	84
1971	90
1972	135
1973	213
1974	199
1975	245
1976	294
1977	306
1978	328
1979	363
1980	385
1981	412
1982	401
1983	441
1984	516
1985	369
1986	573
1987	515
1988	498
1989	534
1990	655
1991	665
1992	681
1993	708
1994	739
1995	741
1996	702
1997	788
1998	758
1999	811
2000	807
2001	861
2002	913
2003	948
2004	974
2005	1,013
2006	1,045
2007	1,107
2008	1,041
2009	944
2010	1,043
2011	1,020
2012	1,036
2013	1,176
2014	1,306
2015	1,577
2016	1,279
2017	1,342
2018	1,284
2019	1,314
2020	1,550
2021	1,415
2022	1,508
2023	100

By District	All	Active
0	5,031	3,733
1	2,872	2,356
2	2,058	1,647
3	2,004	1,649
4	1,330	1,109
5	3,222	2,609
6	3,361	2,761
7N	5,010	4,215
7S	6,424	5,164
8	2,254	1,911
9	4,971	4,137
10	2,805	2,306
	41,342	33,597

Misc Counts ***	
All License Types	41,352
All WSBA Members	40,943
Active Members in western Washington	22,732
Active Members in Washington	26,233
Active Members in King County	15,012
Active Members in eastern Washington	3,204
New/Young Lawyers	6,357
MCLE Reporting Group 1	10,314
MCLE Reporting Group 2	11,923
MCLE Reporting Group 3	11,738

Member Type	In WA State	All
Active Attorney	26,233	33,597
Emeritus	119	126
Foreign Law Consultant	15	21
Honorary	419	473
House Counsel	356	378
Inactive Attorney	2,780	6,059
Indigent Representative	8	10
Judicial	654	688

* Includes active, educational purposes, emeritus, house counsel, foreign law consultant, honorary, inactive, indigent representative, judicial, non-member emeritus, and military.

** The values in the All column are reset to zero at the beginning of the WSBA fiscal year (Oct 1). The Previous Year column is the total from the last day of the fiscal year (Sep 30). WSBA staff with complimentary membership are not included in the counts.

*** Per WSBA Bylaws 'Members' include active, emeritus, honorary, inactive and judicial license types.

By Years Licensed	
Under 6	8,363
6 to 10	6,456
11 to 15	5,316
16 to 20	5,078
21 to 25	4,156
26 to 30	3,645
31 to 35	2,962
36 to 40	2,336
41 and Over	3,673
Total:	41,985

By Age	All	Active
21 to 30	1,828	1,757
31 to 40	9,077	8,127
41 to 50	10,469	8,785
51 to 60	9,259	7,274
61 to 70	7,243	5,280
71 to 80	3,455	2,216
Over 80	654	158
Total:	41,985	33,597

By Practice Area	
Administrative-regulator	2,298
Agricultural	235
Animal Law	107
Antitrust	320
Appellate	1,649
Aviation	188
Banking	434
Bankruptcy	800
Business-commercial	5,241
Cannabis	160
Civil Litigation	251
Civil Rights	1,115
Collections	470
Communications	209
Constitutional	667
Construction	1,350
Consumer	774
Contracts	4,337
Corporate	3,670
Criminal	3,561
Debtor-creditor	862
Disability	563
Dispute Resolution	1,250
Education	489
Elder	805
Employment	2,824
Entertainment	329
Environmental	1,261
Estate Planning-probate	3,146
Family	2,505
Foreclosure	429
Forfeiture	91
General	2,461
Government	2,913
Guardianships	771
Health	991
Housing	341
Human Rights	327
Immigration-naturaliza	1,005
Indian	571
Insurance	1,594
Intellectual Property	2,306
International	914
Judicial Officer	462
Juvenile	772
Labor	1,140
Landlord-tenant	1,159
Land Use	883
Legal Ethics	298
Legal Research-writing	866
Legislation	458
Lgbtq	108
Litigation	4,841
Lobbying	172
Malpractice	724
Maritime	305
Military	377
Municipal	909
Non-profit-tax Exempt	664
Not Actively Practicing	2,086
Oil-gas-energy	268
Patent-trademark-copyr	1,341
Personal Injury	3,117
Privacy And Data Securit	494
Real Property	2,691
Real Property-land Use	2,091
Securities	795
Sports	187
Subrogation	129
Tax	1,292
Torts	2,034
Traffic Offenses	554
Workers Compensation	678

By Languages Spoken	
Afrikaans	6
Akan /twi	6
Albanian	2
American Sign Language	22
Amharic	23
Arabic	48
Armenian	9
Bengali	12
Bosnian	15
Bulgarian	13
Burmese	3
Cambodian	6
Cantonese	108
Cebuano	7
Chamorro	5
Chaozhou/chiu Chow	1
Chin	1
Croatian	20
Czech	7
Danish	19
Dari	6
Dutch	23
Egyptian	2
Estonian	1
Farsi/persian	69
Finnish	8
French	675
French Creole	2
Fukienese	4
Ga/kwa	2
German	403
Gikuyu/kikuyu	1
Greek	35
Gujarati	17
Haitian Creole	3
Hebrew	38
Hindi	108
Hmong	1
Hungarian	17
Ibo	4
Icelandic	2
Ilocano	9
Indonesian	13
Italian	165
Japanese	216
Kannada/canares	4
Kapampangan	2
Khmer	3
Korean	254
Kurdish/kurmanji	1
Lao	5
Latvian	6
Lithuanian	5
Malay	5
Malayalam	8
Mandarin	427
Marathi	6
Mien	1
Mongolian	1
Navajo	1
Nepali	4
Norwegian	37
Not_listed	54
Oromo	4
Pashto	1
Persian	23
Polish	36
Portuguese	135
Portuguese Creole	1
Punjabi	71
Romanian	23
Russian	234
Samoan	7
Serbian	16
Serbo-croatian	12
Sign Language	20
Singhalese	2
Slovak	3
Spanish	1,883
Spanish Creole	2
Swahili	9
Swedish	52
Tagalog	73
Taishanese	4
Taiwanese	27
Tamil	10
Telugu	4
Thai	14
Tigrinya	5
Tongan	2
Turkish	17
Ukrainian	45
Urdu	47
Vietnamese	94
Yoruba	10
Yugoslavian	3

By Ethnicity	
American Indian / Native American / Alaskan Native	221
Asian-Central Asian	27
Asian-East Asian	334
Asian-South Asian	96
Asian-Southeast Asian	105
Asian—unspecified	976
Black / African American / African Descent	674
Hispanic / Latinx	716
Middle Eastern Descent	38
Multi Racial / Bi Racial	1,151
Not Listed	240
Pacific Islander / Native Hawaiian	64
White / European Descent	22,411
Respondents	27,053
No Response	14,932
All Member Types	41,985

By Sexual Orientation	
Asexual	26
Gay, Lesbian, Bisexual, Pansexual, or Queer	771
Heterosexual	6,507
Not Listed	149
Selected multiple orientations	32
Two-spirit	2
Respondents	7,487
No Response	34,498
All Member Types	41,985

By Disability	
Yes	1,380
No	19,946
Respondents	21,326
No Response	20,659
All Member Types	41,985

By Gender	
Female	10,758
Gender Non-Confirmin	6
Genderqueer	6
Male	14,574
Man	1,312
Non-Binary	37
Not Listed	57
Selected Mult Gender	40
Transgender	1
Two-spirit	3
Woman	1,442
Respondents	28,236
No Response	13,749
All Member Types	41,985

Members in Firm Type	
Bank	39
Escrow Company	62
Government/ Public Secto	5,134
House Counsel	3,304
Non-profit	595
Title Company	132
Solo	5,029
Solo In Shared Office Or	1,131
2-5 Members in Firm	4,061
6-10 Members in Firm	1,597
11-20 Members in Firm	1,257
21-35 Members in Firm	748
36-50 Members In Firm	564
51-100 Members in Firm	600
100+ Members in Firm	1,827
Not Actively Practicing	2,451
Respondents	28,531
No Response	13,454
All Member Types	41,985

* Includes active attorneys, emeritus pro-bono, honorary, inactive attorneys, judicial, limited license legal technician (LLLT), and limited practice officer (LPO).

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Governor Sunitha Anjilvel and Raina Wagner, Co-Chairs of DEI Council and SaNni Lemonidis, Chair of DEI Council Definition of Diversity Subcommittee
DATE: February 13, 2023
RE: DEI Council's Proposal to Amend At-Large Governor Position Bylaws

SECOND READ: The Diversity, Equity and Inclusion (DEI) Council is requesting a second read of its proposal to amend the definition of diversity in the bylaws, specifically as it relates to the At-Large Governor position. The proposal includes accompanying draft changes to the WSBA Bylaws.

The DEI Council presented proposed changes to the Bylaws concerning the At-Large Governor at the BOG meeting on January 13, 2023 for a First Read. Following the January 13th meeting, the DEI Council reached out to leaders from the following groups again to update them on the process (as the Council had reached out to them over this past year to solicit input for the initial draft of the proposed amendments) and to solicit any additional feedback to consider:

Filipino Lawyers of Washington (FLOW)
Korean American Bar Association (KABA)
Latina/Latino Bar Association of Washington (LBAW)
LGBTQ Bar Association (QLaw)
Loren Miller Bar Association (LMBA)
Middle Eastern Legal Association of Washington (MELAW)
Mother Attorneys Mentoring Association of Seattle (MAMA Seattle)
Northwest Indian Bar Association (NIBA)
Pierce County Minority Bar Association (PCMBA)
South Asian Bar Association of Washington (SABAW)
Vietnamese American Bar Association of Washington (VABAW)
Washington Attorneys with Disabilities Association (WADA)
Washington State Veterans Bar Association (WSVBA)
Washington Women Lawyers (WWL)
Minority and Justice Commission
Gender and Justice Commission

The only feedback the DEI Council heard was that their original feedback remained the same. The DEI Council met on February 13, 2023, and discussed the First Read from the January 13th BOG meeting. The Council considered whether to make any changes to the proposed language and ultimately decided to leave the proposed language as is and submit the same proposed amendments for the Second Read.

The DEI Council now requests a Second Read and approval of its proposed amendments to the Bylaws. For background, the legal, equity and financial analyses and proposed tracked changes, please see the following attachments and link:

- Memo to BOG dated December 27, 2022 and attachments to that memo which include:
 - Resolution Adopting At-Large BOG Seat in February 2001
 - Diversity Definition Adopted by the WSBA BOG in March 2010
 - WSBA Diversity Committee March 17, 2021 memo regarding proposed amendments to Article VI of the WSBA Bylaws
- [Track Change Proposed Changes to Bylaws](#)

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Sunitha Anjilvel, Co-chair of DEI Council and SaNni Lemonidis, Chair of DEI Council Definition of Diversity Subcommittee
DATE: December 26, 2022
RE: The Diversity, Equity and Inclusion Council’s proposal to amend the definition of diversity in the bylaws as it relates to the At-Large Governor position

FIRST READ: The Diversity, Equity and Inclusion (DEI) Council is requesting a first read of its proposal to amend the definition of diversity in the bylaws, specifically as it relates to the At-Large Governor position. The proposal includes accompanying draft changes to the WSBA Bylaws.

It is the directive of the Washington Supreme Court per GR 12(2) 6 that the Bar Association should strive to promote diversity and equality in the legal profession. The challenge for our Bar Association is to implement policies and procedures that are clear, unambiguous and that serve to increase representation by and for those from historically underrepresented communities. WSBA bylaws establish an election process for a Diversity At-Large seat on the Board of Governors. Per *Article VI 3A* the DEI Council is tasked with interviewing all applicants for the At-Large Governor position, and then forwarding at least three candidates to be placed on the ballot.

The bylaws currently provide that:

“Underrepresentation and diversity may be based upon, but not be limited to age, race, gender, sexual orientation, disability, geography, areas and types of practice, and years of membership, provided that no single factor will be determinative.”

The DEI Council is proposing a change to the definition of diversity in the bylaws as follows:

“Diversity refers to meaningful representation of, and equal opportunities for, individuals who have a lived experience as a member from one or more historically underrepresented communities in the legal profession. Underrepresentation encompasses and is not limited to, race, disability, age, ethnicity, religion, sexual orientation, gender identity, and gender expression.”

The DEI Council is proposing this change because it is a more transparent, intentional definition that effectively aligns with the objective of promoting diversity and equality and more accurately delineates the underrepresented groups that the Diversity BOG seat is intended to represent. The lack of diversity in the legal profession has led collaterally to a lack of diversity in leadership roles within the profession.

From our 2012 membership study and demographic data since then we know that attracting and retaining diverse individuals is an ongoing challenge. Meaningful representation at the leadership level by those who have the lived experience of being marginalized will bring an ongoing valuable perspective to the BOG. It will also afford more opportunities for effective action based on authentic perspectives. The recognition of systemically marginalized communities, as listed nonexclusively in our proposed definition, will provide the opportunity for more meaningful diversity of body and diversity of thought on the BOG.

While it is always difficult to define, assess and/or quantify the success of a particular rule change, success might be measured in several ways. Measuring the incremental increases in the number of legal professionals from underrepresented communities, not only on the BOG, but also within the broader membership of WSBA who enter and stay within the legal profession would be one indicator of success. The goal is to see numbers that more accurately reflect current demographics within the general population. Another measure of success, more difficult to quantify, would be whether after the bylaw change, a greater focus on DEI related issues occurs at the BOG level and whether the BOG as a whole is more accountable to the objective of promoting diversity than before the change. Success could be measured by using self-assessment tools, surveys and an analysis to be conducted by the DEI Council.

We propose that the BOG engage in a first reading of our proposed amendments to the bylaws. We are open to the BOG's feedback to inform the second reading and action, which we request be done at the BOG's meeting in March 2023.

I. BACKGROUND

In February 2001 the Board of Governors passed a resolution creating two At-Large seats for members from underrepresented communities. The resolution, which ultimately became enshrined in the bylaws provided that the At-Large Diversity seats were subject to an election by the Board of Governors as opposed to an election by WSBA members. Attached is a copy of the resolution.

In March of 2010 the Board of Governors formally adopted a definition of diversity as a policy. The definition provided that:

“Diversity refers to individuals who self-identify with those groups historically discriminated against and or those groups that are historically under-represented in the legal profession based upon but not limited to disability, gender, age, familial status, race, ethnicity, religion, economic class, sexual orientation, gender identity and gender expression. Geographic diversity and area of practice shall also be given consideration.”

The Council is not proposing to replace the general definition of diversity at this time but may revisit this at a later time. The pending proposal is limited to bylaws concerning the At-Large Governor seat.

In March 2021 the DEI Council submitted feedback to the BOG and proposed amendments to Article VI of the bylaws to allow for a process wherein At-Large Governor elections would be subject to an electorate of statewide WSBA members and where candidates are interviewed by the DEI Council before they placed on the ballot. The DEI council's proposal stipulated that elections were to occur after the conclusion of the congressional elections and created a process whereby a candidate running for a congressional election was not precluded from applying for an At-Large Governor position. The memo supporting these amendments is attached and provides our reasoning for refining the election process. The Board of Governors passed these amendments which were subsequently approved by the Supreme Court.

The proposal the DEI Council is now putting forward will improve the election process by providing a clearer definition of diversity in the bylaws. The Council has conducted research including reviewing what other bar associations including the how the ABA has defined diversity (see [ABA Member Diversity Equity and Inclusion Plan](#)). The proposed definition submitted for this first reading has been analyzed, debated and has gone through multiple iterations and drafts by the DEI Council and its drafting subcommittee after receiving significant community input as outlined below.

II. COMMUNITY INPUT

We shared the initial proposed changes to the definition of diversity with many stakeholders, including the Minority Bar Associations, local bar associations, the Washington law schools and student groups for historically underrepresented students, and law firms who engage in DEI work.

We also held two community feedback sessions in mid-April 2022. For those that were unable to attend a feedback session and/or wished to have time to think about their responses, we created an anonymous survey asking six questions. The questions were:

1. Do you have any suggested changes to our living proposed definition above? If so, please indicate what you would like added or removed.
2. Are there additional social identities you feel should be listed out?
3. Are there any social identities you feel should not be listed?
4. The definition of diversity mainly looks at having lived experience from a systemically oppressed community, that is now underrepresented in the legal profession.
5. Do you think geography should be included in this category?
6. Any other comments/feedback?

There were nine responses to the survey, with varying perspectives including on whether to keep geography in the definition. Other responses questioned whether or not sex should be explicitly named along with gender, whether class and socioeconomic status should be added, and whether all marginalized social identities outlined in the [ADRESSING model](#) (Age, Disability, Religion, Ethnicity, Sexual

Orientation, Socioeconomic Status, Indigenous heritage, National Origin, Gender), which was created by Pamela Hays and adapted by Dr. Leticia Nieto, should be included.

During the first feedback session, there was a discussion surrounding whether or not geography should be included, if sex needed to be included and if we would be conflating sex with gender, naming both cisgender and transgender gender identities as being underrepresented, and whether or not we wanted to center race. That was incorporated into the draft definition and informed the second feedback session.

The discussion during the second feedback session focused on whether or not listing out what is meant by underrepresentation would be helpful or excluding certain groups that were unintentionally not listed.

After the DEI Council’s Definition of Diversity Subcommittee incorporated feedback from these discussions, it solicited additional feedback in Fall 2022 from the Minority Bar Association leaders, the Gender and Justice Commission and the Minority and Justice Commission. The MBA leaders suggested making edits so it is clear that a person self-identifies what social identities they have and affirmed language referencing intersectionality and acknowledging that race exacerbates inequities. The Gender and Justice Commission suggested that transgender and cisgender need not be explicitly stated but suggested that gender expression and gender identity replace the word gender. The Minority and Justice Commission affirmed the language about intersectionality and race exacerbating inequities.

The DEI Council discussed at length the additional feedback shared by the community and whether to include language about geography, intersectionality and race exacerbating inequities. The Council determined that geographic diversity is already incorporated into the framework of BOG members representing districts across the state. The Council decided to not include specific language about intersectionality and centering race at this time.

WSBA RISK ANALYSIS: This section is to be completed by the Office of General Counsel, with input from the proposing entity or individual.

The BOG is asked to modify the WSBA Bylaw language establishing criteria for at large Governors. At a high level, the proposal changes the current Bylaw in the following ways:

Current Bylaw	Proposed Bylaw
Age	Age
Race	Race
Gender	Gender identity and Gender expression
Sexual orientation	Sexual orientation
Disability	Disability
Geographic Area	(delete)

Types of Practice	(delete)
Years of Membership	(delete)
	ethnicity
	religion
	Adds a specific reference to lived experience from one or more historically underrepresented communities in the legal profession

The Board should consider whether removing or adding any of the suggested factors creates legal risk for WSBA.

Factors Removed:

Geographic Area: Based on the State Bar Act, 11 of the Governors are from specific geographical areas (Congressional Districts). Additionally, the Bylaws currently require rotation of the President position between Eastern and Western Washington. Eliminating geographic area from the factors for the at large positions does not appear to pose legal risk for the WSBA.

Type of Practice: Eliminating this factor does not appear to pose legal risk for the WSBA. WSBA members can change types of practice at any time. WSBA members may have knowledge of types of practice based on prior experience rather than current practice. Eliminating this factor also does not seem to necessarily decrease the diversity on the Board.

Years of Membership: Eliminating this factor does not appear to pose legal risk for the WSBA. One at large Governor is required to meet the definition of “young lawyer” in the Bylaws. That definition has two parts--under age 36 and less than five years of admission to practice in any state. (Article XII.B)

Factors Added:

Ethnicity: Adding ethnicity does not appear to pose a legal risk. This is one of several types of information that is subject to voluntary disclosure and should be maintained confidentially.

Religion: Adding religion as a factor to the Bylaw does not appear to pose a significant legal risk. Adding this factor appears to be intended to provide an opportunity for board service to people with lived experience in religions historically underrepresented in the legal profession. Adding this factor does not appear to signal an intend to discuss specific religious beliefs while determining WSBA policies.

WSBA FISCAL ANALYSIS: This section is to be completed by the Finance Department, with input from the proposing entity or individual.

The fiscal impact to WSBA resulting from the proposed changes to the bylaws is limited to the amount of staff time used to incorporate the changes to WSBA records and outreach to communicate the changes. The staff time that would be allocated to this work is included in the overall duties of existing WSBA staff and would not require additional staff or allocation of resources from other internal sources.

WSBA EQUITY ANALYSIS: This section is to be completed by the Equity and Justice Team, with input from the proposing entity or individual.

This is a positive step forward in thinking about what it means to lead with an equity lens and center those who are closest to systemic oppression. As the DEI Council continues to work towards advancing DEI, we encourage the Council and BOG to continue to work towards its commitment of centering Black, Indigenous, and people of color as outlined in its resolutions in June 2020 and November 2020 and the Race and Equity Justice Initiative commitments. We also encourage the DEI Council to follow up with those who shared feedback on the earlier drafts and let them know how their feedback was or was not incorporated into the proposal.

Attachments

- Resolution Adopting At-Large BOG Seat in February 2001
- Diversity Definition Adopted by the WSBA BOG in March 2010
- WSBA Diversity Committee March 17, 2021 memo regarding proposed amendments to Article VI of the WSBA Bylaws



WSBA

RESOLUTION

WHEREAS, the elected Governors of the Washington State Bar Association are elected from the nine congressional districts of the State of Washington as a means to provide geographical representation for all members of the Association; and

WHEREAS, the Board of Governors of the Washington State Bar Association recognize that the election process does not provide sufficient input and insight from all members served, and further does not always result in the election of a Board of Governor that is representative of the changing membership and geographical array of the membership of the Washington State Bar Association; and

WHEREAS, the Board of Governors and the Washington State Bar Association can and will benefit from the insight, advocacy and unique knowledge of under-represented lawyers in achieving the Association's mission statement and representing its members; and

WHEREAS, the Board of Governors of the Washington State Bar Association recognize that examples of under-represented groups of attorneys may, depending upon the outcome of any Board election, include women, young or new lawyers, government lawyers, lawyers engaged in criminal defense or in the prosecution of criminal matters, lawyers from remote and outlying parts of the State of Washington and from outside the State; and ethnic and sexual minority lawyers; and

WHEREAS, the Board of Governors of the Washington State Bar Association is authorized to create up to 15 total seats on the Board by means provided in the bylaws of the Association under RCW 2.48.030 and the authority of the Supreme Court of Washington, and wishes to create "at large" seats to be elected by the Board of Governors to represent under-represented members who may provide representation, knowledge, and benefits to offset the structural deficiencies which operate as a barrier to election;

NOW, THEREFORE, BE IT RESOLVED:

The Washington State Bar Association Board of Governors hereby creates two "at large" seats to be filled from under-represented groups as defined in the bylaws, the occupant of each to serve a three-year term, and to be selected as follows to: the first to be filled by election by the Board of Governors in June 2001 and the second in June 2002; and

BE IT FURTHER RESOLVED, that the Board Governors shall fill each vacant "at large" seat designated to be filled by election from nominations made. The Governors shall fill such seats with a representative to serve as Governor who will, in the Board's sole discretion, have the experience, and knowledge of the needs of those lawyers whose membership is or may be

historically under-represented in governance. Such "at large" members will assure a Board that is a more diverse and broadly representative body that the results of the present method of election provided for by the State Bar Act allows.

BE IT FURTHER RESOLVED, that the President of the Washington State Bar Association shall promptly appoint a committee to draft necessary revisions to the Bylaws of the Washington State Bar Association to effect this Resolution with a view toward approving those revisions at the next meeting of the Board of Governors held after adoption of this resolution.

Approved by resolution of the Board of Governors on the 19 day of February, 2001.



Jan Eric Peterson, President

ATTEST:



M. Janice Michels, Executive Director, and
Secretary to the Board of Governors

How WSBA Defines Diversity

Diversity refers to meaningful representation of and equal opportunities for individuals who self-identify with those groups that are under-represented in the legal profession based upon, but not limited to, disability, gender, age, familial status, race, ethnicity, religion, economic class, sexual orientation, gender identity and gender expression. Statewide geographic diversity and area of practice shall also be given consideration.

Adopted by the WSBA Board of Governors in March 2010.

MEMO

To: President Rajeev Majumdar and the Board of Governors

From: WSBA Diversity Committee

Date: March 17, 2021

Re: Proposal for the Board of Governors

The Diversity Committee respectfully submits its unanimous feedback in response to the Board of Governor's (BOG) proposed amendments to Article VI of the WSBA Bylaws. The Diversity Committee's primary purpose is to implement the [WSBA Diversity and Inclusion Plan](#), which outlines the WSBA's long standing philosophy and practice of "leading from the inside-out." This philosophy holds that a significant inward focus is the best foundation for impacting diversity, inclusion, and equity in the legal profession. In committing to a culture of inclusion and cultural competence within the BOG, we can then model the same with both credibility and integrity for the larger legal community.

The proposed bylaw amendments relate to the procedures, terms, and conditions for the election of the At Large Governor seats. As such, we feel particularly obligated to address our concerns about how this may impact the ultimate goal of ensuring diverse representation on the BOG. This also reflects upon the values and priorities around diversity, equity and inclusion as set forth in both our diversity plan and our inside-out philosophy.

The Diversity Committee believes that the current proposed revisions to the WSBA Bylaws would have a negative impact on the pipeline and ability of diverse candidates to run for and serve on the BOG whether through the election of the Governors from Congressional Districts that serve on the BOG or the Member At Large Governor positions.

From our membership study, we know that attracting and retaining diverse populations into the legal field requires meaningful and creative pipeline programs that are responsive to and mitigate against historical barriers. The purpose of the Member At Large Governor position was to address these very challenges. Its purpose recognized that there was a lack of diversity in the legal profession, which had as a collateral consequence, a lack of diversity in the leadership. We note that creating this delegated "Member At Large Governor" seat for the deliberate presence and participation of individuals from historically underrepresented or marginalized communities was not intended to exclude or create additional restrictions on any other means of obtaining a seat on the BOG. With consideration for the purpose and background of the "Member At Large Governor" seat, we strongly believe that the current proposed amendments to the WSBA Bylaws would negatively impact the pipeline of candidates from traditionally underrepresented communities to the BOG by restraining or limiting the means by which qualified diverse candidates may participate, and of course, does not honor the spirit or intent of the At Large Seat, nor is it consistent with the goal of increasing diversity within the BOG and the legal profession.

Furthermore, having a diverse body that serves on the BOG is tantamount to (a) the BOG representing and sharing diverse perspectives on the issues facing the members of the WSBA; (b) the BOG's commitment to equity and inclusion within the legal profession; and (c) a more thoughtful and impactful representation of the communities which the members serve. In essence, a credible bar association reflects the diversity of its membership.

Proposal:

Accordingly, the Diversity Committee hereby proposes an amendment to the WSBA Bylaws that would provide for the following:

(1) that the Member At Large Governor elections would occur after the conclusion of the elections for the Governors from Congressional Districts; and

(2) that a candidate running for election as a Governor in the Congressional Districts, should be not be precluded from running in the election for the Member At Large Governor positions.

Revisiting these provisions of the bylaws affords another opportunity for the BOG to recommit, by both words and actions, to its stated diversity, inclusion, and equity values. We ask that the BOG consider the Diversity Committee's perspective on the proposed amendments and advance the proposal we have provided above.

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Alec Stephens, At-Large Governor and Equity & Disparity Workgroup Chair
DATE: February 13, 2023
RE: Presentation on Equity & Disparity Workgroup Proposed Revision of GR12.2(c)

PRESENTATION & DISCUSSION: EQUITY & DISPARITY (E & D) WORKGROUP PROPOSED REVISION OF GR12.2(c)

The Equity & Disparity (E&D) Work Group was tasked with (1) reviewing rules, regulations, and laws related to the practice of law and administration of justice to identify ones that impede real justice and fairness and (2) propose solutions that mitigate harm caused by unjust rules and procedures to go before the BOG.

Attached is the proposal of the GR 12.2(c) Subcommittee of the E&D Work Group, which was adopted by the full Workgroup in December 2022. The Workgroup identified GR 12.2(c) as a regulation related to the practice of law and administration of justice that impedes real justice and fairness. The Workgroup offers the proposed solution for the BOG to consider and makes this presentation at the March 2023 BOG meeting for notice and intent to propose for Action as first read in May 2023, and final action on second read in July 2023. If the BOG approves the proposed change, it would be submitted to the Supreme Court for its consideration under its processes for proposed rules changes.

Background

In June of 2020 the Washington State Bar Association’s (WSBA or the Bar) Board of Governors (the BOG), created the Equity & Disparity Work Group (the E&D Work Group) “to reckon with the harsh reality that laws, policies, and procedures in place in the legal system have historically led to disparate and inequitable results that disproportionately harm people of color. Achieving equity is impossible without meaningful access to justice, which necessitates addressing historical harms and challenging laws that facilitate injustices. As active participants in these systems, legal professionals are morally obligated to disrupt these gaps in justice.”¹ The Washington Supreme Court’s June 4, 2020, open letter² further informs the work of the E&D Work Group and the obligations of all legal practitioners in Washington State.

With this background, the E&D Work Group was tasked with (1) reviewing rules, regulations, and laws related to the practice of law and administration of justice to identify ones that impede real justice and fairness and (2) propose solutions that mitigate harm caused by unjust rules and procedures to go before the BOG.

¹ See [Equity & Disparity Work Group \(wsba.org\)](https://www.wsba.org/equity-disparity-work-group)

² [Judiciary Legal Community SIGNED 060420.pdf \(wa.gov\)](https://www.wa.gov/courts/justice/judiciary-legal-community-signed-060420.pdf)

In summary is the proposal of the GR 12.2(c) Subcommittee of the E&D Work Group. As explained further below, the Subcommittee has identified GR 12.2(c) as a regulation related to the practice of law and administration of justice that impedes real justice and fairness. The Subcommittee offers the proposed solution below for the BOG to consider, with further discussion in the attached analytical statement.

GR 12.2(c) reads as follows:

- (c) Activities Not Authorized.** The Washington State Bar Association will not:
- (1) Take positions on issues concerning the politics or social positions of foreign nations;
 - (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or**
 - (3) Support or oppose, in an election, candidates for public office.

PROPOSED LANGUAGE CHANGE

The E&D Task Force GR 12.2(c) Subcommittee proposes that the language of this rule be changed as follows:

- (c) Activities Not Authorized.** The Washington State Bar Association will not:
- (1) Take positions on issues concerning the politics or social positions of foreign nations;
 - (2) Take positions ~~on political or social issues which do not relate to or affect the practice of law or the administration of justice~~ regulatory objectives of GR 12.1;**
 - (3) Support or oppose, in an election, candidates for public office.

Stakeholder Input

Outreach on the GR 12 Subcommittee proposal:

The GR 12 Subcommittee carried out the feedback gathering process intending to reach three groups: members of minority bar associations (MBAs), Sections, and WSBA committees and boards. Messaging and materials were tailored specifically to each of these three groups, which were reached in a couple different ways. The minority bar associations were reached through the WSBA Equity and Justice Team. Equity and Justice Specialist Saleena Salango (who interfaces regularly with the MBAs) pushed out the messaging and materials to all MBA leaders through a list serve. The Sections and WSBA committees and boards were reached through the inVEST framework, by tapping each staff liaison to reach out individually to their entity. It is estimated that the subcommittee reached out to approximately 70 groups.

Feedback was encouraged from individuals as well as from groups as a whole via a Microsoft form, which allowed for both simple yes/no answers and long-form comments. The GR 12 Subcommittee received feedback from 13 individuals and/or groups (14 responses total—one person responded twice). Responses on behalf of groups came from MAMA Seattle, the Practice of Law Board, and the Korean American Bar Association. Responses from individuals came from members of the Civil Rights Law Section, the Low Bono Section, the World Peace Through Law Section, the Board of Bar Examiners, the Court Rules and Procedures Committee, and the Committee on Professional Ethics. All feedback received is listed on the Excel spreadsheet following this page. The general theme of the feedback received was one of positivity and support of the proposed changes. Of the 13 pieces of feedback, 12 were in support and 1 was in opposition.

Lastly, the chair of the GR 12 Subcommittee, Laura Sierra, attended a DEI Council meeting to explain the subcommittee's proposed changes. This council had not had time to prepare feedback as a group prior to the requested deadline, and therefore asked the GR 12 Subcommittee chair to attend a meeting to allow for additional feedback and to answer any questions.

A record of those comments is included in the materials for this presentation.

Attachments

About the Equity & Disparity Workgroup from WSBA Website

Analytical Statement Proposing Revision to GR 12.2(c)

Summary of comments from Stakeholder outreach

WSBA RISK ANALYSIS: This section is to be completed by the Office of General Counsel, with input from the proposing entity or individual.

To be prepared for first read of the proposal at the May meeting of the Board of Governors.

WSBA FISCAL ANALYSIS: This section is to be completed by the Finance Department, with input from the proposing entity or individual.

To be prepared for first read of the proposal at the May meeting of the Board of Governors.

WSBA EQUITY ANALYSIS: This section is to be completed by the Equity and Justice Team, with input from the proposing entity or individual.

To be prepared for first read of the proposal at the May meeting of the Board of Governors.

Equity & Disparity Work Group

Responding to the murders of George Floyd, Breonna Taylor, Tony McDade, Charleena Lyles, Manuel Ellis, and countless others by police officers, the nationwide uprisings addressing virulent racism in the United States, as well as the COVID-19 pandemic and resulting economic devastation, the WSBA Board of Governors created the Equity & Disparity Work Group in June 2020.

On June 4, 2020, the Washington Supreme Court issued an open letter in response to many of these same events. The letter states, in part: “We call on every member of our legal community to reflect on this moment and ask ourselves how we may work together to eradicate racism.

The goal of the Equity & Disparity Work Group is to reckon with the harsh reality that laws, policies, and procedures in place in the legal system have historically led to disparate and inequitable results that disproportionately harm people of color. Achieving equity is impossible without meaningful access to justice, which necessitates addressing historical harms and challenging laws that facilitate injustices. As active participants in these systems, legal professionals are morally obligated to disrupt these gaps in justice.

The Equity & Disparity Work Group seeks to review rules, regulations, and laws related to the practice of law and administration of justice by identifying ones that impede real justice and fairness. The Equity & Disparity Work Group will then propose solutions that mitigate harm caused by unjust rules and procedures to go before the Board of Governors.

Work Group Structure and Timeline

Work Group Roster

Composition

Work Group Chair: Alec Stephens

Subcommittee Chairs:

- Laura Sierra (GR 12.2)
- Kim Sandher (Experiences of the Justice System)

The Equity & Disparity Work Group membership consists of legal professionals that represent marginalized communities in the profession, as well as in society. This Work Group seeks to amplify the experiences of people that are closest to the problems and allow for solutions that can effect positive change for the legal system.

Charter:

- Review the rules, regulations, and laws related to the practice of law and the administration of justice;

- Identify the ones that facilitate injustice;
- Solicit feedback from stakeholders, especially from marginalized communities; and
- Propose remedies that the WSBA can advance pursuant to its mandate in GR 12.2.

Timeline

- The Work Group will report to the Board of Governors every six months on its progress.
- The Work Group will submit final written majority and minority reports with recommendations for rule changes to the Board of Governors by no later than the Board's September 2022 meeting. [Extended by the Board of Governors to the March 2023 meeting.]
- The Work Group will prepare and submit any rule changes supported by the Board of Governors to the Washington Supreme Court per GR9 requirements.

Source: WSBA Website-- Home/Connect & Volunteer/**Committees, Boards & Other Groups**



WSBA

Washington State Bar Association

GENERAL RULE 12.1(C) PROPOSED ANALYTICAL STATEMENT

Submitted by the WSBA Equity & Disparity Subcommittee Agenda GR 12.2(c) Subcommittee
To the Board of Governors
March 2023

I. BACKGROUND

In June of 2020 the Washington State Bar Association’s (WSBA or the Bar) Board of Governors (the BOG), created the Equity & Disparity Work Group (the E&D Work Group) “to reckon with the harsh reality that laws, policies, and procedures in place in the legal system have historically led to disparate and inequitable results that disproportionately harm people of color. Achieving equity is impossible without meaningful access to justice, which necessitates addressing historical harms and challenging laws that facilitate injustices. As active participants in these systems, legal professionals are morally obligated to disrupt these gaps in justice.”¹ The Washington Supreme Court’s June 4, 2020 open letter² further informs the work of the E&D Work Group and the obligations of all legal practitioners in Washington State. Via this letter addressed to all members of the Washington Judiciary and Legal Community the Supreme Court made clear that it is an obligation of all WSBA members to:

[R]ecognize that we all bear responsibility for this on-going [racial systemic] injustice, and that we are capable of taking steps to address it, if only we have the courage and the will. The injustice still plaguing our country has its roots in the individual and collective actions of many, and it cannot be addressed without the individual and collective actions of us all.

[D]evelop a greater awareness of our own conscious and unconscious biases in order to make just decisions in individual cases, and we can administer justice

¹ See [Equity & Disparity Work Group \(wsba.org\)](https://www.wsba.org/equity-disparity-work-group)

² [Judiciary Legal Community SIGNED 060420.pdf \(wa.gov\)](https://www.wa.gov/judiciary-legal-community-signed-060420.pdf)

and support court rules in a way that brings greater racial justice to our system as a whole.

[R]ecognize the harms that are caused when meritorious claims go unaddressed due to systemic inequities or the lack of financial, personal, or systemic support. And we must also recognize that this is not how a justice system must operate. Too often in the legal profession, we feel bound by tradition and the way things have “always” been. We must remember that even the most venerable precedent must be struck down when it is incorrect and harmful.

With this background, the E&D Work Group was tasked with (1) reviewing rules, regulations, and laws related to the practice of law and administration of justice to identify ones that impede real justice and fairness and (2) propose solutions that mitigate harm caused by unjust rules and procedures to go before the BOG.

Below is the proposal of the GR 12.2(c) Subcommittee of the E&D Work Group. As explained further below, the Subcommittee has identified GR 12.2(c) as a regulation related to the practice of law and administration of justice that impedes real justice and fairness. The Subcommittee offers the proposed solution below for the BOG to consider.

II. AS WRITTEN AND INTERPRETED GR 12.2(c) IMPEDES REAL JUSTICE AND FAIRNESS TO THE PRACTICE OF LAW AND THE ADMINISTRATION OF JUSTICE.

As noted in the existing GR 12(C)³ Analytical Statement adopted by the BOG on 10/22/04, “the [WSBA] is frequently requested to take a position on political or social issues and/or proposed or pending legislation.” This always raises the question of whether, pursuant to GR 12.2, the WSBA is allowed to take a position on such matters. Specifically, GR 12.2(c) outlines activities of the bar association that are not authorized. While GR 12.2(c)(1) and (3) are straightforward, GR 12.2(c)(2) often raises questions.

GR 12.2(c) reads as follows:

- (c) Activities Not Authorized.** The Washington State Bar Association will not:
- (1) Take positions on issues concerning the politics or social positions of foreign nations;
 - (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice;** or
 - (3) Support or oppose, in an election, candidates for public office.

³ The 2004 Analytical Statement refers to General Rule 12(c), but the contents of that Rule have since been codified as General Rule 12.2(c).

This same prohibition is stated in Article I of the Bylaws of the WSBA. However, on its face, this prohibition appears to conflict with the general purposes of the Bar as set forth in GR 12.1 and GR 12.2 (a)-(b). Moreover, as currently interpreted, GR 12.2(c) affirmatively prevents any WSBA Section from doing exactly what the Supreme Court has demanded all WSBA members do in its open letter: take action on matters that inextricably implicate political or social justice issues. An individual member of the Bar who believes the Supreme Court’s directive to be purely “political” or “social” because they do not agree, for example, that systemic racism exists and affects the practice of law and the administration of justice can invoke GR 12.2(c) to impede the Supreme Court’s directive.

In addition, the work of certain sections are particularly susceptible to being viewed as “political” or “social” (e.g., Cannabis Law, Civil Rights Law, Criminal Law, Environmental and Land Use Law, Health Law, Indian Law, Juvenile Law, LGBT Law, etc.), which leaves those sections particularly vulnerable to being targeted as violating GR 12.2(c). Arguably, every section can be said to deal with “political” or “social” issues. Even corporate/business law affects a wide range of issues that are often viewed as “political” or “social” (such as fair and equitable taxation). But due to the subconsciously biased lens through which we tend to look at our various sections, business-oriented sections have much more freedom to comment on legislation and make public statements.

This memorandum proposes that (1) the WSBA BOG consider a revision to the wording in GR 12.1(c)(2) that more accurately and faithfully reflects the stated purposes of the WSBA as outlined in GR 12.2(a)-(b) and (2) revise its guidance on the limitations of GR 12.1(c)(2) that comports to the proposed new language which derives its approach from GR 12.1 and GR 12.2(a)-(b).⁴

III. PROPOSED LANGUAGE CHANGE

The E&D Task Force GR 12.2(c) Subcommittee proposes that the language of this rule be changed as follows:

- (c) Activities Not Authorized.** The Washington State Bar Association will not:
- (1) Take positions on issues concerning the politics or social positions of foreign nations;
 - (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice regulatory objectives of GR 12.1;**
 - (3) Support or oppose, in an election, candidates for public office.

The proposed change is simple:

⁴ Note that if accepted by the Supreme Court, the BOG will also have to amend Articles I.A. and I.B of the WSBA Bylaws, which mirrors the language of GR 12.2.

1. remove the phrase “on political or social issues” as this phrase creates
 - a. the perception that even if an issue affects the practice of law or the administration of justice, if it is in any way “political or [a] social issue” then WSBA cannot take a position on it; and
 - b. an unnecessary conflict between legitimate legal issues germane to the practice and regulating the legal profession and free speech given that WSBA offers a Keller exemption.⁵
2. Replace the phrase “practice of law or the administration of justice” with “regulatory objectives of GR 12.1” as this:
 - a. More accurately encompasses the Supreme Court’s and the Bar’s objectives in regulating the practice of law in Washington State; and
 - b. Removes the ambiguity of the phrase “administration of law” and “affect practice of law” as described in the existing GR 12(C) Analytical Statement adopted by the BOG on 10/22/04.

The Subcommittee suggests that this approach permits the Bar and its Sections to speak on, after obtaining the proper authorization from the Bar, issues that were outlined by the Supreme Court in its June 4, 2020 letter and which are essentially already contained in GR 12.1:

- (a) protection of the public;
- (b) advancement of the administration of justice and the rule of law;
- (c) meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems;
- (d) transparency regarding the nature and scope of legal services to be provided, the credentials of those who provide them, and the availability of regulatory protections;
- (e) delivery of affordable and accessible legal services;
- (f) efficient, competent, and ethical delivery of legal services;
- (g) protection of privileged and confidential information;
- (h) independence of professional judgment;

⁵ In *Keller v. State Bar of California*, the U.S. Supreme Court ruled that a bar association may not use mandatory member fees to support political or ideological activities that are not reasonably related to the regulation of the legal profession or improving the quality of legal services. WSBA is required to identify that portion of mandatory license fees that go to such “nonchargeable” activities and establish a system whereby objecting members may either deduct that portion of their fees or receive a refund. See <https://www.wsba.org/for-legal-professionals/license-renewal/keller-deduction>.

(i) accessible civil remedies for negligence and breach of other duties owed, disciplinary sanctions for misconduct, and advancement of appropriate preventive or wellness programs;

(j) diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

The Subcommittee believes that adopting the proposed changes results in greater harmonization of the WSBA's Bylaws, the General Rules, and the obligations of all legal practitioners in the State of Washington.

IV. THE PROPOSED CHANGES TO GR 12.2(c) ALSO RESULT IN GREATER CONSISTENCY WITH THE STATED PURPOSES LISTED IN ARTICLES I.A. AND I.B. OF THE WSBA BYLAWS.

Currently, GR 12.2(c) states that the WSBA, and by extension any Section of the WSBA will not “[t]ake positions on political or social issues which do not relate to or affect the practice of law or the administration of justice.” However, the language is inconsistent with the stated purposes of the Bar. Specifically, sections of GR 12.2, Purposes: In General, state that the Bar strives to, *inter alia*:

2. Promote an effective legal system, accessible to all.
3. Provide services to its members and the public.
6. Promote diversity and equality in the courts and the legal profession.
8. Administer programs of legal education.
9. Promote understanding of and respect for our legal system and the law.
11. Serve as a statewide voice to the public and to the branches of government on matters relating to these purposes and the activities of the organization and the legal profession.

All of the foregoing have the possibility of resulting in divided opinions amongst Bar members, for example: not all current Bar members agree on what an “effective legal system” or what an “accessible effective legal system” looks like – that does not make the issue a “political” or “social” one that the Bar cannot resolve. Indeed, to take such a position would lead to an absurd conclusion that neither the Bar nor any of its Sections could weigh in on any issue because there is a disagreement. Likewise, there is no question that the issue of “diversity and equality” is one that has resulted in much disagreement amongst Bar members. One need only look at the letters to the editor for the Bar News or listen in on discussions within the BOG and the Sections to conclude the same. Nonetheless “promoting diversity and equality in the courts and the legal profession” is clearly one of the Purposes enumerated by GR 12.2(a)(6)⁶ and as such, any efforts

⁶ By extension, it is also enumerated in the WSBA BOG's Bylaws.

to by the Bar or its Sections to speak on these matters should not be *per se* prohibited. As proposed, the new GR 12.2(c) language would achieve the goals set out in GR 12.2(a).

Likewise, as currently written, the language of GR 12.2(c) is inconsistent with sections of GR 12.2(b) Specific Activities Authorized, which state that the Bar may, *inter alia*:

1. Sponsor and maintain committees and sections whose activities further these purposes;
3. Provide periodic reviews and recommendations concerning court rules and procedures;
5. Inform and advise its members regarding their ethical obligations;
15. Disseminate information about the organization's activities, interests, and positions;
16. Monitor, report on, and advise public officials about matters of interest to the organization and the legal profession;
17. Maintain a legislative presence to inform members of new and proposed laws and to inform public officials about the organization's positions and concerns;
18. Encourage public service by members and support programs providing legal services to those in need;
19. Maintain and foster programs of public information and education about the law and the legal system;
21. Hire and retain employees to facilitate and support its mission, purposes, and activities, including in the organization's discretion, authorizing collective bargaining;

As with the analysis under GR 12.2(a), the proposed changes to GR 12.2(c) would result in a more internally consistent reading of the specific authorized activities of the Bar.

V. If the BOG and the Supreme Court Accept this Proposed Change, the BOG has the Authority to Amend the Bylaws to Ensure Consistency with the General Rules

It is well understood that as a general matter, bylaws must be internally consistent. If they are not, per Article XVI. Amendments, the BOG may amend the Bylaws, including those in Article I.C.(2), which forms the basis of GR 12.2(c), "at any regular meeting of the BOG, or at any special meeting of the BOG called for that purpose under the terms of the Bylaws." Accordingly, the BOG has the authority to amend the Bylaws as proposed by the GR 12.2(c) Subcommittee. See RCW 2.48.050; cf. *Parker Estates Homeowners Ass'n v. Pattison*, 197 Wn.

App. 1024, 2016 WL 7468226, at *1 (2016) (unpublished) (holding that a board of directors has the authority to amend bylaws).

ID	Start time	Completion time	Do you support or oppose the draft changes to GR 12.2(C)?	(Optional) Why do you support or oppose the draft changes to GR 12.2(C)?	(Optional) Do you have any additional feedback or questions you would like to share? If so, please include them below.	What is your name?	Can we contact you if we have questions about your feedback?	What group(s), if any, are you affiliated with?	Are you responding as an individual or on behalf of your group(s)?	If applicable, have you been authorized to respond on behalf of your group(s)?
2	10/10/22 16:09:26	10/10/22 16:10:32	Support	Fairness and equity - as needed everywhere wording needs review		Miryam Gordon	Yes	Diversity Council, Low Bono Section	Individual	No
3	10/11/22 8:04:54	10/11/22 8:12:02	Support	Proposed amendment gives clarity, protects civil rights work, protects US Constitution	None. Excellent work. Framing GR12 within the regulation and mission of the WSBA is consistent. Personally, I have found GR12 (w/out amendment) a major obstacle in educating members of the Bar on legislative issues and current constitutional issues. This amendment will provide the clarity all members seek.	Molly P. Matter	Yes	Civil Rights Law Section, World Peace thru Law Section. I am a private human rights/voting rights attorney.	Individual	
4	10/11/22 9:09:36	10/11/22 9:11:19	Support	The Civil Rights Section has historically been constrained in what positions it can take and it is counterproductive to our collective voice as advocates.		Cameron Sheldon	Yes	Civil Rights Law Section	Individual	No
5	10/27/22 11:24:23	10/27/22 11:24:55	Support			Erin Jacobson	Yes		Individual	
6	10/27/22 11:51:58	10/27/22 11:54:27	Oppose	It feels like away for the WSBA to take positions on policy issues outside the administration of the courts or lawyers in the state.		Michael Farrell	Yes	Board of Law Examiners	Individual	No
7	10/27/22 15:10:36	10/27/22 15:18:23	Support			Ramina Dehkhoda-Steele	Yes		Individual	NA
8	10/27/22 15:10:23	10/27/22 15:23:02	Support	I agree that the proposed changes are more consistent with GR 12.1 as well as the SC's June 2020 letter, and helps to avoid the contradictions and impediments to justice caused by the current version of GR 12.2(c).		Min Kang	Yes	KABA Washington	Individual	N/A
9	10/31/22 13:18:40	10/31/22 13:19:55	Support	I support the amendment for the reasons set forth in the analytical statement.		Coreen Wilson	Yes	WSBA Court Rules and Procedures Committee and Subcommittee X	Individual	
10	10/31/22 15:12:26	10/31/22 15:13:27	Support	This seems to properly align all the issues as described by the work group.		Miryam Gordon	Yes	Diversity Council, Low Bono Section	Individual	No
11	11/1/22 16:14:08	11/1/22 19:33:42	Support	The analysis in the memo is compelling.		Lucinda Fernald	Yes	Committee on Professional Ethics	Individual	Not applicable
12	11/9/22 16:22:58	11/9/22 16:27:19	Support	MAMA Seattle supports furthering the Washington State Supreme Court's objectives as set forth in its June 4, 2020 letter.		Amy Klosterman	Yes	MAMA Seattle	On behalf of my group	Yes
13	11/10/22 11:38:08	11/10/22 11:40:34	Support		I am not sure why this change is strictly necessary based on the analytical statement alone; doesn't the clause "which do not relate to or affect the practice of law or the administration of justice" provide a hook for argument that the WSBA can take positions on certain political or social issues?	Michelle Maley	Yes	WSBA Rules Committee	Individual	
14	11/11/22 12:55:14	11/11/22 12:57:56	Support	KABA's mission is to serve the Korean, Korean American, and legal communities as a resource and a proponent of the interests, causes, and issues that are important for these communities and that may not get the attention or care that they otherwise deserve. In its early days, one of KABA's major purposes was to simply connect Korean-American attorneys with one another. <i>See document attached for full response.</i>		KABA	Yes	KABA (Korean American Bar Association of Washington)	On behalf of my group	Yes



February 13, 2023

Dear WSBA Board of Governors and Equity and Disparity Workgroup:

The Diversity Equity and Inclusion (DEI) Council of the Washington State Bar Association endorses the thoughtful intentional work of the Equity and Disparity Workgroup and wholeheartedly endorses the rule change proposal that is before the Board and the Court.

The Washington State Supreme Court took a tremendous step in addressing DEI issues by enshrining a commitment to diversity in GR 12.2(a)(6) which states that one of the purposes of WSBA as an organization is to strive *“to promote diversity and equality in the legal profession.”*

The enactment of GR 12.2(a)(6) provided solid foundational underpinnings for WSBA to be able to proactively foster and maintain a more inclusive, diverse, legal profession in the State of Washington. It is the DEI Council’s position that DEI advancement work, in this regard, is not just the work of the WSBA DEI Council and the Equity and Justice team staff at WSBA. It is, rather, and should be, the continuing work of all within the collective organizational sphere of WSBA, including the Board of Governors (BOG), the Court-appointed Boards, the Committees, Councils, and other BOG related entities. Because this work is so important, it is critical that our General Rules be clear, unambiguous, and consistent with each other.

GR 12.2(c)(2) provides that WSBA should *“not take political or social positions that do not relate to or affect the practice of law or administration of justice.”*

This rule is often interpreted and used by opponents of DEI initiatives to challenge WSBA’s ability to fulfill the purpose of promoting equality and diversity as expressly stated in GR 12.2(a)(6). We often hear comments that 1) DEI issues are inherently political and /or social or ideological, 2) that these issues are not within the appropriate purview of the Bar, and that 3) a commitment to DEI leaves our Bar open to constitutional challenges based on freedom of speech and freedom of association.

It is difficult to maintain a stance that DEI issues are not political or social and because of that, GR 12.2 (c)(2) and GR 12.2(a)(6) seem to be at odds. The proposed rule change suggested by the Equity

and Disparity Workgroup provides an elegant solution to the problem of these two potentially conflicting rules.

By removing the prohibition on the Bar from “taking political and social positions” in *GR 12.2 (c)(2)* and rewording it to state instead that “the Bar shall not take positions which do not relate to or affect the regulatory purposes of GR 12(1)”, the Bar will be able to continue to support and promote diversity as part of its regulatory mandate. GR12(1) includes but is not limited to the protection of the public, as well as the advancement of the administration of justice. It is the DEI Council’s position that the promotion of diversity, equity, and inclusion both protects the public and advances the administration of justice. DEI efforts by the Bar to attempt to remediate biased and unjust aspects of our system of justice can only ameliorate the administration of justice as inequity and bias negatively impact both the public and Washington’s system of justice as a whole.

Without straying too far into the weeds of constitutional case law relating to bar associations and permissible germane activities, per the Keller test, we believe that the Texas case of McDonald v Longley, 4 F.4th 229 (5th Cir. 2021), is instructive. In that case, the Fifth Circuit Court, citing Keller, held that the Texas Bar’s diversity initiatives whose purpose is to create “...a fair and equal legal profession for minority, women, and LGBT attorneys,” is germane to the practice of law and thus permissible. (*McDonald* at 249). The Court further agreed that another legitimate purpose served by the Bar’s diversity initiatives was “to help build and maintain the public’s trust in the legal profession and the judicial process as a whole.” (*McDonald* at 250)

We submit that the proposed rule change to GR 12 will serve to resolve the inconsistencies between the rules with respect to diversity and will further the Associations’ mission to attend to the administration of justice and to protect the public.

Respectfully submitted by Sunitha Anjilvel Co-Chair on behalf to the WSBA Diversity Council.

TO: WSBA Board of Governors
CC: Terra Nevitt, Executive Director
FROM: Governor Alec Stephens, on behalf of the Personnel Committee
DATE: February 15, 2023
RE: Executive Director’s Annual Evaluation – Process for Executive Session and Results Sharing

DISCUSSION & ACTION: To get approval from the Board of Governors (BOG) on the Personnel’s Committee’s plan for the discussion of the Executive Director’s evaluation

The Executive Director’s performance evaluation for review period January 1, 2021 – September 30, 2022 is complete. The final report was compiled by the FIT HR Consultant and it was reviewed by the Personnel Committee on February 10, 2023.

The Personnel Committee proposes the following process for discussing the results of the evaluation amongst themselves and with the Executive Director:

- The final report and any response from Executive Director Nevitt will be shared with all of the current and former Board members who were invited to participate in the survey.
- The document will be shared with current and former Board members who were invited to participate in the survey.
 - o It will be sent as a confidential document to current Board Members via BOX per standard process.
 - o It will be sent as a confidential, read-only file to former Board Members via BOX and will be available to them until March 7, 2023.

Per [WSBA bylaws](#) (Section VII, B-7), *“Executive Session of the BOG may proceed with no persons present except the President, President-elect, Immediate Past President, Governors, Executive Director, General Counsel, and such other persons as the BOG may authorize on a case by case basis”*

The Personnel Committee is proposing the March 4, 2023 Executive Session of the BOG include:

- o Current Board members and Officers
- o WSBA General Counsel, Julie Shankland
- o WSBA HR Director, Glynnis Klinefelter Sio
- o WSBA Executive Director, Terra Nevitt – who will be invited to join in the second half of Executive Session

The results of the report, including overall scores, comments, and the Executive Director’s response will be discussed in Executive Session only. Nothing discussed in Executive Session will be shared in public session.

TO: President Daniel Clark and the WSBA Board of Governors

FROM: Committee on Professional Ethics

DATE: December 21, 2022

RE: Proposed Amendments to RPC 1.5(e)(2), 5.4, and 7.3

FIRST READING: Suggested Amendments to RPC 1.5(e)(2); 5.4 and 7.3

Suggested Rule Amendments and Recommendations

The Committee on Professional Ethics (CPE) is recommending that the Board of Governors (BOG) submit suggested amendments to the Rules of Professional Conduct (RPC) for consideration by the Washington State Supreme Court (WSSC). The suggested amendments are attached as Exhibits A-C. These amendments are intended to clarify when a lawyer may pay the usual charges of a legal services plan or share a portion of a fee with a lawyer referral service. The rationale for such an amendment is that it would increase access to legal services since many lawyer referral services are not-for-profit entities which serve underrepresented populations, including populations with limited language proficiency.

By way of background, this issue of paying charges for a legal services plan or fee sharing with a lawyer referral service was analyzed by the CPE in 2019-20. Based on the CPE's recommendation, the Board of Governors approved and subsequently submitted suggested amendments to the WSSC affecting RPCs 1.5(e), 5.4, and 7.2. The WSSC published the rules for comment on November 6, 2020. Exhibit D. However, while that proposal was pending, on January 8, 2021, the WSSC adopted sweeping revisions to RPC Title 7, concerning advertising and solicitation. Exhibit E.

When the WSSC adopted the 2021 amendments to RPC Title 7, it maintained in amended RPC 7.3(b)(2) and Comment 15 the preexisting concept that a lawyer may pay the charges of a legal services plan or share a fee with certain lawyer referral services. However, the WSSC did not act on the BOG's pending proposal to allow lawyers to share a *portion or percentage* of a fee with lawyer referral services that have qualified for 501(c)(3) treatment under the Internal Revenue Code or are registered under the Washington State Nonprofit Corporation Act. The BOG subsequently withdrew the 2020 proposal relating to fee sharing with lawyer referral services for further consideration in light of the Title 7 amendments.

The CPE continues to believe that such additional language would serve the public by providing additional alternatives for referral services and practitioners.

Additionally, the 2021 revisions to RPC 7.3 did not address a confusing reference in RPC 1.5(e)(2) to "a duly authorized lawyer referral service of either the Washington State Bar Association" or one of the county bar associations of this state."

Redlined and clean versions of the suggested rules are attached for your consideration.

Attachments:

- Exhibit A: Suggested Amendments to RPC 7.3, relined and clean versions
- Exhibit B: Suggested Amendment to RPC 5.4, redlined and clean versions
- Exhibit C: Suggested Amendment to RPC 1.5, redlined and clean versions
- Exhibit D: WSSC Order No. 25700-A-1320 dated November 6, 2020
- Exhibit E: WSSC Order No.25700-A-1333 dated January 8, 2021

WSBA RISK ANALYSIS:

Requested Action: Approve sending the following RPC changes to the Washington Supreme Court for consideration.

RPC 1.5(e)(2): Delete confusing language from the rule relating to WSBA authorized referral services. WSBA does not authorize referral services. The Board previously approved this language in 2020. A few [comments](#) were posted in 2020, but none of them expressed concerns in deleting this confusing language.

RPC 5.4: Add language clarifying that RPC 5.4 and RPC 7.3(b)(2) must be read together and do, under specific circumstances, allow sharing a fee with referral services meeting the requirements listed in RPC 7.3.

RPC 7.3: Add clarifying language specifically authorizing fee sharing with a referral service meeting one of these 3 criteria: (1) qualified under Section 501 of the Internal Revenue Code or Washington’s Nonprofit Corporations Act; (2) sponsored by a non-profit organization, or (3) authorized by a court under Rule 6.5(a). Related language is also added to RPC 7.3 comment 15. RPC 7.3 already contained language permitting lawyers to pay the usual charges of a legal service plan. The change adds the specific language “and share a fee, including a portion or percentage of a fee” along with the list of qualifications required for the legal service plans or lawyer referral services. A few [comments](#) were posted in 2020. Some of the comments expressed concerns about the concept of sharing legal fees with lawyer referral services, even those organized as not for profit entities.

Legal Risks

Proposing changes to the RPCs is germane to the purposes of the integrated bar and supported by GR 12.1 and 12.2. The legal risks in approving these changes for submission to the Court appear to be minimal.

WSBA FISCAL ANALYSIS:

The fiscal impact of the proposed changes to the WSBA is limited to the amount of staff time to support the process of bringing these rule changes forward to the Washington State Supreme Court. The staff time that would be allocated to this work is included in the overall duties of existing WSBA staff and would not require additional staff or allocation of resources from other internal sources.

WSBA EQUITY ANALYSIS:

It appears that the proposed change is intended to increase access to justice by making clear that nonprofit lawyer referral service organizations can share a fee with the lawyer receiving the referral. Without having more specific

information like perspectives or input from marginalized communities who might be ultimately impacted by this change, it is difficult to do an equity analysis. Based on the information provided, if the proposed change will increase access to affordable legal services for client communities who are marginalized, conceivably equity will be advanced by removing barriers to legal services.

EXHIBIT A
SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE [7] – [INFORMATION ABOUT LEGAL SERVICES]

1 **RPC [7.3] [SOLICITATION OF CLIENTS]**

2 (a) A lawyer may solicit professional employment unless:

3 (1) the solicitation is false or misleading;

4 (2) the lawyer knows or reasonably should know that the physical,
5 emotional, or mental state of the subject of the solicitation is such that the person
6 could not exercise reasonable judgment in employing a lawyer;

7 (3) the subject of the solicitation has made known to the lawyer a desire
8 not to be solicited by the lawyer; or

9 (4) the solicitation involves coercion, duress, or harassment.

10 (b) A lawyer shall not compensate, or give or promise anything of value to, a
11 person who is not an employee or lawyer in the same law firm for the purpose of
12 recommending or securing the services of the lawyer or law firm, except that a
13 lawyer may:

14 (1) pay the reasonable cost of advertisements or communications
15 permitted by RPC 7.1, including online group advertising;

16 (2) pay the usual charges of a legal service plan or a not-for-profit lawyer
17 referral service and share a fee, including a portion or percentage of a fee, with
18 a not-for-profit lawyer referral service that qualifies under Section 501 of the
19 Internal Revenue Code or Washington's Nonprofit Corporation Act, or is a
20 program sponsored by a non-profit organization or a court as authorized under
21 Rule 6.5(a);

22 (3) pay for a law practice in accordance with RPC 1.17;

23 (4) refer clients to another lawyer or LLLT or other nonlawyer professional
24 pursuant to an agreement not otherwise prohibited under these Rules that
25 provides for the other person to refer clients or customers to the lawyer, if: (i) the
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EXHIBIT A
SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE [7] – [INFORMATION ABOUT LEGAL SERVICES]

1 reciprocal referral agreement is not exclusive, and (ii) the client is informed of the
2 existence and nature of the agreement;

3 (5) give nominal gifts that are neither intended nor reasonably expected to
4 be a form of compensation for recommending a lawyer’s services.

5 (c) [Reserved.]

6 (d) [Reserved.]

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8 Comment

9 [15] A lawyer may pay the usual charges of a legal service plan or a not-for-profit
10 lawyer referral service. A “legal service plan” is a prepaid or group legal service
11 plan or a similar delivery system that assists people who seek to secure legal
12 representation. A “lawyer referral service,” on the other hand, is any individual or
13 entity that operates for the direct or indirect purpose of referring potential clients
14 to lawyers, regardless of whether the term “referral service” is used. The “usual
15 charges” of a legal service plan or not-for-profit lawyer referral service are fees
16 that are openly promulgated and uniformly applied. Not-for-profit lawyer referral
17 services are understood by the public to be consumer-oriented organizations that
18 provide unbiased referrals to lawyers with appropriate experience in the subject
19 matter of the representation and afford other client protections, such as complaint
20 procedures or malpractice insurance requirements. A lawyer also may share a
21 fee, including a portion or percentage of a fee, in exchange for a referral from
22 not-for-profit lawyer referral services, because these services help to facilitate
23 access to justice and, if they operate under Section 501 of the Internal Revenue
24 Code or the Washington Nonprofit Corporation Act, the service will use the fee
25 only to defray reasonable operating costs. The fee paid by a client who is
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**EXHIBIT A
SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT**

TITLE [7] – [INFORMATION ABOUT LEGAL SERVICES]

1 referred by the service, however, should not exceed the total charges that the
2 client would have paid if the lawyer referral was not involved.
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EXHIBIT A
SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT
TITLE [7] – [INFORMATION ABOUT LEGAL SERVICES]

RPC [7.3] [SOLICITATION OF CLIENTS]

(a) A lawyer may solicit professional employment unless:

(1) the solicitation is false or misleading;

(2) the lawyer knows or reasonably should know that the physical, emotional, or mental state of the subject of the solicitation is such that the person could not exercise reasonable judgment in employing a lawyer;

(3) the subject of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or

(4) the solicitation involves coercion, duress, or harassment.

(b) A lawyer shall not compensate, or give or promise anything of value to, a person who is not an employee or lawyer in the same law firm for the purpose of recommending or securing the services of the lawyer or law firm, except that a lawyer may:

(1) pay the reasonable cost of advertisements or communications permitted by RPC 7.1, including online group advertising;

(2) pay the usual charges of a legal service plan or a not-for-profit lawyer referral service and share a fee, including a portion or percentage of a fee, with a not-for-profit lawyer referral service that qualifies under Section 501 of the Internal Revenue Code or Washington's Nonprofit Corporation Act, or is a program sponsored by a non-profit organization or a court as authorized under Rule 6.5(a);

(3) pay for a law practice in accordance with RPC 1.17;

(4) refer clients to another lawyer or LLLT or other nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if: (i) the

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EXHIBIT A
SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT
TITLE [7] – [INFORMATION ABOUT LEGAL SERVICES]

1 reciprocal referral agreement is not exclusive, and (ii) the client is informed of the
2 existence and nature of the agreement;

3 (5) give nominal gifts that are neither intended nor reasonably expected to
4 be a form of compensation for recommending a lawyer’s services.

5 (c) [Reserved.]

6 (d) [Reserved.]

7
8 Comment

9 [15] A lawyer may pay the usual charges of a legal service plan or a not-for-profit
10 lawyer referral service. A “legal service plan” is a prepaid or group legal service
11 plan or a similar delivery system that assists people who seek to secure legal
12 representation. A “lawyer referral service,” on the other hand, is any individual or
13 entity that operates for the direct or indirect purpose of referring potential clients
14 to lawyers, regardless of whether the term “referral service” is used. The “usual
15 charges” of a legal service plan or not-for-profit lawyer referral service are fees
16 that are openly promulgated and uniformly applied. Not-for-profit lawyer referral
17 services are understood by the public to be consumer-oriented organizations that
18 provide unbiased referrals to lawyers with appropriate experience in the subject
19 matter of the representation and afford other client protections, such as complaint
20 procedures or malpractice insurance requirements. A lawyer also may share a
21 fee, including a portion or percentage of a fee, in exchange for a referral from
22 not-for-profit lawyer referral services, because these services help to facilitate
23 access to justice and, if they operate under Section 501 of the Internal Revenue
24 Code or the Washington Nonprofit Corporation Act, the service will use the fee
25 only to defray reasonable operating costs. The fee paid by a client who is
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EXHIBIT A
SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT
TITLE [7] – [INFORMATION ABOUT LEGAL SERVICES]

1 referred by the service, however, should not exceed the total charges that the
2 client would have paid if the lawyer referral was not involved.
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EXHIBIT B

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE [5] – [LAW FIRMS AND ASSOCIATIONS]

RPC [5.4] [PROFESSIONAL INDEPENDENCE OF A LAWYER]

Additional Washington Comment (~~3-4-3-5~~)

[3] Paragraph (a)(5) was taken from former Washington RPC 5.4(a)(2).

[4] Notwithstanding Rule 5.4, lawyers and LLLTs may share fees and form business structures to the extent permitted by Rule 5.9.

[5] Notwithstanding Rule 5.4, there are circumstances when a lawyer can share a fee with a not-for-profit lawyer referral service. See Rule 7.3(b)(2) and Comment 15.

EXHIBIT B

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE [5] – [LAW FIRMS AND ASSOCIATIONS]

RPC [5.4] [PROFESSIONAL INDEPENDENCE OF A LAWYER]

Additional Washington Comment (3- 5)

[3] Paragraph (a)(5) was taken from former Washington RPC 5.4(a)(2).

[4] Notwithstanding Rule 5.4, lawyers and LLLTs may share fees and form business structures to the extent permitted by Rule 5.9.

[5] Notwithstanding Rule 5.4, there are circumstances when a lawyer can share a fee with a not-for-profit lawyer referral service. See Rule 7.3(b)(2) and Comment 15.

EXHIBIT C

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE [1] – [CLIENT LAWYER RELATIONSHIP]

1 **RPC [1.5] [FEES]**

2 (e) A division of a fee between lawyers who are not in the same firm may be
3 made only if:

4 (1)(i) The division is in proportion to the services provided by each lawyer
5 or each lawyer assumes responsibility for the representation;

6 (ii)(2) The client agrees to the arrangement, including the share each
7 lawyer will receive, and the agreement is confirmed in writing; and

8 (iii)(3) The total fee is reasonable.

9 ~~(2) the division is between the lawyer and a duly authorized lawyer~~
10 ~~referral service of either the Washington State Bar Association or one of the~~
11 ~~county bar associates of this state.~~

EXHIBIT C

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE [1] – [CLIENT LAWYER RELATIONSHIP]

RPC [1.5] [FEES]

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

- (1) The division is in proportion to the services provided by each lawyer or each lawyer assumes responsibility for the representation;
- (2) The client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and
- (3) The total fee is reasonable.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED)
AMENDMENTS TO RPC 7.2—ADVERTISING,)
WASHINGTON REVISION COMMENT [6], RPC)
5.4 NEW ADDITIONAL WASHINGTON)
COMMENT [5]—PROFESSIONAL)
INDEPENDENCE OF A LAWYER, AND RPC 1.5—)
FEES)
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ORDER

NO. 25700-A- 1320

The Washington State Bar Association Board of Governors, having recommended the suggested amendments to RPC 7.2—Advertising, Washington revision comment [6], RPC 5.4 new additional Washington comment [5]—Professional Independence of a Lawyer, and RPC 1.5—Fees, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

ORDERED:

- (a) That pursuant to the provisions of GR 9(g), the suggested amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in January 2021.
- (b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.
- (c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than April 30, 2021. Comments may be sent to the following

Page 2
ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO RPC 7.2—ADVERTISING,
WASHINGTON REVISION COMMENT [6], RPC 5.4 NEW ADDITIONAL WASHINGTON
COMMENT [5]—PROFESSIONAL INDEPENDENCE OF A LAWYER, AND RPC 1.5—
FEES

addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov.

Comments submitted by e-mail message must be limited to 1500 words.

DATED at Olympia, Washington this 6th day of November, 2020.

For the Court



CHIEF JUSTICE

GR 9 COVER SHEET

**Suggested Amendments to
THE RULES OF PROFESSIONAL CONDUCT (RPC)
Rule 7.2(b)(2), Comment [6] to Rule 7.2,
Comment [5] to Rule 5.4, and Rule 1.5(e)(2)**

Submitted by the Board of Governors of the Washington State Bar Association

A. Name of Proponent: Washington State Bar Association

B. Spokespersons:

Rajeev D. Majumdar, President
Washington State Bar Association
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 214-5177

Jeanne Marie Clavere, Professional Responsibility Counsel
Washington State Bar Association
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 727-8298

C. Purpose:

The purpose of this proposal is to authorize not-for-profit qualified lawyer referral service organizations, including bar associations, to be paid a portion of a lawyer's fee.

RPC 1.5(e)(2) states "a division of a fee between lawyers who are not in the same firm may be made only if: [...] (2) the division is between the lawyer and a duly authorized lawyer referral service of either the Washington State Bar Association or one of the county bar associates of this state."

In 2012, the WSBA RPC Committee interpreted the "duly authorized" language to mean "some kind of affirmative approval by the Washington Bar Association, or by one of the county bar associations of this state." The opinion added that "This committee does not have the power to grant such approval, and it does not have any special insights to offer the inquirer on how to obtain such approval." WSBA Ethics Advisory Op. 2227 (2012).

The WSBA does not have and never has had any mechanism in place to “authorize” lawyer referral services, and we surmise there is little interest within the WSBA to process such requests. Representatives of Spokane, Pierce and King County Bar Associations have advised they have no such mechanism.

The WSBA Committee on Professional Ethics proposes: 1) deletion of RPC 1.5(e)(2) and, 2) relocation of the authority for lawyers to work with lawyer referral services to RPC 7.2.

The committee proposes amending RPC 7.2 as follows:

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may

(1) pay the reasonable cost of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a legal service plan or a not-for-profit lawyer referral service, and share a fee with a not-for-profit lawyer referral service that qualifies under Section 501 of the Internal Revenue Code or Washington’s Nonprofit Corporation Act, or is a program sponsored by a non-profit organization or a court as authorized under Rule 6.5(a);

(3)

The committee proposes amending Comment [6] to RPC 7.2:

[6] **[Washington revision]** A lawyer may pay the usual charges of a legal service plan or a not-for-profit lawyer referral service. A “legal service plan” is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. A “lawyer referral service,” on the other hand, is any individual or entity that operates for the direct or indirect purpose of referring potential clients to lawyers, regardless of whether the term “referral service” is used. ~~organization that holds itself out to the public as a lawyer referral service. Such referral services~~ Not-for-profit lawyer referral services are understood by the public to be consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. ~~Consequently, this Rule only permits a lawyer to pay the usual charges of~~

a not-for-profit lawyer referral service. The “usual charges” of a legal services plan or not-for-profit lawyer referral service are fees that are openly promulgated and uniformly applied. A lawyer also may share a percentage of a fee in exchange for a referral from not-for-profit lawyer referral services, because these services help to facilitate access to justice and, if they operate under Section 501 of the Internal Revenue Code or the Washington Nonprofit Corporation Act, will use the fee only to defray reasonable operating costs. The fee paid by a client who is referred by the service, however, should not exceed the total charges that the client would have paid if the lawyer referral service was not involved.

The language of this comment draws on both comment [15] to proposed RPC 7.3(b)(2), as part of the proposed revisions to Title 7 of the RPC (November 2018 proposed rules published for comment), and Arizona RPC 7.2(b)(2).

Third, the committee further proposes new Washington Comment [5] to RPC 5.4 (Professional Independence of a Lawyer) that cross-references proposed RPC 7.2(b)(2).

RPC 5.4:

.....

Additional Washington Comments (3-45)

[3] Paragraph (a)(5) was taken from former Washington RPC 5.4(a)(2).

[4] Notwithstanding Rule 5.4, lawyers and LLLTs may share fees and form business structures to the extent permitted by Rule 5.9.

[5] For circumstances when a lawyer can share a fee with a not-for-profit lawyer referral service, See Rule 7.2(b)(2).

D. Hearing:

None is requested.

E. Expedited Consideration:

None is requested.

F. Supporting Material:

- RPC 1.5(e) - Redline
- RPC 7.2(b) – Redline
- RPC 5.4 – Redline

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

RPC 7.2 ADVERTISING

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RPC 7.2

(a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may

(1) pay the reasonable cost of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a legal service plan or a not-for-profit lawyer referral service, and share a fee with a not-for-profit lawyer referral service that qualifies under Section 501 of the Internal Revenue Code or Washington's Nonprofit Corporation Act, or is a program sponsored by a non-profit organization or a court as authorized under Rule 6.5(a);

(3) pay for a law practice in accordance with Rule 1.17; and

(4) refer clients to another lawyer or LLLT pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if

(i) the reciprocal referral agreement is not exclusive, and

(ii) the client is informed of the existence and nature of the agreement.

(c) Any communication made pursuant to this Rule shall include the name and office address of at least one lawyer or law firm responsible for its content.

Comment

[1] – [5] Unchanged.

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT
RPC 7.2 ADVERTISING

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2 [6] [Washington revision] A lawyer may pay the usual charges of a legal
3 service plan or a not-for-profit lawyer referral service. A “legal service plan” is a
4 prepaid or group legal service plan or a similar delivery system that assists people
5 who seek to secure legal representation. A “lawyer referral service,” on the other
6 hand, is any individual or entity that operates for the direct or indirect purpose of
7 referring potential clients to lawyers, regardless of whether the term “referral service”
8 is used. ~~organization that holds itself out to the public as a lawyer referral service.~~
9 ~~Such referral services~~ Not-for-profit lawyer referral services are understood by the
10 public to be consumer-oriented organizations that provide unbiased referrals to
11 lawyers with appropriate experience in the subject matter of the representation and
12 afford other client protections, such as complaint procedures or malpractice
13 insurance requirements. ~~Consequently, this Rule only permits a lawyer to pay the~~
14 ~~usual charges of a not-for-profit lawyer referral service.~~ The “usual charges” of a
15 legal services plan or not-for-profit lawyer referral service are fees that are openly
16 promulgated and uniformly applied. A lawyer also may share a percentage of a fee
17 in exchange for a referral from not-for-profit lawyer referral services, because these
18 services help to facilitate access to justice and, if they operate under Section 501 of
19 the Internal Revenue Code or the Washington Nonprofit Corporation Act, will use the
20 fee only to defray reasonable operating costs. The fee paid by a client who is
21 referred by the service, however, should not exceed the total charges that the client
22 would have paid if the lawyer referral service was not involved.
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SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

RPC 5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER

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RPC 5.4

(a) – (d) Unchanged.

Comment

[1] – [2] Unchanged.

Additional Washington Comments (3-45)

[3] Paragraph (a)(5) was taken from former Washington RPC 5.4(a)(2).

[4] Notwithstanding Rule 5.4, lawyers and LLLTs may share fees and form business structures to the extent permitted by Rule 5.9.

[5] For circumstances when a lawyer can share a fee with a not-for-profit lawyer referral service, see Rule 7.2(b)(2).

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

RPC 1.5 FEES

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RPC 1.5

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

(1) ~~(i)~~ the division is in proportion to the services provided by each lawyer or each lawyer assumes joint responsibility for the representation;

(2) ~~(ii)~~ the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and

(3) ~~(iii)~~ the total fee is reasonable; ~~or~~

~~(2) the division is between the lawyer and a duly authorized lawyer referral service of either the Washington State Bar Association or of one of the county bar associations of this state.~~

FILED
SUPREME COURT
STATE OF WASHINGTON
JANUARY 8, 2021
BY SUSAN L. CARLSON
CLERK

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED
AMENDMENTS TO RULES OF PROFESSIONAL
CONDUCT (RPC) 5.5—UNAUTHORIZED
PRACTICE OF LAW; MULTIJURISDICTIONAL
PRACTICE OF LAW; RPC 7.1—
COMMUNICATIONS CONCERNING A
LAWYER’S SERVICES; RPC 7.2—ADVERTISING
RESERVED; RPC 7.3—SOLICITATION OF
CLIENTS; RPC 7.4—COMMUNICATION OF
FIELDS OF PRACTICE AND
SPECIALIZATIONRESERVED; RPC 7.5—FIRM
NAME AND LETTERHEADS RESERVED

ORDER

NO. 25700-A-1333

The Washington State Bar Association, having recommended the adoption of the proposed amendments to Rules of Professional Conduct (RPC) 5.5—Unauthorized Practice of Law; Multijurisdictional Practice of Law; RPC 7.1—Communications Concerning a Lawyer’s Services; RPC 7.2—~~Advertising~~ Reserved; RPC 7.3—Solicitation of Clients; RPC 7.4—~~Communication of Fields of Practice and Specialization~~ Reserved; RPC 7.5—~~Firm Name and Letterheads~~ Reserved, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT (RPC) 5.5—UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW; RPC 7.1—COMMUNICATIONS CONCERNING A LAWYER’S SERVICES; RPC 7.2—~~ADVERTISING RESERVED~~; RPC 7.3—SOLICITATION OF CLIENTS; RPC 7.4—~~COMMUNICATION OF FIELDS OF PRACTICE AND SPECIALIZATION RESERVED~~; RPC 7.5—~~FIRM NAME AND LETTERHEADS RESERVED~~

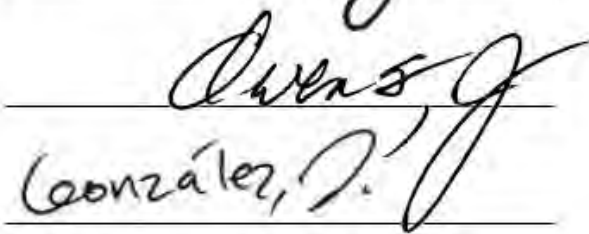
ORDERED:

- (a) That the proposed amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the proposed amendments will be expeditiously published in the Washington Reports and will become effective upon publication.

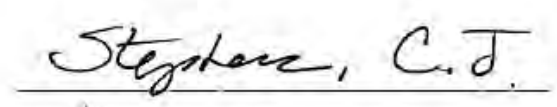
DATED at Olympia, Washington this 8th day of January, 2021.



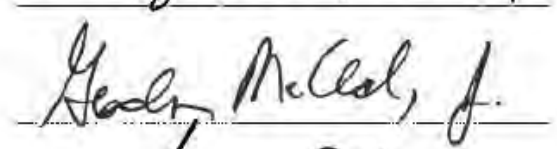
Madsen, J.



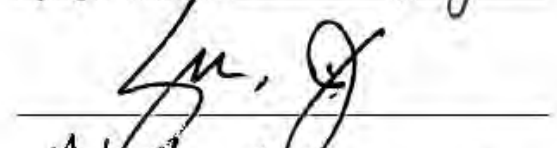
Gonzalez, J.




Stephens, C. J.



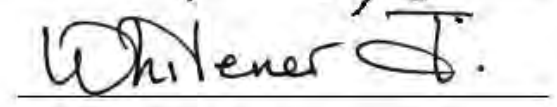
McLeod, J.



Lynn, J.



Stephens, J.



Whitener J.

RULES OF PROFESSIONAL CONDUCT

1 **RPC 7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES**

2
3 A lawyer shall not make a false or misleading communication about the lawyer or the
4 lawyer's services. A communication is false or misleading if it contains a material
5 misrepresentation of fact or law, or omits a fact necessary to make the statement considered
6 as a whole not materially misleading.

7 8 **Comment**

9 [1] [Washington revision] This Rule governs all communications about a lawyer's services,
10 ~~including advertising permitted by Rule 7.2.~~ Whatever means are used to make known a
11 lawyer's services, statements about them must be truthful.

12
13 [2] – [3] [Unchanged.]

14
15 [4] [Washington revision] It is professional misconduct for a lawyer to engage in conduct
16 involving dishonesty, fraud, deceit or misrepresentation. RPC 8.4(c). See also Rule 8.4(e)
17 for the prohibition against stating or implying an ability to influence improperly a
18 government agency or official or to achieve results by means that violate the Rules of
19 Professional Conduct or other law.

20 21 Additional Washington Comments (5-14)

22
23 [5] To assist the public in learning about and obtaining legal services, lawyers should be
24 allowed to make known their services not only through reputation but also through organized
25 information campaigns in the form of advertising. Advertising involves an active quest for
26 clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's

RULES OF PROFESSIONAL CONDUCT

1 need to know about legal services can be fulfilled in part through advertising. This need is
2 particularly acute in the case of persons of moderate means who have not made extensive
3 use of legal services. The interest in expanding public information about legal services ought
4 to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the
5 risk of practices that are misleading or overreaching.

6
7 [6] This rule permits public dissemination of information concerning a lawyer's name or firm
8 name, address, e-mail address, website, and telephone number; the kinds of services the
9 lawyer will undertake; the basis on which the lawyer's fees are determined, including prices
10 for specific services and payment and credit arrangements; a lawyer's foreign language
11 ability; names of references and, with their consent, names of clients regularly represented;
12 and other information that might invite the attention of those seeking legal assistance.

13
14 [7] Questions of effectiveness and taste in advertising are matters of speculation and
15 subjective judgment. Some jurisdictions have had extensive prohibitions against television
16 and other forms of advertising, against advertising going beyond specified facts about a
17 lawyer, or against "undignified" advertising. Television, the Internet, and other forms of
18 electronic communication are now among the most powerful media for getting information
19 to the public, particularly persons of low and moderate income; prohibiting television,
20 Internet, and other forms of electronic advertising, therefore, would impede the flow of
21 information about legal services to many sectors of the public. Limiting the information that
22 may be advertised has a similar effect and assumes that the bar can accurately forecast the
23 kind of information that the public would regard as relevant.

24
25 *Areas of Expertise/Specialization*
26

RULES OF PROFESSIONAL CONDUCT

1 [8] A lawyer may indicate areas of practice in communications about the lawyer's services.
2 If a lawyer practices only in certain fields, or will not accept matters except in a specified
3 field or fields, the lawyer is permitted to so indicate. A lawyer is generally permitted to state
4 that the lawyer is a "specialist," practices a "specialty," or "specializes in" particular fields,
5 but such communications are subject to the "false and misleading" standard applied in RPC
6 7.1 to communications concerning a lawyer's services. A lawyer may state that the lawyer is
7 certified as a specialist in a field of law if such certification is granted by an organization
8 approved by an appropriate state authority or accredited by the American Bar Association or
9 another organization, such as a state bar association, that has been approved by the state
10 authority to accredit organizations that certify lawyers as specialists. Certification signifies
11 that an objective entity has recognized an advanced degree of knowledge and experience in
12 the specialty area greater than is suggested by general licensure to practice law. Certifying
13 organizations may be expected to apply standards of experience, knowledge and proficiency
14 to insure that a lawyer's recognition as a specialist is meaningful and reliable. In order to
15 insure that consumers can obtain access to useful information about an organization granting
16 certification, the name of the certifying organization must be included in any communication
17 regarding the certification.

18
19 [9] In advertising concerning an LLLT's services, an LLLT is required to communicate the
20 fact that the LLLT has a limited license in the particular fields of law for which the LLLT is
21 licensed and must not state or imply that the LLLT has broader authority to practice than is
22 in fact the case. See LLLT RPC 7.1(b). When lawyers and LLLTs are associated in a firm,
23 lawyers with managerial or pertinent supervisory authority must take measures to assure that
24 the firm's communications conform with these obligations. See Rule 5.10.

25
26 *Firm Names*

RULES OF PROFESSIONAL CONDUCT

1 [10] A firm may be designated by the names of all or some of its members, by the names of
2 deceased members where there has been a continuing succession in the firm's identity or by
3 a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated
4 by a distinctive website address or comparable professional designation. Although the United
5 States Supreme Court has held that legislation may prohibit the use of trade names in
6 professional practice, use of such names in law practice is acceptable so long as it is not
7 misleading. If a private firm uses a trade name that includes a geographical name such as
8 "Springfield Legal Clinic," an express disclaimer that it is a public legal aid agency may be
9 required to avoid a misleading implication. It may be observed that any firm name including
10 the name of a deceased partner is, strictly speaking, a trade name. The use of such names to
11 designate law firms has proven a useful means of identification. However, it is misleading to
12 use the name of a lawyer or LLLT not associated with the firm or a predecessor of the firm,
13 or the name of an individual who is neither a lawyer nor an LLLT.

14
15 [11] Lawyers or LLLTs sharing office facilities, but who are not in fact associated with each
16 other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for
17 that title suggests that they are practicing law together in a firm.

18
19 [12] When lawyers and LLLTs are associated with each other in a law firm, the firm may be
20 designated using the name of a member LLLT if the name is not otherwise in violation of
21 this rule.

22
23 [13] Lawyers or LLLTs practicing out of the same office who are not partners, shareholders
24 of a professional corporation, or members of a professional limited liability company or
25 partnership may not join their names together. Lawyers or LLLTs who are not (1) partners,
26 shareholders of a professional corporation, or members of a professional limited liability

RULES OF PROFESSIONAL CONDUCT

1 company or partnership, or (2) employees of a sole proprietorship, partnership, professional
2 corporation, or members of a professional limited liability company or partnership or other
3 organization, or (3) in the relationship of being "Of Counsel" to a sole proprietorship,
4 partnership, professional corporation, or members of a professional limited liability company
5 or partnership or other organization, must have separate letterheads, cards, and pleading
6 paper, and must sign their names individually at the end of all pleadings and correspondence
7 and not in conjunction with the names of other lawyers or LLLTs.

8
9 [14] A law firm with offices in more than one jurisdiction may use the same name or other
10 professional designation in each jurisdiction. See RPC 5.5(f) & cmt. [22]. In order to avoid
11 misleading the public, when lawyers or LLLTs are identified as practicing in a particular
12 office, the firm should indicate the jurisdictional limitations on those not licensed to practice
13 in the jurisdiction where the office is located.

14 15 **RPC 7.2 ADVERTISING [Reserved.]**

16 ~~— (a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services~~
17 ~~through written, recorded or electronic communication, including public media.~~

18 ~~— (b) A lawyer shall not give anything of value to a person for recommending the lawyer's~~
19 ~~services, except that a lawyer may~~

20 ~~— (1) pay the reasonable costs of advertisements or communications permitted by this~~
21 ~~Rule;~~

22 ~~— (2) pay the usual charges of a legal service plan or a not for profit lawyer referral~~
23 ~~service;~~

24 ~~— (3) pay for a law practice in accordance with Rule 1.17; and~~
25
26

RULES OF PROFESSIONAL CONDUCT

1 ~~—— (4) refer clients to another lawyer or LLLT pursuant to an agreement not otherwise~~
2 ~~prohibited under these Rules that provides for the other person to refer clients or customers~~
3 ~~to the lawyer, if~~

4 ~~—— (i) the reciprocal referral agreement is not exclusive, and~~

5 ~~—— (ii) the client is informed of the existence and nature of the agreement.~~

6 ~~—— (e) Any communication made pursuant to this Rule shall include the name and office~~
7 ~~address of at least one lawyer or law firm responsible for its content.~~

9 **Comment**

10 ~~[1] To assist the public in learning about and obtaining legal services, lawyers should be~~
11 ~~allowed to make known their services not only through reputation but also through organized~~
12 ~~information campaigns in the form of advertising. Advertising involves an active quest for~~
13 ~~clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's~~
14 ~~need to know about legal services can be fulfilled in part through advertising. This need is~~
15 ~~particularly acute in the case of persons of moderate means who have not made extensive~~
16 ~~use of legal services. The interest in expanding public information about legal services ought~~
17 ~~to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the~~
18 ~~risk of practices that are misleading or overreaching.~~

19
20 ~~[2] This Rule permits public dissemination of information concerning a lawyer's name or~~
21 ~~firm name, address, e-mail address, website, and telephone number; the kinds of services the~~
22 ~~lawyer will undertake; the basis on which the lawyer's fees are determined, including prices~~
23 ~~for specific services and payment and credit arrangements; a lawyer's foreign language~~
24 ~~ability; names of references and, with their consent, names of clients regularly represented;~~
25 ~~and other information that might invite the attention of those seeking legal assistance.~~

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1 ~~[3] Questions of effectiveness and taste in advertising are matters of speculation and~~
2 ~~subjective judgment. Some jurisdictions have had extensive prohibitions against television~~
3 ~~and other forms of advertising, against advertising going beyond specified facts about a~~
4 ~~lawyer, or against "undignified" advertising. Television, the Internet, and other forms of~~
5 ~~electronic communication are now among the most powerful media for getting information~~
6 ~~to the public, particularly persons of low and moderate income; prohibiting television,~~
7 ~~Internet, and other forms of electronic advertising, therefore, would impede the flow of~~
8 ~~information about legal services to many sectors of the public. Limiting the information that~~
9 ~~may be advertised has a similar effect and assumes that the bar can accurately forecast the~~
10 ~~kind of information that the public would regard as relevant. But see Rule 7.3(a) for the~~
11 ~~prohibition against a solicitation of a possible client through a real-time electronic exchange~~
12 ~~initiated by the lawyer.~~

13
14 ~~[4] Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as~~
15 ~~notice to members of a class in class action litigation.~~

17 *Paying Others to Recommend a Lawyer*

18 ~~[5] [Washington revision] Except as permitted under paragraphs (b)(1) (b)(4), lawyers are~~
19 ~~not permitted to pay others for recommending the lawyer's services or for channeling~~
20 ~~professional work in a manner that violates Rule 7.3. A communication contains a~~
21 ~~recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence,~~
22 ~~character, or other professional qualities. Paragraph (b)(1), however, allows a lawyer to pay~~
23 ~~for advertising and communications permitted by this Rule, including the costs of print~~
24 ~~directory listings, on-line directory listings, newspaper ads, television and radio airtime,~~
25 ~~domain name registrations, sponsorship fees, Internet-based advertisements, and group~~
26 ~~advertising. A lawyer may compensate employees, agents and vendors who are engaged to~~

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1 provide marketing or client development services, such as publicists, public relations
2 personnel, business development staff and website designers. Moreover, a lawyer may pay
3 others for generating client leads, such as Internet based client leads, as long as the lead
4 generator does not recommend the lawyer, any payment to the lead generator is consistent
5 with Rules 1.5(e) (division of fees) and 5.4 (professional independence of the lawyer), and
6 the lead generator's communications are consistent with Rule 7.1 (communications
7 concerning a lawyer's services). To comply with Rule 7.1, a lawyer must not pay a lead
8 generator that states, implies, or creates a reasonable impression that it is recommending the
9 lawyer, is making the referral without payment from the lawyer, or has analyzed a person's
10 legal problems when determining which lawyer should receive the referral. See also Rule 5.3
11 (duties of lawyers and law firms with respect to the conduct of nonlawyers); RPC 8.4(a)
12 (duty to avoid violating the rules through the acts of another). For the definition of nonlawyer
13 for the purposes of Rule 5.3, see Washington Comment [5] to Rule 5.3.

14
15 [6] **[Washington revision]** A lawyer may pay the usual charges of a legal service plan or a
16 not for profit lawyer referral service. A legal service plan is a prepaid or group legal service
17 plan or a similar delivery system that assists people who seek to secure legal representation.
18 A lawyer referral service, on the other hand, is any organization that holds itself out to the
19 public as a lawyer referral service. Such referral services are understood by the public to be
20 consumer oriented organizations that provide unbiased referrals to lawyers with appropriate
21 experience in the subject matter of the representation and afford other client protections, such
22 as complaint procedures or malpractice insurance requirements. Consequently, this Rule
23 only permits a lawyer to pay the usual charges of a not for profit lawyer referral service.

24
25 [7] A lawyer who accepts assignments or referrals from a legal service plan or referrals from
26 a lawyer referral service must act reasonably to assure that the activities of the plan or service

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1 are compatible with the lawyer's professional obligations. See Rule 5.3. Legal service plans
2 and lawyer referral services may communicate with the public, but such communication must
3 be in conformity with these Rules. Thus, advertising must not be false or misleading, as
4 would be the case if the communications of a group advertising program or a group legal
5 services plan would mislead the public to think that it was a lawyer referral service sponsored
6 by a state agency or bar association. Nor could the lawyer allow in-person, telephonic, or
7 real-time contacts that would violate Rule 7.3.

8
9 ~~[8] [Washington revision] A lawyer also may agree to refer clients to another lawyer in~~
10 ~~return for the undertaking of that person to refer clients or customers to the lawyer. Such~~
11 ~~reciprocal referral arrangements must not interfere with the lawyer's professional judgment~~
12 ~~as to making referrals or as to providing substantive legal services. See Rules 2.1 and 5.4(c).~~
13 ~~Except as provided in Rule 1.5(e), a lawyer who receives referrals from a lawyer must not~~
14 ~~pay anything solely for the referral, but the lawyer does not violate paragraph (b) of this Rule~~
15 ~~by agreeing to refer clients to the other lawyer, so long as the reciprocal referral agreement~~
16 ~~is not exclusive and the client is informed of the referral agreement. Conflicts of interest~~
17 ~~created by such arrangements are governed by Rule 1.7. Reciprocal referral agreements~~
18 ~~should not be of indefinite duration and should be reviewed periodically to determine~~
19 ~~whether they comply with these Rules. This Rule does not restrict referrals or divisions of~~
20 ~~revenues or net income among lawyers within firms comprised of multiple entities.~~

21 22 **Additional Washington Comment (9)**

23 [9] That portion of Model Rule 7.2(b)(4) that allows lawyers to enter into reciprocal referral
24 agreements with nonlawyer professionals was not adopted. A lawyer may agree to refer
25 clients to an LLLT in return for the undertaking of that person to refer clients to the lawyer.
26 The guidance provided in Comment [8] to this Rule is also applicable to reciprocal referral

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1 ~~arrangements between lawyers and LLLTs. Under LLLT RPC 1.5(e), however, an LLLT~~
2 ~~may not enter into an arrangement for the division of a fee with a lawyer who is not in the~~
3 ~~same firm as the LLLT.~~

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RULES OF PROFESSIONAL CONDUCT

1 **RPC 7.3 SOLICITATION OF CLIENTS**

2
3 (a) A lawyer shall ~~not directly or through a third person, by in person, live telephone, or real-~~
4 ~~time electronic contact~~ may solicit professional employment from a possible client when a
5 significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person
6 contacted:

7 (1) ~~is a lawyer or an LLLT or~~ the solicitation is false or misleading;

8 (2) ~~has a family, close personal, or prior professional relationship with the lawyer; or~~
9 the lawyer knows or reasonably should know that the physical, emotional, or mental state of
10 the subject of the solicitation is such that the person could not exercise reasonable judgment
11 in employing a lawyer;

12 (3) ~~has consented to the contact by requesting a referral from a not-for-profit lawyer~~
13 ~~referral service.~~ the subject of the solicitation has made known to the lawyer a desire not to
14 be solicited by the lawyer; or

15 (4) the solicitation involves coercion, duress, or harassment.

16 (b) A lawyer shall ~~not solicit professional employment from a client by written, recorded or~~
17 ~~electronic communication or by in person, telephone or real time electronic contact even~~
18 ~~when not otherwise prohibited by paragraph (a), if~~ compensate, or give or promise anything
19 of value to, a person who is not an employee or lawyer in the same law firm for the purpose
20 of recommending or securing the services of the lawyer or law firm, except that a lawyer
21 may;

22 (1) ~~the target of the solicitation has made known to the lawyer a desire not to be~~
23 ~~solicited by the lawyer; or~~ pay the reasonable cost of advertisements or communications
24 permitted by RPC 7.1, including online group advertising;

25 (2) ~~the solicitation involves coercion, duress or harassment.~~ pay the usual charges of a
26 legal service plan or a not-for-profit lawyer referral service;

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1 (3) pay for a law practice in accordance with RPC 1.17;

2 (4) refer clients to another lawyer or LLLT or other nonlawyer professional pursuant
3 to an agreement not otherwise prohibited under these Rules that provides for the other person
4 to refer clients or customers to the lawyer, if:

5 (i) the reciprocal referral agreement is not exclusive, and

6 (ii) the client is informed of the existence and nature of the agreement;

7 (5) give nominal gifts that are neither intended nor reasonably expected to be a form of
8 compensation for recommending a lawyer's services.

9 (c) [Reserved.]

10 ~~(d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a~~
11 ~~prepaid or group legal service plan operated by an organization not owned or directed by the~~
12 ~~lawyer that uses in-person or telephone contact to solicit memberships or subscriptions for~~
13 ~~the plan from persons who are not known to need legal services in a particular matter covered~~
14 ~~by the plan.~~[Reserved.]

16 **Comment**

17 [1] [Washington revision] A solicitation is a targeted communication initiated by ~~the~~ or on
18 behalf of a lawyer that is directed to a specific person and that offers to provide, or can
19 reasonably be understood as offering to provide, legal services. Solicitations can include in-
20 person, written, telephonic, and electronic communications. In contrast, a lawyer's
21 communication typically does not constitute a solicitation if it is directed to the general
22 public, such as through a billboard, an Internet banner advertisement, a website, or a
23 television commercial, or if it is in response to a request for information or is automatically
24 generated in response to Internet searches.

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1 ~~[2] [Reserved.] There is a potential for abuse when a solicitation involves direct in-person,~~
2 ~~live telephone or real-time electronic contact by a lawyer with someone known to need legal~~
3 ~~services. These forms of contact subject a person to the private importuning of the trained~~
4 ~~advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed~~
5 ~~by the circumstances giving rise to the need for legal services, may find it difficult fully to~~
6 ~~evaluate all available alternatives with reasoned judgment and appropriate self-interest in the~~
7 ~~face of the lawyer's presence and insistence upon being retained immediately. The situation~~
8 ~~is fraught with the possibility of undue influence, intimidation, and over-reaching.~~

9
10 ~~[3] [Reserved.] This potential for abuse inherent in direct in-person, live telephone or real-~~
11 ~~time electronic solicitation justifies its prohibition, particularly since lawyers have alternative~~
12 ~~means of conveying necessary information to those who may be in need of legal services. In~~
13 ~~particular, communications can be mailed or transmitted by email or other electronic means~~
14 ~~that do not involve real-time contact and do not violate other laws governing solicitations.~~
15 ~~These forms of communications and solicitations make it possible for the public to be~~
16 ~~informed about the need for legal services, and about the qualifications of available lawyers~~
17 ~~and law firms, without subjecting the public to direct in-person, telephone or real-time~~
18 ~~electronic persuasion that may overwhelm a person's judgment.~~

19
20 ~~[4] [Reserved.] The use of general advertising and written, recorded or electronic~~
21 ~~communications to transmit information from lawyer to the public, rather than direct in-~~
22 ~~person, live telephone or real-time electronic contact, will help to assure that the information~~
23 ~~flows cleanly as well as freely. The contents of advertisements and communications~~
24 ~~permitted under Rule 7.2 can be permanently recorded so that they cannot be disputed and~~
25 ~~may be shared with others who know the lawyer. This potential for informal review is itself~~
26 ~~likely to help guard against statements and claims that might constitute false and misleading~~

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1 ~~communications, in violation of Rule 7.1. The contents of direct in-person, live telephone or~~
2 ~~real-time electronic contact can be disputed and may not be subject to third-party scrutiny.~~
3 ~~Consequently, they are much more likely to approach (and occasionally cross) the dividing~~
4 ~~line between accurate representations and those that are false and misleading.~~

5
6 [5] [~~Reserved.~~ **Washington revision**] ~~There is far less likelihood that a lawyer would engage~~
7 ~~in abusive practices against a former client, or a person with whom the lawyer has close~~
8 ~~personal or family relationship, or in situations in which the lawyer is motivated by~~
9 ~~considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for~~
10 ~~abuse when the person contacted is a lawyer or an LLLT. Consequently, the general~~
11 ~~prohibition in Rule 7.3(a) is not applicable in those situations. Also, paragraph (a) is not~~
12 ~~intended to prohibit a lawyer from participating in constitutionally protected activities of~~
13 ~~public or charitable legal service organizations or bona fide political, social, civic, fraternal,~~
14 ~~employee or trade organizations whose purposes include providing or recommending legal~~
15 ~~services to its members or beneficiaries.~~

16
17 [6] [~~Reserved.~~] ~~But even permitted forms of solicitation can be abused. Thus, any solicitation~~
18 ~~which contains information which is false or misleading within the meaning of Rule 7.1,~~
19 ~~which involves coercion, duress or harassment within the meaning of Rule 7.3(b)(2), or~~
20 ~~which involves contact with someone who has made known to the lawyer a desire not to be~~
21 ~~solicited by the lawyer within the meaning of Rule 7.3(b)(1) is prohibited. Moreover, if after~~
22 ~~sending a letter or other communication as permitted by Rule 7.2 the lawyer receives no~~
23 ~~response, any further effort to communicate with the recipient of the communication may~~
24 ~~violate the provisions of Rule 7.3(b).~~

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1 ~~[7] [Reserved] This Rule is not intended to prohibit a lawyer from contacting representatives~~
2 ~~of organizations or groups that may be interested in establishing a group or prepaid legal plan~~
3 ~~for their members, insureds, beneficiaries, or other third parties for the purpose of informing~~
4 ~~such entities of the availability of and details concerning the plan or arrangement which the~~
5 ~~lawyer or lawyer's firm is willing to offer. This form of communication is not directed to~~
6 ~~people who are seeking legal services for themselves. Rather, it is usually addressed to an~~
7 ~~individual acting in a fiduciary capacity seeking a supplier of legal services for others who~~
8 ~~may, if they choose, become prospective clients of the lawyer. Under these circumstances,~~
9 ~~the activity which the lawyer undertakes in communicating with such representatives and the~~
10 ~~type of information transmitted to the individual are functionally similar to and serve the~~
11 ~~same purpose as advertising permitted under Rule 7.2.~~

12
13 [8] [Reserved.]

14
15 [9] [Reserved.] Paragraph (d) of this Rule permits a lawyer to participate with an organization
16 which uses personal contact to solicit members for its group or prepaid legal service plan,
17 provided that the personal contact is not undertaken by any lawyer who would be a provider
18 of legal services through the plan. The organization must not be owned by or directed
19 (whether as manager or otherwise) by any lawyer or law firm that participates in the plan.
20 For example, paragraph (d) would not permit a lawyer to create an organization controlled
21 directly or indirectly by the lawyer and use the organization for the in-person or telephone
22 solicitation of legal employment of the lawyer through memberships in the plan or otherwise.
23 The communication permitted by these organizations also must not be directed to a person
24 known to need legal services in a particular matter, but is to be designed to inform potential
25 plan members generally of another means of affordable legal services. Lawyers who
26

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1 ~~participate in a legal service plan must reasonably assure that the plan sponsors are in~~
2 ~~compliance with Rules 7.1, 7.2 and 7.3(b). See 8.4(a).~~

4 **Additional Washington Comments (10 - 1416)**

5 ~~[10] A lawyer who receives a referral from a third party should exercise caution in contacting~~
6 ~~the prospective client directly by in person, live telephone, or real-time electronic contact.~~
7 ~~Such contact is generally prohibited by this Rule unless the prospective client has asked to~~
8 ~~be contacted by the lawyer. A prospective client may request such contact through a third~~
9 ~~party. Prior to initiating contact with the prospective client, however, the lawyer should~~
10 ~~confirm with the source of the referral that the prospective client has indeed made such a~~
11 ~~request. Similarly, when making referrals to other lawyers, the referring lawyer should~~
12 ~~discuss with the prospective client whether he or she wishes to be contacted directly. While~~
13 all communications about a lawyer's services are subject to the general prohibition against
14 false or misleading communication in RPC 7.1, in-person solicitation can create problems
15 because of the particular circumstances in which the solicitation takes place, and those
16 circumstances are, therefore, appropriately regulated. subsection (a) of this rule prohibits
17 solicitation in circumstances or through means that are not conducive to intelligent, rational
18 decisions. Unwanted solicitations (after the subject has informed the lawyer not to make
19 contact) or solicitations involving coercion, duress, or harassment are specifically prohibited.
20 Such circumstances and means could be the harassment of early morning or late-night
21 telephone calls to a potential client to solicit legal work, repeated calls at any time of day,
22 solicitation of an accident victim or the victim's family shortly after the accident or while the
23 victim is still in medical distress (particularly where a lawyer seeks professional employment
24 by in-person or other real-time contact in such circumstances), or solicitation of vulnerable
25 subjects, such as persons facing incarceration, or their family members, in or near a
26 courthouse. The prohibition on solicitation of a subject who cannot "exercise reasonable

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1 judgment in employing a lawyer” extends to an individual with diminished capacity who
2 cannot adequately act in the individual’s own interest, and the provisions of RPC 1.14 may
3 provide guidance in evaluating “the physical, emotional, or mental” state of the subject.
4

5 ~~[11] Those in need of legal representation often seek assistance in finding a lawyer through~~
6 ~~a lawyer referral service. Washington adopted paragraph (a)(3) in order to facilitate~~
7 ~~communication between lawyers and potential clients who have specifically requested a~~
8 ~~referral from a not for profit lawyer referral service. Under this paragraph, a lawyer receiving~~
9 ~~such a referral may contact the potential client directly by in person, live telephone, or real-~~
10 ~~time electronic contact to discuss possible representation. Under RPC 5.1, RPC 5.3, and RPC~~
11 ~~8.4(a), the solicitation restrictions that apply to the lawyer’s own acts or conduct also extend~~
12 ~~to acts or conduct by employees, agents, or any third persons acting on the lawyer’s behalf.~~
13

14 ~~[12] Washington did not adopt paragraph (c) of the Model Rule relating to labeling of~~
15 ~~communications with prospective clients. A specific labeling requirement is unnecessary in~~
16 ~~light of the prohibitions in Rule 7.1 against false or misleading communications. Washington~~
17 ~~has not adopted subsection (e) of the Model Rule creating a safe harbor for in-person and~~
18 ~~telephonic solicitations in the context of a prepaid or group legal services plan because~~
19 ~~solicitations of professional employment by any means and in all contexts are permitted~~
20 ~~subject to the exceptions contained in subsection (a)(1) – (4). In addition, prior provisions~~
21 ~~and comments under RPC 7.3 in Washington relating to in-person, telephonic, or real-time~~
22 ~~electronic solicitations in the context of referrals from a third party or a lawyer referral~~
23 ~~service have been removed because solicitations by any means in this context are permitted~~
24 ~~subject to the exceptions contained in paragraphs (a)(1)–(4) of this RPC.~~

25 *Paying Others to Recommend a Lawyer*
26

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1 [13] ~~The phrase "directly or through a third person" in paragraph (a) was retained from~~
2 ~~former Washington RPC 7.3(a). Subsection (b) of this rule was derived from former~~
3 ~~Washington RPC 7.2(b).~~

4
5 [14] ~~The phrase "prospective client" in Rule 7.3(a) has been replaced with the phrase~~
6 ~~"possible client" because the phrase "prospective client" has become a defined phrase under~~
7 ~~RPC 1.18 with a different meaning. This is a departure from the ABA Model Rule which~~
8 ~~has dispensed altogether with the phrase "from a prospective client" in this rule. The rule is~~
9 ~~not intended to preclude lawyers from in-person conversations with friends, relatives or other~~
10 ~~professionals (i.e. intermediaries) about other friends, relatives, clients, or patients who may~~
11 ~~need or benefit from the lawyer's services, so long as the lawyer is not asking or expecting~~
12 ~~the intermediary to engage in improper solicitation. See RPC 8.4(a) which prohibits~~
13 ~~improper solicitation "through the acts of another." Absent limitation of prohibited in-person~~
14 ~~communications to "possible clients" there is danger that lawyers might mistakenly infer that~~
15 ~~the kind of benign conversations with non-client intermediaries described above are~~
16 ~~precluded by this rule. Except as permitted under subsections (b)(1)-(b)(5), lawyers are not~~
17 ~~permitted to pay others for recommending the lawyer's services or for channeling~~
18 ~~professional work in a manner that violates RPC 7.1 or RPC 7.3. A communication contains~~
19 ~~a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence,~~
20 ~~character, or other professional qualities. Subsection (b)(1), however, allows a lawyer to pay~~
21 ~~for advertising and solicitations permitted by RPC 7.1 and this rule, including the costs of~~
22 ~~print directory listings, online directory listings, newspaper ads, television and radio airtime,~~
23 ~~domain-name registrations, sponsorship fees, Internet-based advertisements, and group~~
24 ~~advertising. A lawyer may compensate employees, agents, and vendors who are engaged to~~
25 ~~provide marketing or client-development services, such as publicists, public-relations~~
26 ~~personnel, business-development staff, and website designers, as long as the employees,~~

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1 agents, and vendors do not direct or regulate the lawyer’s professional judgment (see RPC
2 5.4(c)). Moreover, a lawyer may pay others for generating client leads, such as Internet-based
3 client leads, as long as the lead generator does not recommend the lawyer, any payment to
4 the lead generator is consistent with RPC 1.5(e) (division of fees) and 5.4 (professional
5 independence of the lawyer), and the lead generator’s communications are consistent with
6 RPC 7.1 (communications concerning a lawyer's services). To comply with RPC 7.1, a
7 lawyer must not pay a lead generator that states, implies, or creates a reasonable impression
8 that it is recommending the lawyer, is making the referral without payment from the lawyer,
9 or has analyzed a person’s legal problems when determining which lawyer should receive
10 the referral. See also RPC 5.3 (duties of lawyers and law firms with respect to the conduct
11 of nonlawyers); RPC 8.4(a) (duty to avoid violating the rules through the acts of another).
12 For the definition of nonlawyer for the purposes of RPC 5.3, see Washington cmt. 5 to Rule
13 5.3.

14
15 [15] A lawyer may pay the usual charges of a legal service plan or a not-for-profit lawyer
16 referral service. A “legal service plan” is a prepaid or group legal service plan or a similar
17 delivery system that assists people who seek to secure legal representation. A “lawyer referral
18 service,” on the other hand, is any individual or entity that operates for the direct or indirect
19 purpose of referring potential clients to lawyers, regardless of whether the term “referral
20 service” is used. The “usual charges” of a legal service plan or not-for-profit lawyer referral
21 service are fees that are openly promulgated and uniformly applied. Not-for-profit lawyer
22 referral services are understood by the public to be consumer-oriented organizations that
23 provide unbiased referrals to lawyers with appropriate experience in the subject matter of the
24 representation and afford other client protections, such as complaint procedures or
25 malpractice insurance requirements.

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1 [16] A lawyer also may agree to refer clients to another lawyer or LLLT or other nonlawyer
2 professional in return for the undertaking of that person to refer clients or customers to the
3 lawyer. Such reciprocal referral arrangements must not interfere with the lawyer's
4 professional judgment as to making referrals or as to providing substantive legal services.
5 See RPC 2.1 and 5.4(c). Except as provided in RPC 1.5(e), a lawyer who receives referrals
6 from a lawyer or LLLT or other nonlawyer professional must not pay anything solely for the
7 referral, but the lawyer does not violate this Rule by agreeing to refer clients to the other
8 lawyer or LLLT or other nonlawyer professional, so long as the reciprocal referral agreement
9 is not exclusive and the client is informed of the referral agreement. Conflicts of interest
10 created by such arrangements are governed by RPC 1.7. Reciprocal referral agreements
11 should not be of indefinite duration and should be reviewed periodically to determine
12 whether they comply with these rules. This rule does not restrict referrals or divisions of
13 revenues or net income among lawyers within firms comprised of multiple entities. Under
14 LLLT RPC 1.5(e), however, an LLLT may not enter into an arrangement for the division of
15 a fee with a lawyer who is not in the same firm as the LLLT.

18 ~~RPC 7.4 COMMUNICATION OF FIELDS OF PRACTICE AND~~ 19 ~~SPECIALIZATION~~[Reserved.]

20 ~~— (a) A lawyer may communicate the fact that the lawyer does or does not practice in~~
21 ~~particular fields of law.~~

22 ~~— (b) A lawyer admitted to engage in patent practice before the United States Patent and~~
23 ~~Trademark Office may use the designation "Patent Attorney" or a substantially similar~~
24 ~~designation.~~

25 ~~— (c) A lawyer engaged in Admiralty practice may use the designation "Admiralty,"~~
26 ~~"Proctor in Admiralty" or substantially similar designation.~~

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1 ——— (d) A lawyer shall not state or imply that a lawyer is a specialist in a particular field of
2 law, except upon issuance of an identifying certificate, award, or recognition by a group,
3 organization, or association, a lawyer may use the terms "certified", "specialist", "expert", or
4 any other similar term to describe his or her qualifications as a lawyer or his or her
5 qualifications in any subspecialty of the law. If the terms are used to identify any certificate,
6 award, or recognition by any group, organization, or association, the reference must:

7 ——— (1) be truthful and verifiable and otherwise comply with Rule 7.1;

8 ——— (2) identify the certifying group, organization, or association; and

9 ——— (3) the reference must state that the Supreme Court of Washington does not recognize
10 certification of specialties in the practice of law and that the certificate, award, or recognition
11 is not a requirement to practice law in the state of Washington.

12 13 **Comment**

14 [1] [~~Washington revision~~] Paragraph (a) of this Rule permits a lawyer to indicate areas of
15 practice in communications about the lawyer's services. If a lawyer practices only in certain
16 fields, or will not accept matters except in a specified field or fields, the lawyer is permitted
17 to so indicate.

18 ———
19 [2] Paragraph (b) recognizes the long-established policy of the Patent and Trademark Office
20 for the designation of lawyers practicing before the Office. Paragraph (c) recognizes that
21 designation of Admiralty practice has a long historical tradition associated with maritime
22 commerce and the federal courts.

23 ———
24 [3] [~~Reserved.~~]

25
26 **Additional Washington Comment (4-5)**

RULES OF PROFESSIONAL CONDUCT

1 ~~[4] Statements indicating that the lawyer is a "specialist," practices a "specialty," "specializes~~
2 ~~in" particular fields, and the like, are subject to the limitations set forth in paragraph (d). The~~
3 ~~provisions of paragraph (d) were taken from former Washington RPC 7.4(b).~~

4
5 ~~[5] In advertising concerning an LLLT's services, an LLLT is required to communicate the~~
6 ~~fact that the LLLT has a limited license in the particular fields of law for which the LLLT is~~
7 ~~licensed and must not state or imply that the LLLT has broader authority to practice than is~~
8 ~~in fact the case. See LLLT RPC 7.4(a); see also LLLT RPC 7.2(c) (advertisements must~~
9 ~~include the name and office address of at least one responsible LLLT or law firm). When~~
10 ~~lawyers and LLLTs are associated in a firm, lawyers with managerial or pertinent supervisory~~
11 ~~authority must take measures to assure that the firm's communications conform with these~~
12 ~~obligations. See Rule 5.10.~~

13 14 **RPC 7.5 FIRM NAMES AND LETTERHEADS**[Reserved.]

15 ~~— (a) A lawyer shall not use a firm name, letterhead or other professional designation that~~
16 ~~violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not~~
17 ~~imply a connection with a government agency or with a public or charitable legal services~~
18 ~~organization and is not otherwise in violation of Rule 7.1.~~

19 ~~— (b) A law firm with offices in more than one jurisdiction may use the same name or~~
20 ~~other professional designation in each jurisdiction, but identification of the lawyers or LLLTs~~
21 ~~in an office of the firm shall indicate the jurisdictional limitations on those not licensed to~~
22 ~~practice in the jurisdiction where the office is located.~~

23 ~~— (c) The name of a lawyer or LLLT holding a public office shall not be used in the name~~
24 ~~of a law firm, or in communications on its behalf, during any substantial period in which the~~
25 ~~lawyer or LLLT is not actively and regularly practicing with the firm.~~

RULES OF PROFESSIONAL CONDUCT

1 ——— (d) Lawyers may state or imply that they practice in a partnership or other organization
2 only when that is a fact.

3 4 **Comment**

5 ~~[1] [Washington revision] A firm may be designated by the names of all or some of its~~
6 ~~members, by the names of deceased members where there has been a continuing succession~~
7 ~~in the firm's identity or by a trade name such as the "ABC Legal Clinic." A lawyer or law~~
8 ~~firm may also be designated by a distinctive website address or comparable professional~~
9 ~~designation. Although the United States Supreme Court has held that legislation may prohibit~~
10 ~~the use of trade names in professional practice, use of such names in law practice is~~
11 ~~acceptable so long as it is not misleading. If a private firm uses a trade name that includes a~~
12 ~~geographical name such as "Springfield Legal Clinic," an express disclaimer that it is a public~~
13 ~~legal aid agency may be required to avoid a misleading implication. It may be observed that~~
14 ~~any firm name including the name of a deceased partner is, strictly speaking, a trade name.~~
15 ~~The use of such names to designate law firms has proven a useful means of identification.~~
16 ~~However, it is misleading to use the name of a lawyer or LLLT not associated with the firm~~
17 ~~or a predecessor of the firm, or the name of an individual who is neither a lawyer nor an~~
18 ~~LLLT.~~

19
20 ~~[2] [Washington revision] With regard to paragraph (d), lawyers or LLLTs sharing office~~
21 ~~facilities, but who are not in fact associated with each other in a law firm, may not denominate~~
22 ~~themselves as, for example, "Smith and Jones," for that title suggests that they are practicing~~
23 ~~law together in a firm.~~

24 25 **Additional Washington Comments (3-4)**

RULES OF PROFESSIONAL CONDUCT

1 ~~[3] When lawyers and LLLTs are associated with each other in a law firm, the firm may be~~
2 ~~designated using the name of a member LLLT if the name is not otherwise in violation of~~
3 ~~Rule 7.1, this Rule, or LLLT RPC 7.5. See also Washington Comment [4] to this Rule.~~
4

5 ~~[4] Lawyers or LLLTs practicing out of the same office who are not partners, shareholders~~
6 ~~of a professional corporation, or members of a professional limited liability company or~~
7 ~~partnership may not join their names together. Lawyers or LLLTs who are not (1) partners,~~
8 ~~shareholders of a professional corporation, or members of a professional limited liability~~
9 ~~company or partnership, or (2) employees of a sole proprietorship, partnership, professional~~
10 ~~corporation, or members of a professional limited liability company or partnership or other~~
11 ~~organization, or (3) in the relationship of being "Of Counsel" to a sole proprietorship,~~
12 ~~partnership, professional corporation, or members of a professional limited liability company~~
13 ~~or partnership or other organization, must have separate letterheads, cards and pleading~~
14 ~~paper, and must sign their names individually at the end of all pleadings and correspondence~~
15 ~~and not in conjunction with the names of other lawyers or LLLTs. (The provisions of this~~
16 ~~Comment were taken from former Washington RPC 7.5(d).)~~
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SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE 5 – LAW FIRMS AND ASSOCIATIONS

1 **RPC 5.5 UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL**
2 **PRACTICE OF LAW**

3
4 (a) – (e) Unchanged.

5
6 (f) Subsection (b)(1) of this rule does not prohibit a law firm with offices in multiple
7 jurisdictions from establishing and maintaining an office in this jurisdiction even if some of
8 the lawyers who are members of the firm or are otherwise employed or retained by or
9 associated with the law firm are not authorized to practice law in this jurisdiction.

10
11 Comment

12 [1] – [3] Unchanged.

13
14 [4] [Washington revision] Other than as authorized by law or this Rule, a lawyer who is not
15 admitted to practice generally in this jurisdiction violates paragraph (b) if the lawyer
16 establishes an office or other systematic and continuous presence in this jurisdiction for the
17 practice of law. Presence may be systematic and continuous even if the lawyer is not
18 physically present here. Such a lawyer must not hold out to the public or otherwise represent
19 that the lawyer is admitted to practice law in this jurisdiction. See also RPC 7.1 and ~~7.5(b)~~
20 Washington cmt. 14.

21
22 [5] [Washington revision] There are occasions in which a lawyer admitted to practice in
23 another United States jurisdiction, and not disbarred or suspended from practice in any
24 jurisdiction, may provide legal services on a temporary basis in this jurisdiction under
25 circumstances that do not create an unreasonable risk to the interests of their clients, the
26 public or the courts. Paragraph (c) identifies four such circumstances. The fact that conduct

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE 5 – LAW FIRMS AND ASSOCIATIONS

1 is not so identified does not imply that the conduct is or is not authorized. With the exception
2 of paragraph (d)(2), this Rule does not authorize a United States. or foreign lawyer to
3 establish an office or other systematic and continuous presence in this jurisdiction without
4 being admitted to practice generally or as house counsel under APR 8(f) here.

5
6 [6] – [13] Unchanged.

7
8 [14] [Washington revision] Paragraphs (c)(3) and (c)(4) require that the services arise out of
9 or be reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is
10 admitted. A variety of factors evidence such a relationship. The lawyer's client may have
11 been previously represented by the lawyer, or may be resident in or have substantial contacts
12 with the jurisdiction in which the lawyer is admitted. The matter, although involving other
13 jurisdictions, may have a significant connection with that jurisdiction. In other cases,
14 significant aspects of the lawyer's work might be conducted in that jurisdiction or a
15 significant aspect of the matter may involve the law of that jurisdiction. The necessary
16 relationship might arise when the client's activities or the legal issues involve multiple
17 jurisdictions, such as when the officers of a multinational corporation survey potential
18 business sites and seek the services of their lawyer in assessing the relative merits of each.
19 In addition, the services may draw on the lawyer's recognized expertise developed through
20 the regular practice of law on behalf of clients in matters involving a particular body of
21 federal, nationally-uniform, foreign, or international law. Lawyers desiring to provide pro
22 bono legal services on a temporary basis in Washington following determination by the
23 Supreme Court that an emergency affecting the justice system, as a result of a natural or other
24 major disaster, has occurred, who are not otherwise authorized to practice law in Washington,
25 as well as lawyers from another affected jurisdiction who seek to practice law temporarily in
26 Washington, but who are not otherwise authorized to practice law in Washington, should

SUGGESTED AMENDMENTS TO RULES OF PROFESSIONAL CONDUCT

TITLE 5 – LAW FIRMS AND ASSOCIATIONS

1 | consult Admission to Practice Rule 27 on Provision of Legal Services Following
2 | Determination of Major Disaster.

3 |
4 | [15] – [20] Unchanged.

5 |
6 | [21] [Washington revision] Paragraphs (c) and (d) do not authorize communications
7 | advertising legal services ~~to prospective clients~~ in this jurisdiction by lawyers who are
8 | admitted to practice in other jurisdictions. Whether and how lawyers may communicate the
9 | availability of their services ~~to prospective clients~~ in this jurisdiction is governed by Rules
10 | 7.1 ~~to 7.5~~.

11 |
12 | Additional Washington Comment (22)

13 | [22] Subsection (f) is derived from former RPC 7.5(b), which permitted law firms with
14 | offices in more than one jurisdiction to use the same name or other professional designation
15 | in each jurisdiction, and is intended to maintain authorization in the Rules of Professional
16 | Conduct for the presence of multijurisdictional law firms in Washington for purposes of
17 | RCW 2.48.180(7).

TO: WSBA Board of Governors
FROM: Kyle Sciuchetti, Chair of the Task Force Administering Xenial Involvement with Court Appointed Boards
Terra Nevitt, Executive Director
DATE: February 15, 2023
RE: Proposed Policy for WSBA's Administration of Supreme Court Boards.

FIRST READ: Provide Feedback on Proposed Policy for WSBA's Administration of Supreme Court Boards

The Task Force Administering Xenial Involvement with Court Appointed Boards (TAXICAB) is seeking feedback from the Board of Governors regarding its proposed policy for WSBA's administration of Supreme Court boards. If ultimately approved, TAXICAB recommends that the policy be presented to the Washington Supreme Court for adoption in order that it be binding on both WSBA and the Supreme Court boards administered by WSBA.

Background

GR 12.3 charges WSBA with the "authority and responsibility to administer certain boards and committees established by court rule order. This delegation of authority includes providing and managing staff, overseeing the boards and committees to monitor their compliance with the rules and orders that authorize and regulate them, paying expenses reasonably and necessarily incurred pursuant to a budget approved by the Board of Governors, performing other functions and taking other actions as provided in court rule or order or delegated by the Supreme Court, or taking other actions as are necessary and proper to enable the board or committee to carry out its duties or functions." WSBA administers several such entities and over the years, challenges have arisen in terms of the application of GR 12.2 and other WSBA policies, budget and staff allocations, the ability to hire and direct staff, the scope and meaning of "administration", conflicting policy objectives, and decision-making authority.

TAXICAB was created by the Board of Governors on April 17, 2020, to assess WSBA's role in administering Supreme Court boards, working with the Court to ensure that such administration is consistent with the Court's intent, and conveying to the Court information about the boards and member concerns. After identifying the recurring challenges and determining that a lack of clarity in how GR 12.3 is to be carried out as one of the causes behind those challenges, the task force determined that a policy, approved by the Supreme Court, that detailed WSBA's administration of Supreme Court boards, would help to alleviate some of the recurring challenges.¹

A subcommittee of TAXICAB developed the proposed policy, which was reviewed several times by the task force and unanimously adopted for recommendation to the Board of Governors at its February 8, 2023, meeting.

This policy will not eliminate the tension that exists in WSBA's administration of Supreme Court boards, and the task force ultimately did not reach agreement on the extent to which the boards should be considered "separate" from WSBA and it could be useful to seek feedback from the Court on that question.

¹ The task force considered and rejected several other solutions, including MOUs between WSBA and each Supreme Court Board such as WSBA currently has with the Access to Justice Board and proposing amendments to GR 12.3.

Community Input

TAXICAB is comprised of six members of the Board of Governors (at the time of creation) and six representatives from Supreme Court Boards administered by WSBA.² The representatives provided regular updates and opportunities to review the draft policy to their boards throughout the process of developing the process. There are no significant concerns outstanding.

The task force has not circulated this proposed policy further than its members and the boards they represent.

WSBA RISK ANALYSIS: This section is to be completed by the Office of General Counsel, with input from the proposing entity or individual.

Requested Board Action: The BOG is asked to take two actions: (1) approve a policy setting out the joint interpretation of GR 12.3 and the conflict resolution process; and (2) recommend that the Supreme Court issue an order adopting this policy interpretation of GR 12.3.

Legal Risks Identified for Discussion or Clarification:

This policy sets out a joint understanding of the terms used in GR 12.3 and an agreed conflict resolution mechanism. It also establishes an agreed interpretation of GR 12.3 that is intended for Court approval and appears to decrease the risks associated with WSBA administration of court created boards. Legal risks could be associated with unclear terms or lack of Court approval. Part of the value in this document is knowing that the Court-created boards, the WSBA and the Court all agree on the GR 12.3 interpretation. It appears that the intent is to present the policy for approval by the Court, because it could cause confusion if the Board adopted a policy for Court-created boards that the Court declined to adopt. To avoid such confusion the Board might wish to consider treating this as a Court rule, which is recommended to the Court, but not “adopted” or “approved” by the Board.

This policy does not address potential changes to GR 12.3 and the Task Force was not tasked with this issue.

The Board may wish to discuss the following issues:

- 2.0 Scope-there is no definition of “Supreme Court Boards administered by WSBA.” The BOG may wish to discuss whether a clear definition would make the policy scope clearer.
- 3.1 “Boards are subject to all Washington Statutes” might be overly broad. The Board may want to discuss the purpose of this sentence given that some statutes do not apply to the WSBA.
- 3.5 This section appears to essentially change the Bylaws. The Board may want to determine whether to make a change to the Bylaws rather than use two documents to determine when items need first read.
- 8.0 This section reflects our current understanding and does not represent a change.

² The six boards represented on TAXICAB are the Access to Justice Board, Disciplinary Board, LLLT Board, Limited Practice Board, MCLE Board, and Practice of Law Board. WSBA actually administers *ten* boards that are created by court rule or order and there is considerable variety among those boards in terms of the nature of their work, how their members and chairs are appointed, and their level of engagement with the Court. In forming TAXICAB, the drafters identified that the Supreme Court boards that exercise greater independence from WSBA tend to be the ones with greater opportunity for conflict. For the purposes of TAXICAB and the proposed policy, the only boards that have been included are those that have all of their members appointed by the Court.

WSBA FISCAL ANALYSIS: This section is to be completed by the Finance Department, with input from the proposing entity or individual.

The proposed policy clarifies WSBA's current administration of Supreme Court Boards and does not change the work in any way that is anticipated to have a fiscal impact. Note that the annual cost to administer the six boards addressed by the proposed policy in FY22 was approximately \$577K, broken down as follows:

- Access to Justice Board: \$158,166
- Disciplinary Board: \$133,489
- Limited License Legal Technician Board: \$87,338
- Limited Practice Board: \$54,267
- Mandatory Continuing Legal Education Board: \$73,554
- Practice of Law Board: \$70,180

WSBA EQUITY ANALYSIS: This section is to be completed by the Equity and Justice Team, with input from the proposing entity or individual.

The task force did not undertake a specific equity analysis in developing this proposal. Questions to be considered before the Second Reading include:

- **BACKGROUND:** Who does this policy ultimately impact? Staff, volunteer members of the boards and the public? Of those groups, are there any marginalized groups who could be disproportionately impacted?
- **PROCESS:** How did TAXICAB go about the work to draft this policy? In the process of drafting it, did TAXICAB collaborate with the groups this will impact? Are there any people who might be impacted who were left out of the drafting process, and if so, why?
- **IMPACT:** What was TAXICAB hoping the policy will do? Is it intended to increase clarity and transparency? If so, then naming that is helpful. Does this policy have the potential to disparately impact some individuals or communities, and not others? Is there a need to track the impact to make sure it's not over burdening some groups?

Attachments

Proposed Policy for WSBA's Administration of Supreme Court Boards

Executive Director Memo Re WSBA's Administration of Supreme Court Entities Background and Authority

Joint Administration Policy Between the Washington State Bar Association and the Supreme Court Boards

1.0 Introduction

Under Washington State Court [General Rule 12.3](#), the Supreme Court (Court) delegates to the Washington State Bar Association (WSBA),

“[t]he authority and responsibility to administer certain boards and committees established by court rule or order. This delegation of authority includes providing and managing staff, overseeing the boards and committees to monitor their compliance with the rules and orders that authorize and regulate them, paying expenses reasonably and necessarily incurred pursuant to a budget approved by the Board of Governors, performing other functions and taking other actions as provided in court rule or order or delegated by the Supreme Court, or taking other actions as are necessary and proper to enable the board or committee to carry out its duties or functions.”

Supreme Court Boards (Boards) report directly to the Court. The duties and functions these Boards perform on behalf of the Court are important to the public, the Court, and WSBA and its members.

2.0 Scope

This policy applies to all current and future Supreme Court Boards administered by WSBA, including:

- Access to Justice (ATJ) Board
- Disciplinary Board
- Limited License Legal Technician (LLLT) Board
- Limited Practice Board
- Mandatory Continuing Legal Education Board
- Practice of Law Board

3.0 Board Independence

Supreme Court Boards are created by and derive their authority from the Washington Supreme Court. Boards set their own priorities and goals. They determine how to carry out their duties and functions as authorized by the Supreme Court. Boards' independence does not limit WSBA's authority or responsibility to direct its own activities, including taking action to protect the WSBA from liability.

3.1 Effect of Court Rules and Statutes on Board or Committee Independence

Boards are subject to all Washington Statutes, and Washington court rules and orders, including such court orders or rules that authorized the Board, and which

regulate each Board's duties and functions. This specifically includes GR 12.4 governing records and public access to records.

3.2 Construing GR 12.3

WSBA recognizes that GR 12.3 provides each Board independence in terms of carrying out its activities consistent with any Court order or rule authorizing its existence. WSBA and the Boards will work cooperatively and maintain respect for the Boards' independence as needed to ensure that the Boards can carry out their duties and functions as authorized by the Supreme Court and that the WSBA can fulfill its duties under GR 12.3.

3.3 Communication with the Public

WSBA acknowledges that Boards have the authority to communicate with the public. Boards will not state that any communication is being made on behalf of WSBA. Boards will not use WSBA letterhead for any public communication. Boards will not knowingly engage in any communications that would subject the WSBA to liability. If there is a reasonable question as to the risk a communication might pose, Boards will seek input from the Executive Director prior to publishing or distributing the communication. The prohibition on using WSBA letterhead does not apply to communications related to regulatory matters.

3.4 Lobbying Activities

WSBA acknowledges that Boards, in order to carry out their mission, may take positions on matters of public interest. These positions may include communicating with federal, state, and local governmental and community leaders. Constitutional limitation on the use of compelled license fees apply to the Boards' activities to the extent that they are funded by license fees.

3.5 WSBA Policy Changes

All proposed changes to a WSBA policy, proposed adoptions of a new WSBA policy, or a WSBA proposal to change a Court rule, that will affect a Board, must be presented for a "first read" at least one meeting prior to the Board of Governors' meeting at which final action is taken. The Executive Director or their designee will notify the potentially affected Board(s) of the proposal as soon as is practicable after the Board of Governors' first consideration of the proposal and prior to final action, so each Board shall have the opportunity for comment with the Board of Governors, the Executive Director, and the Court. For good cause shown under exceptional circumstances, the Board of Governors may take action without the two-step process required above, by an affirmative vote of two-thirds of the Board of Governors, however WSBA should take all reasonable steps to notify and seek input from the impacted Board(s).

3.6 Board Action

When a Board is considering taking action that it believes may expose the WSBA to liability, the Board chair will take steps to ensure that the WSBA Executive Director receives notice of the proposed action. The notice will be given so that the WSBA will have adequate time to provide input into the Board's decision-making process.

4.0 Staffing

The Executive Director provides and manages staff for each Board.

4.1 Staff Liaison

The Executive Director shall assign a staff member to serve as a Staff Liaison to each Board. The Staff Liaison shall serve as the primary contact between the Board and WSBA. The Executive Director shall allocate additional staff time to support each Board in carrying out its duties and functions based on the projected workload for the Board and overall WSBA capacity.

4.2 Staff Liaison Responsibilities and Duties

The WSBA Staff Liaison will work with the Board and make available other WSBA resources as needed and available given WSBA's overall capacity.

The Staff Liaison is not a member of the Board. The Staff Liaison will not vote on matters before a Board that requires Board approval. The presence or absence of the Staff Liaison at any meeting does not affect the quorum for a meeting.

Although a Staff Liaison represents WSBA to the Board it is not the responsibility of the Staff Liaison to direct how the Board proceeds.

4.3 Staff Liaison and Support Personnel are WSBA Employees

Staff Liaisons supporting a Board are WSBA employees and will be hired and have their job performance evaluated per the WSBA Employee Handbook and other WSBA personnel policies.

When evaluating the performance of WSBA staff, the Executive Director, through their representative, should solicit feedback from each Board regarding the performance of the Staff Liaison and any supporting staff working with that Board.

The Board is not involved in the hiring of WSBA staff. However, with any employee whose primary or exclusive role is to support the duties and functions of a Board, WSBA should seek and may receive input from the Board as to skills and experience required for the role.

4.4 Board or Committee Membership

Each Board or Committee will add members to the Board and Committee per the Court rule or order that authorized and regulates the Board or Committee.

4.5 Board of Governors Liaison

The WSBA President may appoint a liaison between the Board of Governors and a Board.

The Board of Governor Liaison is not a member of the Board. They will not vote on matters before a Board that require Board approval. The presence or absence of the Board of Governors Liaison does not affect the quorum for a meeting.

4.6 Internal Structure of a Board

Unless otherwise defined by the court order or rule which authorizes and regulates a Board, the internal structure, such as the creation of subcommittees and appointment of members to such subcommittees, designating a chair or sub-chairs, and other decisions about how the Board conducts its duties and functions, is the sole province of each Board.

5.0 Oversight and Compliance Monitoring

Consistent with GR 12.3, WSBA shall oversee and monitor the compliance of Court Boards with the court rules and orders which authorize and regulate it. This includes GR 12.4 and First Amendment limitations relating to use of compelled license fees.

5.1 Reporting to the Court and WSBA

Boards shall submit an annual report to the Court and submit a copy of the report to the Executive Director and the Board of Governors. Boards shall submit other reports as stated in the court rules and orders authorizing them.

If the court rule or order which authorizes or regulates each Board is silent on the structure of an annual report the Board shall decide the format of the report.

5.2 Resolving Compliance Issues

5.2.1 Good Faith Standard—First Attempt to Resolve

If the Staff Liaison has a good faith belief that a Board is not complying with the court rules or orders which authorize and regulate the Board, the Staff Liaison shall first attempt to resolve the matter with the Board.

5.2.2 Escalation to Executive Director

If resolution fails and/or if the Staff Liaison is unable to address the matter directly, the Staff Liaison shall report any perceived non-compliance issue to the WSBA Executive Director who should attempt to work directly with the Board to resolve the issue.

5.2.3 Escalation to the Court

If these parties cannot resolve the matter, it may be presented to the Court for resolution.

6.0 Budget and Expenditures

6.1 Annual WSBA Budget Process

The Staff Liaison works collaboratively with the Board, and the Executive Director or their designee, to develop a budget that will allow the Board to fulfill its duties and functions, consistent with the rules and orders that authorize and regulate the Board.

The Board's budget will be submitted for approval to the Board of Governors as part of WSBA's overall budget.

WSBA and the Board of Governors cannot pass a budget for a Board without an opportunity for the Board to provide input to the WSBA and Board of Governors.

6.2 Funding Outside the Annual Budget Process

A Board may request additional funding outside of the budget cycle.

Such requests should be submitted to the Executive Director and will be considered by the Executive Director, the Budget & Audit Committee, or Board of Governors as authorized by WSBA Fiscal Policies & Procedures.

6.3 Fully Funding a Board Duties and Functions

All reasonable and necessary Board duties and functions as defined by each Board's court order or rule must remain funded at a level that ensures the duties and functions can be met. The Boards acknowledge that WSBA has the authority to establish the budget for the WSBA and the Boards. The WSBA acknowledges that this authority cannot be used to interfere with a Board's independence as defined in section 3.0.

6.4 Board Fundraising

A Board may seek additional funding, above and beyond the funding which WSBA provides, including grants for a particular duty or function from a government, private, or public sector entity.

If a Board raises such funds, then WSBA shall not reduce the budget of the Board because of the funds raised, unless it is for the same work.

As a Board is not a legal entity entitled to have and manage a bank account, the Board will need to seek the approval of WSBA, the Washington State Bar Foundation (WSBF), or with the approval of WSBA or the Court another appropriate entity to accept and manage such funds on behalf of the Board.

7.0 Other Actions

Consistent with GR 12.3, WSBA may engage in other activities that are necessary and proper to enable Boards to carry out their duties and functions consistent with the overall capacity of WSBA. This might include access to other WSBA resources and teams, including communication channels, design and publication services, website presence, financial analysis, WSBA technology, and continuing legal education.

8.0 Immunity & Indemnification

8.1 Immunity

If a court order or rule that authorizes and regulates a Board extends immunity to the Board and the members serving on a Board, WSBA shall cooperate with the Board and the Court to provide and defend such immunity.

8.2 Indemnification from Lawsuits

WSBA Bylaw Article XIV indemnification applies to members of court created boards described by this policy to the same extent as volunteers appointed by the WSBA.

WASHINGTON STATE BAR ASSOCIATION

Office of the Executive Director
Terra Nevitt, Executive Director

TO: Task Force Team Administering Xenial Involvement with Court Appointed Boards
FROM: Terra Nevitt, WSBA Executive Director
DATE: February 26, 2021
RE: **WSBA's Administration of Supreme Court Entities Background and Authority**

Through Washington State [General Rule 12.3](#), the Supreme Court delegates to WSBA “the authority and responsibility to administer certain boards and committees established by court rule or order. This delegation of authority includes providing and managing staff, overseeing the boards and committees to monitor their compliance with the rule and orders that authorize and regulate them, paying expenses reasonable and necessarily incurred pursuant to a budget approved by the Board of Governors, performing other functions and taking other actions as provided in court rule or order or delegated by the Supreme Court or taking other actions as are necessary and proper to enable the board or committee to carry out its duties or functions.”

The WSBA currently administers 6 such entities, described below. Over the years, challenges have arisen in terms of the application of GR 12.2 and other WSBA policies, budget and staff allocations, the ability to hire and direct staff, the scope and meaning of “administration”, conflicting policy objectives, and decision-making authority. One highly publicized example of some of these challenges was documented by the [ABA Journal](#) in 2015.

The **Access to Justice Board** was established by court order April 13, 1994, and was most recently [reauthorized on March 4, 2016](#). That order charges WSBA with the Board’s administration, including funding and staffing. It provides the Board of Governors with the responsibility of nominating members of the ATJ Board, which are appointed by the Supreme Court. The Order provides that the ATJ Board shall designate its chair and authorizes the ATJ Board to adopt its own operational rules pursuant to the enumerated powers and duties. The order requires the ATJ Board to file an annual report to the Supreme Court and the Board of Governors.

The **Disciplinary Board** first appears in the court rules in 1968 when the board is created and direct responsibility for disciplinary adjudication is transferred away from the Board of Governors. Currently, it is governed by rule 2.3 of the Rules for [Enforcement of Lawyer Conduct \(ELC\)](#), which outlines the Board’s composition, qualifications and some operations. Members are appointed by the Court “upon the recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel.” The Court also designates the Chair and Vice Chair, upon recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel. Other ELC indicate the functions of the Board. [ELC 2.2\(a\)\(1\)](#) directs the Board of Governors, through the Executive Director, to provide “administrative and managerial support” to the Disciplinary Board to perform its functions as specified by the rules. ELC 2.2(b) prohibits the Board of Governors and the Executive Director from reviewing Disciplinary Board decisions or recommendations in specific cases (among other limitations).

The **Limited License Legal Technician Board** was established through the adoption of rule 28 of the [Admission and Practice Rules \(APR\)](#) by court order on June 15, 2012. A second order was issued by the Court on July 11, 2012 ordering that the WSBA administer the operations of the LLLT Board, including providing “staff necessary to implement and support the operation of the APR 28 and the Limited License Legal Technician Board.” APR 28

provides that members of the LLLT Board are appointed by the Supreme Court. It charges the LLLT Board with recommending new practice areas for LLLTs, working with the Bar and other entities on LLLT examinations, approving education and experience requirements, establishing committees, establishing educational criteria, and “such other activities and functions as are expressly provided for in [the] rule.” APR 28 also charges the LLLT Board with proposing additional rules, regulations and amendments to the rule to the Court. WSBA is charged with providing “reasonably necessary administrative support for the LLLT Board.”

The **Limited Practice Board** was established by [APR 12](#). The rule outlines the duties and powers of the Limited Practice Board, including creating and grading Limited Practice Officer (LPO) examinations, approving forms for use by LPOs, as well as the board’s involvement in the investigation, hearing, and appeal procedures for handling grievances against LPOs. Members are appointed by the Supreme Court, as is the Board’s Chairperson. APR 12 provides that “The administrative support to the LP Board shall be provided by the Bar.”

The **Mandatory Continuing Legal Education Board** was established by [APR 11](#). Its members and chair are appointed by the Supreme Court. Among other things, APR 11 tasks the MCLE Board with reviewing and suggesting amendments to APR 11, adopting policies, approving MCLE activities, reviewing determinations or decisions made by WSBA regarding approval of activities, determining MCLE fees to defray the reasonably necessary costs of administering the MCLE rules, and waiving or modifying members’ compliance requirements. The MCLE Board also conducts hearings on member hardship petitions. The rule also provides that WSBA “shall provide administrative support to the MCLE Board.” Suggested amendments to APR 11 as well as policies to provide guidance in its administration are subject to review by the Board of Governors and approval by the Supreme Court.

The **Practice of Law Board** was established by the Washington Supreme Court with the adoption of General Rule 25, effective September 1, 2002. Under the current version of the [rule](#), the Supreme Court appoints its members “after considering nominations from the Practice of Law Board and the Board of Governors.” The rule outlines the responsibilities of the Board, which include recommending to the Court “new avenues for persons not currently authorized to practice law to provide legal and law-related services that might otherwise constitute the practice of law as defined in GR 24.” Such recommendations must be forwarded to the Board of Governors for consideration and comment at least 90 days before transmission to the Court. The rule also charges WSBA with funding, administering and staffing the Practice of Law Board consistent with GR 12.

TO: WSBA Board of Governors
FROM: Executive Director Terra Nevitt
DATE: February 17, 2023
RE: Executive Director's Report

On March 4, 2022, the Practice of Law Board distributed to the WSBA Board of Governors its first iteration of a recommendation for a legal regulatory lab. Based on input and additional information gathered, the Practice of Law Board continued to refine the proposal and at its meeting with Washington Supreme Court on January 4, 2023, the Board presented its current recommendation for Data-driven Legal Regulatory Reform. The Practice of Law Board is seeking permission from the Court to draft – for the Court's approval – a court order and draft rule that would authorize data-driven legal regulatory reform in Washington. These proposals would define the pathway for potential licensure of alternative business structures and nontraditional online legal services, provided they can successfully prove that they provide competent legal services with minimal risk of harm to the public. They would also create a supervisory Board that would report to the Supreme Court and be administered by WSBA pursuant to GR 12.3. The Court has indicated that it would like input from the Board of Governors on this proposal.

The Utah Model – Legal Sandbox

Utah and Arizona have already begun engaging in this kind of legal regulatory reform. Following two years of research and study, the Utah Supreme Court launched the Innovation Office and a Legal Sandbox in August 2020. Utah defines its sandbox as “a policy tool through which new models or services can be offered and tested to assess marketability and impact and inform future policy-making.” Utah's sandbox is administered by the Innovation Office, which is independent from the Utah State Bar and reports directly to the Utah Supreme Court. Its purpose to “ensure consumers have access to a well-developed, high-quality, innovative, affordable, and competitive market for legal services.” The role of the Innovation Office is to assess applications, make recommendations to the Utah Supreme Court regarding entity authorization, and to monitor the services of authorized entities for potential consumer harm.

The Arizona Model – Alternative Business Structures

The Arizona Supreme Court also adopted changes to its rules to encourage business innovation in providing legal services at affordable prices in 2020. In August 2020, the Court eliminated its Rule 5.4, allowing nonlawyers to partner with lawyers and to have an economic interest in, manage, or make decisions in an Alternative Business Structure that provides legal services. And in October 2020, the Court set forth a regulatory and licensing structure for Alternative Business Structures, which took effect January 1, 2021. Applications for Alternative Business Structures are evaluated by a Court-created committee, which recommends approval or denial to Supreme Court. These reforms followed the work of the Arizona Task Force on Delivery of Legal Services which was established in November 2018 and published its final report in October 2019.

Attachments:

1. WA Practice of Law Board Recommendation for a New Avenue for Persons Not Currently Authorized to Practice Law via Data-Driven Legal Regulatory Reform (Dec. 2022)
2. Draft Blueprint for a Legal Regulatory Lab in Washington State (Feb. 2022)

3. Narrowing the Access-to-Justice Gap by Reimagining Regulation: Report and Recommendation from the Utah Work Group on Regulatory Reform (Aug. 2019)
4. Utah Office of Legal Services Innovation Activity Report Executive Summary (Jan. 2023)
5. Arizona Task Force on the Delivery of Legal Services Report and Recommendations (Oct. 2019)
6. Alternative Business Structures, Presentation of Suzanne Porter, Legal Services Innovations Officer, Arizona Supreme Court (Mar. 2023)

**IN THE SUPREME COURT OF THE STATE OF
WASHINGTON**

**RECOMMENDATION FOR A NEW AVENUE
FOR PERSONS NOT CURRENTLY AUTHORIZED TO
PRACTICE LAW
VIA
DATA-DRIVEN LEGAL REGULATORY REFORM**

Washington Courts Practice of Law Board
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I. IDENTITY AND INTERESTS OF RECOMMENDATION PREPARER

Under GR 25 Practice of Law Board,¹ the Practice of Law Board is charged with the responsibility to consider and recommend to the Supreme Court new avenues for persons not currently authorized to practice law to provide legal and law-related services that might otherwise constitute the practice of law as defined in GR 24 Practice of Law.²

Such recommendations must be accompanied by a determination:

(A) that access to affordable and reliable legal and law-related services consistent with protection of the public will be enhanced by authorizing the recommended legal service provider or legal service delivery model; (B) that the defined activities outlined in the recommendation can be reasonably and competently provided by skilled and trained legal service providers; (C) that if the public interest requires regulation under Supreme Court authority, such regulation considers any regulatory objectives in GR 12 et seq. and is tailored to promote access to affordable legal and law-related services while ensuring that those

¹ WA. Gen. R. 25(b)(2).

² WA. Gen. R. 24.

whose important rights are at stake can reasonably rely on the quality, skill and ability of the authorized legal service providers; (D) that, to the extent that the activities authorized will involve the handling of client trust funds, provision has been made to ensure that such funds are handled in a manner consistent with all applicable court rules, including the requirement that such funds be placed in interest-bearing accounts, with interest paid to the Legal Foundation of Washington; and (E) that the recommended program, including the costs of regulation, is financially self-supporting within a reasonable period of time.³

To fulfill this responsibility, the Practice of Law Board is filing this recommendation with the Supreme Court for data-driven legal regulatory reform processes to add a new path to the existing processes for the Supreme Court to approve reforms to legal rules and regulations.

II. RECOMMENDATION PRESENTED

Data-driven legal regulatory reform adds a new data-focused pathway to the existing processes for approving legal regulatory reform to encourage more innovation in the delivery

³ WA. Gen. R. 25(b)(2).

of legal services to the public and to allow the public to bring ideas for legal reform to the Supreme Court for approval.

III. DATA-DRIVEN LEGAL REGULATORY REFORM

Data-driven legal regulatory reform is a set of processes that uses scientific methods as a framework for reforming legal rules, regulations, or procedures. Generally, the scientific method is based on a willingness to change based on new evidence, after significant peer review and criticism that considers relevant data, and verifiable results. It naturally tends to limit claims of usefulness until there is accurate measurement of positive and negative effects.

As applied to legal regulatory reform, the scientific method relies on testing any proposed reform by collecting and analyzing data to ensure the anticipated benefits are achievable and outweigh and minimize any harm.

The scientific method begins by stating a hypothesis, then designing an experiment to validate the hypothesis,

conducting the experiment in a safe environment, analyzing the results of the experiment, and publishing the results.

Applied to legal reform, the hypothesis is the proposed rule change or reform. For example, a hypothesis might define a more efficient approach to testing the competency of law school graduates than a bar exam. A test would then be designed to evaluate the benefits and potential harms of the hypothesis, in this case a different measure of legal competency. This test would then be run using safe and monitored processes, and the data from the experiment would be collected and evaluated. Such a process would allow debate surrounding the legal reform to be more data-driven. If the benefits are achievable and the risks manageable, then the Supreme Court could approve a court order to implement the reform.

Other parties, including other entities, states, or jurisdictions should be capable of replicating the legal reform experiment and obtaining similar results to further validate the hypothesis and ensure the experiment produces a consistent

outcome. The scientific method also allows for iterative change to the hypothesis based on the data and revising the test to evaluate the modified hypothesis.

Data-driven legal regulatory reform could facilitate timely changes to legal rules and help the judiciary address the access to justice gap by streamlining and improving the work of existing legal practitioners and introducing new and innovative legal services to the existing market for legal services.

The existing market for legal services is changing rapidly. A study in 2019 shows there are more than 130 technology companies entering the legal services market in 16 different categories from drafting, contract management and review, and services which offer legal services primarily to legal professions.⁴ This does not include online legal services that provide legal services to consumers, which are gaining

⁴ LawGeex, *2019 Legal Tech Buyer's Guide*, available at https://ltbg2019.lawgeex.com/?utm_source=blog&utm_campaign=ltbg121119.

investments from venture capitalists as well as gaining public use and acceptance as sources of legal services.⁵

“The combining of law with technology is driven by powerful economic forces. Now more so than at any other time in history, law is in the process of moving from a pervasive model of one-to-one consultative legal services to one where technology enables one-to-many legal solutions.”⁶

Although there can be no guarantee that the introduction of data-driven legal reform will result in new legal services and make it easier for people to get access to affordable legal services and reduce the access to justice gap, the addition of new and innovative services that scale better than the existing

⁵ See Hannah Green, *Hello Prenup Finalizes Shark Tank Deal*, BOSTON BUS. J., Feb. 24, 2022, available at <https://www.bizjournals.com/boston/inno/stories/news/2022/02/24/helloprenup-finalizes-its-shark-tank-deal.html>

⁶ William D. Henderson, *Legal Market Landscape Report, Commissioned by the State Bar of California*, July 19, 2018, at 11, available at <https://live-iclr.pantheonsite.io/wp-content/uploads/2019/10/Henderson-report.pdf>.

services have traditionally reduced costs and made services more available.⁷

Regardless, the advantage of data-driven legal regulatory reform is that the collection of data that quantifies the benefits and any harms, has the potential to catch any harm as soon as possible, and to address such harms while they are most amenable to correction and mitigation.

The Practice of Law Board has designed a system for data-driven legal regulatory reform which is currently documented in a blueprint that will become an operation manual for data-driven legal regulatory reform.⁸ This blueprint

⁷ See generally, Tim Stobierski, *What are Network Effects*, HARVARD BUS. SCHOOL ONLINE, Nov. 2020, available at <https://online.hbs.edu/blog/post/what-are-network-effects>, discussing how the value of a product, service, or platform depends on the number of buyers, sellers, or users who leverage it and how typically, the greater the number of buyers, sellers, or users, the greater the network effect—and the greater the value created by the offering.

⁸ See generally, Washington Court Practice of Law Board, *Blueprint for a Legal Regulatory Lab*, Feb. 2022, available at <https://www.wsba.org/docs/default-source/legal->

expands the work of the Utah Supreme Court Office of Innovation's regulatory sandbox.⁹

Data-driven legal regulatory reform is additive to, rather than a replacement for existing reform processes. That is, while it provides a new set of processes for accomplishing legal regulatory reform, it does not replace existing or traditional methods of enacting such reform.

IV. THE NEED FOR DATA-DRIVEN LEGAL REGULATORY REFORM

People in Washington State with a legal problem have difficulty finding assistance from a legal professional. Using 2020 US Census Data¹⁰ and extrapolating based on the 2015

community/committees/practice-of-law-board/polb_legal-regulatory-lab_2.0_02-2022.pdf?sfvrsn=b67110f1_5.

⁹ See generally, David Freeman Engstrom, Lucy Ricca, Graham Ambrose, Maddie Walsh, *Legal Innovation After Reform: Evidence from Regulatory Change*, Deborah L. Rhode Center on the Legal Profession, September 2022, available at <https://law.stanford.edu/publications/legal-innovation-after-reform-evidence-from-regulatory-change/>.

¹⁰ See US Census data, available at <https://www.census.gov/library/stories/state-by->

Washington Civil Needs Study, over 543,953 people faced legal problems (71%), but only 157,746 of these people got help for their legal problem (29%).¹¹ This means 386,207 people with a legal problem faced the prospect of handling their problem alone—without competent legal representation or guidance.

This gap between people with and without access to competent legal assistance may be growing rather than shrinking. Judicial and legislative changes, as well as the COVID-19 pandemic,¹² have likely increased the number of people looking for assistance with legal matters.¹³ In *State v.*

state/washington-population-change-between-census-decade.html

¹¹ Washington Supreme Court Civil Legal Needs Study Update Committee, *2015 Washington State Civil Legal Needs Study Update*, Oct. 2015, at 5, available at https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf.

¹² Closure of the courts during lockdowns to prevent the spread of the virus as the courts adapted to remote trials and hearings, likely added to the backlog of both criminal and civil cases.

¹³ Michael Houlberg, Janet Drobinske, *The Landscape of Allied Legal Professionals in the United States*, IAALS, Nov. 2022, at

Blake, 197 Wn.2d 170, 481 P.3d 521 (2021), the Supreme Court held Washington’s drug possession laws unconstitutional, entitling many people previously convicted of drug possession to get their convictions vacated.¹⁴ In April 2021, Governor Inslee signed Senate Bill 5160 into law, which established a “right to appointed counsel for indigent tenants.”¹⁵ Although these changes increase available judicial remedies for legal issues, the availability of competent legal assistance from authorized legal professionals likely remains elusive.

Addressing the access to justice gap is difficult, in part because the provision of legal services by legal professionals

3, available at https://iaals.du.edu/sites/default/files/documents/publications/landscape_allied_legal_professionals.pdf.

¹⁴ See generally, Washington Law Help, *How to Clear (vacate) Your Drug Possession Conviction After State v. Blake*, available at <https://www.washingtonlawhelp.org/resource/blake>.

¹⁵ See generally, Washington State Office of Civil Legal Aid, *Right to Counsel for Indigent Tenants: Implementation Plan*, at 4, Final Rev. 10-2021, available at <https://ocla.wa.gov/wp-content/uploads/2021/10/Implementation-Plan-Right-to-Counsel-for-Indigent-Tenants-Rev-10-8-21-Final.pdf>.

does not appear to scale. For example, although pro bono and legal aid are critically important and socially valuable in addressing the access to justice gap, some have argued that “we can’t rely on lawyers alone,” and “even a doubling or tripling of pro bono hours won’t put a dent in the problem.”¹⁶

Therefore, addressing the access to justice gap will require innovation. One such innovation is implementing data-driven legal regulatory reform to address the problem with the current methods of legal regulatory reform being too slow and failing to measure whether the result achieved met the desired goal. Such innovation has the potential to add to the market new legal services that are more affordable and better serve consumers when they are looking for legal assistance.

¹⁶ David Freeman Engstrom, *Stanford Law’s David Freeman Engstrom on California’s Access-to-Justice Crisis and the State Bar’s Working Group*, STANFORD LAW SCHOOL, Dec. 17, 2021, available at <https://law.stanford.edu/2021/12/17/stanford-laws-david-freeman-engstrom-on-californias-access-to-justice-crisis-and-the-state-bars-closing-the-justice-gap-working-group/>.

At least one jurisdiction, Arizona, has decided that the value of innovation exceeds the risk and is moving forward by instituting reforms that permit alternative business structures, without using data-driven legal regulatory reform or a sandbox.¹⁷

V. A MODEL FOR DATA-DRIVEN LEGAL REGULATORY REFORM

Borrowing heavily from the Utah Supreme Court's Office of Innovation, the Practice of Law Board has designed a model for data-driven legal regulatory reform. The Board used Utah as a model because the Utah sandbox is operating and showing success in bringing new legal services to the market.¹⁸

¹⁷ Supreme Court of Arizona, *Order Amending the Arizona Rules of the Supreme Court and the Arizona Rules of Evidence*, No. R-20-0034, Aug. 27, 2020, available at <https://www.azcourts.gov/Portals/215/Documents/082720FOrderR-20-0034LPABS.pdf?ver=2020-08-27-153342-037> (eliminating Rule 5.4).

¹⁸ Logan Cornett and Zachariah DeMeola, *Data from Utah's Sandbox Shows Extraordinary Promise, Refutes Fears of Harm*, IAALS, Sept. 15, 2021, <https://iaals.du.edu/blog/data-utahs-sandbox-shows-extraordinary-promise-refutes-fears-harm>.

As stated previously, the complete design for a data-driven legal reform model for Washington is documented as a blueprint. This evolving document is intended to be continually revised as data is analyzed and benefits and risks of the model are better understood.

Under the proposed data-driven legal regulatory reform model, a person or entity with an idea for legal regulatory reform completes an application documenting the anticipated benefits of the proposed service or reform, impact on the access to justice gap, risks, including risks of harm, and a cost estimate for the testing and data analysis. The application materials would be reviewed by a new Supreme Court Board set up to supervise data-driven legal regulatory reform for initial analysis and review.

Managing data-driven legal regulatory reform would not be a role of the Practice of Law Board, as it is conflicted due to its role in the coordination of the unauthorized practice of law. Nor would it be a role for WSBA, as WSBA members are

market participants. Rather, the supervising board would be a new Supreme Court board, modelled on the current Practice of Law Board and the Access to Justice Board.

During the application review process, the Supreme Court Board (herein supervisory board) would work with the applicant to understand the metes and bounds of the proposed legal regulatory reform, including whether the benefits appear achievable, and whether the risks can be adequately managed. If the applicant—after determining the costs for using the data-driven legal regulatory reform processes during the application process—is willing to pay the costs for testing, the supervisory board would prepare a recommendation for the Supreme Court. The Supreme Court would review the supervisory board recommendation and may issue a time-limited (typically two or three year) court order granting the authority for the applicant to test the legal reform under the documented test conditions and supervision of the Supreme Court through the supervising board.

As the applicant provides the legal service defined by the court order, they would file quarterly reports with the supervising board, which would monitor and review the data for the duration of the testing period. People who are getting the legal service would have the ability to immediately report any problems to the supervising board for the appropriate investigation and action.

The supervising board would analyze the data and work with the applicant to determine whether the tested reform should continue as designed, or whether the test and type and amount of data being collected needs modification. The supervising board will thus need appointed members who can evaluate the collected data.

At the end of the testing period, the applicant would file a final report with the supervising board, which would review the report and the data, and prepare a final report for the Supreme Court. The Supreme Court, upon a determination that the regulatory reform provides benefits without undue risk to the

public, may license the new legal services via a court order that defines supported limitations or conditions, and includes a requirement for a license fee and annual review.

The role of the supervising board in this model is to work with the applicant to find a way to test the applicant's hypothesis, that minimizes the potential of harm to the public. The supervising board should not act as a gatekeeper that throttles reform.

This model replaces the more hope-driven model that a reform produces the intended result with a data-driven model that collects and analyzes data designed to scientifically determine whether the reform has the desired positive impact. Because the developing services and regulations can be modified as the data is analyzed, reform should take less time than the traditional reform process. In the first year of operation, only three to five applications will be accepted to allow the process to be modified or improved as data about the processes is collected and analyzed.

Another key benefit of data-driven legal regulatory reform is that the public would be an active participant in the reform, rather than a stakeholder who may be involved only if they hear about the change and choose to comment. This is because the public would be involved with full transparency in the testing of the proposed reform.

The collection and analysis of data distinguishes this approach to regulatory reform from traditional methods of legal reform, which generally rely on subject matter experts drafting documents and debating their impact. Much time is spent on each word and comma, but little analysis of any data is used as a basis for decisions. Therefore, much of the traditional reform of legal regulatory matters is based on anecdotal evidence. For example, consider the recent regulatory reform to the RPC 1.4 Communications. There, WSBA as the proponent recommended adoption of amendments and six new comments to this RPC that would require disclosure of a lawyer's malpractice insurance status to clients and prospective clients if

the lawyer's insurance did not meet minimum levels.¹⁹ This reform came after several years of rule drafting and debate among a group of interested legal practitioners, with little active involvement from stakeholders such as insurance brokers and the public.²⁰ Although this rule was revised after several years of study, this change took far longer than it should have, and was made without any plan to measure the impact. It was assumed it would have a desired effect of encouraging more lawyers to acquire malpractice insurance. Therefore, it is unknown whether the change has resulted in more legal professionals acquiring insurance, or more legal professionals choosing to merely report and disclose while remaining essentially self-insured or uninsured.

¹⁹ See generally, GR 9 Cover Sheet, Suggested Amendments to Rules of Professional Conduct Rule 1.4, available at https://www.courts.wa.gov/court_rules/?fa=court_rules.proposedRuleDisplay&ruleId=5794.

²⁰ It should be noted that an individual harmed by a lawyer who was uninsured did voice his opinion on the change, advocating for mandatory insurance at BOG meetings where this change was presented to the governors.

When legal reform takes too long, and the traditional method can take up to sixty months, risk increases such that by the time the reform is implemented, the issues have evolved and thus it no longer addresses the problem it targeted.²¹ This is because many of the matters that reform is intended to address do not stop while reform is being debated. Rather, the matter tends to evolve and change and become more entrenched or have additional complications or issues. Allowing iterative changes to reform based on data gathered during the testing phase will significantly improve the issue of timely reform.

Although the model and processes being recommended in Washington for data-driven legal regulatory reform borrow heavily from the experiences of the Utah Courts' Office of Innovation, the Practice of Law Board benefits from being able

²¹ Consider for example, changes to lawyer advertising and RPC 7.1, which began in Apr. 2015, were published for comment by the Supreme Court in Apr. 2019 (available at https://www.courts.wa.gov/court_rules/?fa=court_rules.proposedRuleDisplay&ruleId=2698), and ultimately adopted in Jan. 2021.

to observe Utah’s sandbox and data, and modify its plan as needed.²² For example, the Practice of Law Board has designed a more nuanced approach to assigning and measuring risk and has determined that from the beginning, it is important to measure impact on the access to justice gap, rather than assuming any increase of legal services will reduce the gap.

In working with the Utah Office of Innovation, the Practice of Law Board has shared the proposed processes for risk analysis, measuring access to justice, and the applicant-based payment model.

VI. SUPERVISING DATA-DRIVEN LEGAL REGULATORY REFORM

To address matters important to the Supreme Court, such as addressing access to justice and the practice of law, the Washington Supreme Court has chosen to create boards that

²² See generally, *Innovation Office Activity Report*, Utah Office of Innovation, Nov. 18, 2022, available at <https://utahinnovationoffice.org/wp-content/uploads/2022/11/IO-Monthly-Public-Report-October-2022.pdf>.

report to the Supreme Court, while being administered by WSBA. Such administration functions include staffing, budgeting, and oversight.

The Supreme Court boards are particularly important in areas that have the potential to be considered to violate antitrust law under *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 574 U.S. 494, 135 S.Ct. 1101, 191 L.Ed.2d 35 (2015), where the U.S. Supreme Court held that because “a controlling number of decision makers on a board were ‘active market participants in the occupation the board regulates,’ the board would not enjoy immunity unless it was subject to a clear articulation of state policy and active supervision by a non-market participant.”²³ For example, the Practice of Law Board, not WSBA, has the responsibility to

²³ Benjamin Baron and Deborah Rhode, “Access to Justice and Routine Legal Services: New Technologies Meet Bar Regulators,” *Hastings Law Journal*, Vol. 70:955, May 2019, at 977, available at <https://hastingslawjournal.org/wp-content/uploads/70.4-Barton-Rhode1.pdf>.

collect and refer complaints alleging the unauthorized practice of law to the appropriate authority per GR 25, under the active supervision of the Supreme Court.²⁴

Therefore, the Practice of Law Board is recommending that the Supreme Court authorize another independent board that reports to the Supreme Court to supervise data-driven legal regulatory reform.

Like the Practice of Law Board, the new supervisory board for data-driven legal regulatory reform would be composed of volunteer members. The supervisory board would include a core set of volunteer members, representing legal professionals who are active members of WSBA, and an equal number of members of the public. Additional at-large-members would be appointed due to their expertise in a particular field relevant to an applicant with an idea for legal regulatory reform. For example, if an applicant had a proposal to reform the

²⁴ WA. Gen. R. 25(b)(3).

practice of family law, the at-large-members for this application could include a family practice lawyer, a limited license legal technician, and a data scientist to help analyze the data. The number of at-large members could differ based on the applicant, the complexity of the proposed reform, and the number of applicants who are in process. Therefore, the size of the board could grow as needed, but each recommendation would be based on the concurrence of the legal representative and public members.

Should the supervisory board need to acquire expertise in a particular area, such as data science, and such expertise had an associated cost, then such costs would be paid by the applicant.

In addition, for continuity between the Practice of Law Board, which is bringing this data-driven legal regulatory reform proposal to the Supreme Court, and the new supervisory board, for at least the first year of the new supervisory board's operation, one or two members of the supervisory board would

be members of the Practice of Law Board to advise and help resolve any issues not anticipated in the design of the process.²⁵

Like the other Supreme Court Boards, the new supervisory board would be administered by WSBA under GR12.3.²⁶

It should be noted that because this supervisory board would be administered by WSBA per GR 12, some WSBA member funds would be spent on such administration. For the purposes of this document and the Blueprint as revised per this recommendation, these direct costs, including for example, meeting costs, should not be substantially different from the direct cost for the other court-created boards.

VII. WHO CAN USE DATA-DRIVEN LEGAL REGULATORY REFORM?

Legal professionals, members of the public, and entities can apply to take part in data-driven legal regulatory reform.

²⁵ This will require a rule change to GR 24 and a new General Rule to create the new supervisory board.

²⁶ WA. Gen. R. 12.3.

Experience in Utah shows that the largest number of applicants are legal professionals, who were mostly interested in investigating alternative business structures for their legal firms. Many applicants to Utah’s sandbox were proposed reform to the RPCs such as RPC 5.4 (a), which generally prohibits fee-splitting with non-lawyers, and 5.4 (b), which generally prohibits formation of a partnership or professional corporation with a non-lawyer for the practice of law.²⁷

Based on the Utah sandbox’s experience, the Practice of Law Board anticipates that online legal service providers who offer a variety of legal services in areas such as family law (primarily divorce) and immigration will apply to reform regulations, such as the court rules defining the unauthorized practice of law.

²⁷ See generally, *Innovation Office Activity Report*, Utah Office of Innovation, Nov. 18, 2022, available at <https://utahinnovationoffice.org/wp-content/uploads/2022/11/IO-Monthly-Public-Report-October-2022.pdf>.

Many online service providers are already offering legal services primarily from internet websites hosted in a variety of states, including Washington. Such firms have no path to authorized practice under the current statutes and regulations, despite strong support from consumers who are using and benefiting from these alternative but possibly unauthorized legal services.

Although it is conceivable that some entities with an idea for legal regulatory reform may not have access to legal professionals, this would not prevent them from participating in data-driven legal regulatory reform, but it would make their application require additional scrutiny to ensure sufficient information is available to decide whether the proposal adequately protects the public from undue risk of harm.

VIII. FUNDING DATA-DRIVEN LEGAL REGULATORY REFORM

The Utah Supreme Court Office of Innovation initially funded its activities via legal grants. As these grants run out, Utah will need to look for funding from a variety of sources.²⁸

Under GR 25(b)(2)(E), any innovation that the Practice of Law Board proposes to the Supreme Court must at a reasonable point cover its costs, “including the costs of regulation,” and be “financially self-supporting within a reasonable period of time.”²⁹ Although reasonable is undefined in the court rule, the Practice of Law Board recommends that a five-year period is reasonable.

²⁸ See *Utah Supreme Court Standing Order No. 15*, stating that the Innovation Office will be funded initially by a grant from the State Justice Institute and in-kind contributions from the National Center for State Courts and the Institute for the Advancement of the American Legal System. The Innovation Office will have the authority to seek additional grant funding and may also be supported through licensing fees as noted in Section 4.9., available at https://legacy.utcourts.gov/utc/rules-approved/wp-content/uploads/sites/4/2020/09/REVISED-Utah-Supreme-Court-Standing-Order-No.-15.Clean_.pdf.

²⁹ WA. Gen. R. 25(b)(2)(E).

Therefore, the Practice of Law Board's initial plans for data-driven legal regulatory reform attempted to find a funding mechanism that would not use WSBA member dues. It investigated a variety of funding mechanisms including grants, but the Board has never obtained a definitive answer as to whether a Supreme Court Board can solicit grants, and if a grant was awarded, whether the Supreme Court Board could accept the monies as it is an entity administered by the bar but is not an entity that has its own bank account or non-exempt status.

The Practice of Law Board, in conjunction with the executive staff of the WSBA, built an extensive budget model showing what a fully permanent staffed board, based on the cost structures of WSBA might cost. This budget model used WSBA member funding to start the data-driven legal regulatory reform. The model is based on liberal costs, and conservative numbers of applicants and eventual licensing fees for any successful applicant who receives a court order license to

provide new legal services. Based on this model a five-to-seven-year payback, with continued profitable operation beyond that point is feasible. Although one could debate line items in this budget model, doing so would not likely change the model by plus or minus ten percent, and therefore, the Board accepts this as a conservative budget for a full-time, staffed supervisory board.

However, this budget model does not address whether it is equitable to use WSBA member license fees to fund the business activities of other members or non-members. For example, the use of such funds to bootstrap the LLLT program led to an expense of \$1.4 million and only thirty-eight active LLLTs.³⁰

³⁰ Lacy Ashworth, *Nonlawyers in the Legal Profession: Lessons from the Sunsetting of Washington's LLLT Program*, 74 Ark. L. Rev., Jan. 2022, at 691, available at https://www.wsba.org/docs/default-source/licensing/lllt/nonlawyers-in-the-legal-profession_-lessons-from-the-sunsetting-of-washington's-lllt-program.pdf?sfvrsn=e5b11f1_4.

Therefore, the Practice of Law Board is recommending a volunteer-based supervisory board, and that applicants pay the costs of their data-driven legal regulatory reform. That is, they must be willing to cover all costs for their application during the data-driven legal regulatory reform process and up to final authorization. After final authorization, if granted, they would continue to pay an annual fee to cover ongoing monitoring and the costs of licensing.

Bootstrapping data-driven legal regulatory reform has an added positive effect: It ensures applicants have assessed their business model and the impact of the data-driven legal regulatory reform on that model, and therefore, are willing to invest in the process as a path to authorized practice under the regulatory reform they propose.

Applicants, in particular non-government organizations (NGOs), and other non-profits providing legal services, will be encouraged to apply for their own grants to fund their participation in data-driven legal regulatory reform.

However, to the extent that the board as a Supreme Court board is subject to GR 12.3, WSBA would remain responsible for budgeting for and paying such the costs of GR 12.3 administration.

IX. UNSUITABLE REFORMS FOR DATA-DRIVEN LEGAL REGULATORY REFORM

Not every rule or regulation is suitable for data-driven legal regulatory reform, not because of any problem inherent in the data-driven legal regulatory reform processes, but rather, because the rules are so central and core to the duties of legal professionals to their clients. This includes such rules and regulations as RPC 1.1 Competence, 1.3 Diligence, 1.4 Communications, 1.6 Confidentiality, 1.7 Conflicts, 1.8 Conflicts, 1.9 Duties to Former Clients, 1.10 Imputation of Conflicts of Interest, 1.15A Safeguarding Property, and 1.15B Required Trust Accounts.

The testing of these rules would not be strictly prohibited, but rather, applicants would be warned that these

areas would be subject to the highest levels of scrutiny to ensure there are measurable benefits, and with the highest suspicion that harm would both easily occur and be virtually impossible to mitigate.

It is important to consider the duty of Confidentiality and the collection of data in this model. RPC 1.6 prohibits disclosing “information relating to the representation of a client” unless an exception applies.³¹ Although foundational to the attorney client relationship and to the provision of justice, this rule may be being used as an to excuse any attempt to collect data about legal services. There are still significant amounts of data about legal services which can be collected without violating confidentiality, such as the start and end dates of the legal service. Data can also be anonymized, the remove references to a particular individual or event, while still having value for measuring the effectiveness and efficiency of a legal

³¹ WASHINGTON LEGAL ETHICS (Wash. St. Bar Assoc.) 2d ed. 2020, at 7.3.

service. In addition to anonymizing data, informed consent, where a prospective client or client has been given adequate information and explanation about the material risks and reasonable alternatives, consents to the collection of the data solely for the purposes of measuring the data-driven legal regulatory reform.³²

X. SUITABLE REFORMS FOR DATA-DRIVEN LEGAL REGULATORY REFORM

A large spectrum of reforms should be possible using data-driven legal regulatory reform. The Practice of Law Board anticipates that, as with Utah's Office of Innovation, most applications will likely look to change the RPCs that affect the business of offering legal services or alternative business structures, including but not limited to RPC 1.5 Fees, Title 5 Law Firms and Associations, and Title 7 Information About Legal Services.

³² *Id.* at 7.6

In addition, it would be the completely feasible to use data-driven legal regulatory reform to evaluate several other potential reforms such as whether the LSAT is a valid measure of a candidate's likelihood of success in law school, or whether the bar exam is a valid and equitable measure of competency in the law to be licensed as an attorney and counselor at law or other authorized legal professional designation.

XI. CONCLUSION

For these reasons, the Practice of Law Board asks this Court to authorize the Practice of Law Board to prepare the necessary court orders and changes to the court rules, to allow data-driven legal regulatory reform and to create a Supreme Court Regulatory Reform Board, tasked with the responsibility of working with the Practice of Law Board to begin implementing data-driven legal regulatory reform.

**Draft Blueprint
for a
Legal Regulatory
Lab
in
Washington
State**

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Blueprint Change History

Version 1.8 Changes

- Changed “sandbox” to “laboratory”.
- Added final recommendations. Reorganized Blueprint around recommendations.
- Updated next steps. Added shaded boxes to highlight differences between the Utah Legal Regulatory Sandbox and the proposed Washington Legal Regulatory Lab.
- Appendices have not changed since version 1.7 other than to globally change sandbox to lab.

Version 2.0 Changes

- Clarified role of the Legal Regulatory Lab Board and the Washington State Bar Association in nontraditional legal services approved to operate after successful term in the lab.
- Clarified funding by grants.
- Incorporated final feedback from the Practice of Law Board members.
- Updated sample application (Appendix B) to reflect risk assessment estimation using models.

1.0 Executive Summary

Under General Rule (GR) 25(b)(2), a key duty and function of the Practice of Law Board (POLB) is “considering and recommending to the Supreme Court new avenues for persons not currently authorized to practice law to provide legal- and law-related services that might otherwise constitute the practice of law as defined by GR-24.”^{1,2}

This Blueprint for a Legal Regulatory Lab in Washington State (Blueprint) is such a recommendation. The Blueprint recommends that the Supreme Court create a Legal Regulatory Lab and a Legal Regulatory Lab Board to manage the lab.

The Legal Regulatory Lab will allow an applicant authorized to participate in the Legal Regulatory Lab to offer a nontraditional legal service. A nontraditional legal service is a legal service that would either violate a Rule of Professional Conduct (RPC), the Revised Code of Washington (RCW) 2.48.180 Unlawful Practice statute,³ or some other regulation. By offering the nontraditional legal service in a highly monitored and regulated environment the Legal Regulatory Lab Board can evaluate if the nontraditional legal service provides consumers with competent legal assistance without exposing them to undue risk of harm. A Legal Regulatory Lab will provide consumers with more legal service choices to address their legal needs.

This Blueprint recommends a model for a Legal Regulatory Lab that borrows heavily from the work being done by the Utah Supreme Court, the Utah Supreme Court Office of Innovation, and the Utah Legal Regulatory Sandbox, which has operated in Utah since August 2020.

¹ Washington Court General Rule 25, Practice of Law Board, available at https://www.courts.wa/court_rules/?fa=court.rules.display&group=ga&set=GR&ruleid=gagr25.

² Washington Court General Rule 24, Definition of the Practice of Law, available at https://www.courts.wa/court_rules/?fa=court.rules.display&group=ga&set=GR&ruleid=gagr24.

³ RCW 2.48.180 Unlawful Practice a Crime, available at <https://app.leg.wa.gov/rcw/default.aspx?cite=2.48.180>.

The POLB has received advice and input from many experts on legal regulation reform. The POLB wants to acknowledge the contributions of the Access to Justice Board (ATJB) Technology Committee, in particular Ms. Ellen Reed, Washington State Bar Association Governors Sunitha Anjilvel and Jordan Couch, Washington State Bar Association staff experts, including Chief Disciplinary Counsel Douglas Ende, Chief Regulatory Counsel and Director of Regulatory Services Renata de Carvalho Garcia, and General Counsel Julie Shankland, members of the POLB, and attorney Craig Shank.

Outside of Washington, the POLB received advice and input from John Lund and Lucy Ricca from the Utah Office of Legal Innovation, Crispen Passmore, who is active in legal regulatory reform in the United Kingdom, and Dean Andrew Perlman of the Suffolk School of Law.

1.1 Regulatory Sandboxes and Labs

Regulatory sandboxes and labs are not new, nor are they unique to legal services. “A regulatory sandbox is a policy tool through which a government or regulatory body permits limited relaxation of applicable rules to facilitate the development and testing of innovative business models, products, or services by sandbox participants.”⁴

The POLB is using the word “lab” instead of “sandbox.” This is not only because lab implies more supervision than a sandbox, but because a lab is a controlled and safe environment for experimental and scientific measured study.

“In financial markets, regulatory authorities have set up several initiatives, including regulatory sandboxes and innovation hubs, to engage and support financial technology (FinTech) startups.”⁵

⁴ Utah Supreme Court Standing Order 15, Aug. 14, 2020, available at <https://www.utcourts.gov/resources/rules/urap/docs/15.pdf>.

⁵ Ahmad Alaassar, Anne-Laure Mention, Tor Helge Aas, “Exploring A New Incubation Model for FinTechs: Regulatory Sandboxes,” *Technovation*, May 2021, available at <https://www.sciencedirect.com/science/article/pii/S0166497221000183#bib15>.

For example, the Utah Supreme Court has created an Office of Legal Innovation, which is running a legal regulatory sandbox where “any entity that wants to offer nontraditional legal services must seek approval,”⁶ and if approval is granted the entity can provide their legal service, and if no harm to consumers is found, may be licensed to provide the service under the appropriate ongoing regulation.

1.1.1 Recent Regulatory Reform News

Other jurisdictions beside Utah are considering or operating legal regulatory labs or moving to facilitate legal regulatory reform.

Arizona appears to be moving forward with aggressive regulatory reform without using a sandbox or lab. For example, the Arizona Supreme Court has approved a firm using an alternative business structure (ABS)⁷ to “focus on assisting clients with general corporate matters.”⁸

A committee of the Florida Supreme Court recommended “that Florida adopt a Law Practice Innovation Lab Program very similar to the approach taken in Utah. The advantage to taking this approach is that the concepts recommended by the Committee can be tested in a controlled environment where data can be collected, and public harm can be assessed and prevented.”⁹

⁶ Rebecca Love Kourlis and Neil M. Gorsuch, “Legal Advice is Often Unaffordable. Here’s How More People Can Get Help: Kourlis and Gorsuch, USA Today, Sept. 17, 2020, available at <https://www.usatoday.com/story/opinion/2020/09/17/lawyers-expensive-competition-innovation-increase-access-gorsuch-column/5817467002/>.

⁷ “An alternative business structure, or ABS, is a business entity that includes nonlawyers who have an economic interest or decision-making authority in a firm and provides legal services in accord with Supreme Court Rules 31 and 31.1(c).” Arizona Judicial Branch, Alternative Business Structure, available at [Alternative Business Structure \(azcourts.gov\)](https://www.azcourts.gov/alternative-business-structure)

⁸ Lyle Moran, “Nonlawyer-owned Alternative Legal Services Provider Receives Arizona’s Approval to Integrate With a Law Firm,” ABA Journal, Jan. 14, 2022, available at <https://www.abajournal.com/news/article/nonlawyer-owned-alternative-provider-receives-arizonas-approval-to-integrate-with-a-law-firm>.

⁹ John Stewart, et.al., Final Report of the Special Committee to Improve the Delivery of Legal Services, 19, June 28, 2021, available at <https://www-media.floridabar.org/uploads/2021/06/FINAL-REPORT-OF-THE-SPECIAL-COMMITTEE-TO-IMPROVE-THE-DELIVERY-OF-LEGAL-SERVICES.pdf>

A similar effort to create a sandbox or lab in California appears to have been slowed down as the California legislature has requested more information on the proposal from the California Bar Association, and it appears such a proposal in California may need legislative approval.¹⁰

Upsolve, a nonprofit which helps people defend themselves against debt collection suits has sued New York state’s attorney general, hoping to clear the way for volunteers to help consumers with such debt problems. The suit argues that using Unlawful Practice of Law statutes and rules that bar nonlawyers from giving the basic advice Upsolve provides violates the First Amendment.¹¹

HelloPrenup, a startup founded by a lawyer and an ex-Microsoft employee, appeared on Episode 6, Season 13 (Nov. 2021) of the ABC television program Shark Tank where “after making their pitch and fielding questions from the investors—aka the ‘Sharks’—the entrepreneurs ended up landing \$150,000 for their software platform that aims to help married couples get a prenuptial agreement.”¹²

1.2 POLB Recommendations

The POLB recommends that the Supreme Court:

1.2.1 Create a Legal Regulatory Lab

The Supreme Court should create a Legal Regulatory Lab based on the POLB Blueprint.

¹⁰ Cheryl Miller, Lawmakers Criticize State Bar Proposal Giving Nonlawyers Role in Legal Services, LAW.COM, Dec. 9, 2021, available at <https://www.law.com/therecorder/2021/12/09/lawmakers-criticize-state-bar-proposal-giving-non-lawyers-role-in-legal-services/?sreturn=20220013133102>

¹¹ Andy Newman, “They Need Legal Advice on Debts. Should It Have to Come From Lawyers?,” NYT, Jan. 25, 2021 available at <https://www.nytimes.com/2022/01/25/nyregion/consumer-debt-legal-advice.html>.

¹² Taylor Soper, “Shark Tank deal: Founders of prenup company land cash from Mr. Wonderful and Nextdoor founder,” GEEKWIRE, Nov. 2021, available at <https://www.geekwire.com/2021/shark-tank-deal-founders-of-prenup-company-land-cash-from-mr-wonderful-and-nextdoor-founder/>.

1.2.2 Create a Legal Regulatory Lab Board

The Supreme Court should create a new Supreme Court Board called the Legal Regulatory Lab Board (LRLB) to operate the Legal Regulatory Lab.

1.2.3 Funding the Legal Regulatory Lab Board and Lab

The Supreme Court should authorize the Legal Regulatory Lab Board to raise money to pay for operating the Legal Regulatory Lab Board and the Legal Regulatory Lab.

1.2.4 Authorize Successful Participants of the Legal Regulatory Lab to offer Legal Services in Washington

The Supreme Court should authorize successful participants of the Legal Regulatory Lab to offer the nontraditional legal services to consumers. Such authorization would be subject to a license fee and process and subject to an annual review to ensure the legal service provider is complying with the regulations documented in the Supreme Court Order that authorized provision of the nontraditional legal service.

2.0 Recommendation One: Create a Legal Regulatory Lab

The POLB recommends that the Supreme Court authorize a Legal Regulatory Lab that would allow legal professionals and entrepreneurs to offer a nontraditional legal service to consumers in Washington State. This Legal Regulatory Lab would also allow the Court through a Court-created board to determine the appropriate oversight of nontraditional legal services, including new business models for legal professionals and for online legal services with legal professional oversight. In Washington, legal professionals would include lawyers, limited license legal technicians (LLLTs), and licensed practice officers (LPOs) who are authorized and in good standing with the Washington State Bar Association.

2.1 Appropriate Legal Regulatory Reform Testing

The POLB recognizes that not every RPC or other regulation is appropriate for alternative regulation testing in the Legal Regulatory Lab. For example, RPC 1.1 Competence, 1.3 Diligence, and 1.4 Communications are so important to the practice of law and protecting consumers they are required for both traditional and nontraditional legal services.

However, modifications to other RPCs or other regulations could be examined in the Legal Regulatory Lab. For example, an applicant might want to propose a business model that could allow legal professionals to work with nonlegal professionals in the provision of a nontraditional legal service in the Legal Regulatory Lab, which could require changes to RPC 5.4 Professional Independence.

Therefore, the POLB recommends that the Legal Regulatory Lab be used to consider and recommend nontraditional legal services that test new and modified regulation of rules such as RPC 1.5 Fees, RPC 5.4(b) and (d) Professional Independence, and RPC 5.5 Unauthorized Practice of Law.

2.2 Encourage Innovation

The POLB recommends that the Legal Regulatory Lab be a mechanism to encourage legal professionals and entrepreneurs to experiment with innovative business models and nontraditional legal services that may reduce the Access to Justice (ATJ) gap.

2.3 Enable In-Depth Data Collection

The POLB recommends that the Legal Regulatory Lab be used to collect in-depth data about any reduction of the ATJ gap and the benefits and harms to consumers through the provision of a nontraditional legal service, which will allow the Supreme Court to make data-driven decisions about which nontraditional legal services providers should be allowed to offer in Washington after completion of a successful term in the Legal Regulatory Lab.

The data collected during operation in the Legal Regulatory Lab may lead to regulatory changes for both licensed legal professionals and nontraditional legal service providers.

Some data collected in Washington will differ from the data collected in Utah. For example, the POLB is recommending collection of data about the nontraditional legal services impact on the ATJ gap. However, most of the data will be collected in the same format to potentially facilitate cross-jurisdiction data analysis, and possible future reciprocity with other states such as Utah.

2.4 Timely Regulatory Reform

The POLB recommends that the Legal Regulatory Lab be used to enable timely regulatory reform. The Legal Regulatory Lab should test the impact of a change to an RPC or other regulation so informed decisions about changes can be made promptly.

For example, recent changes to advertising RPCs took over 60 months from the start of rewriting to the final approval by the Supreme Court. When it takes that long to enact a change it is very likely that the problem the change is designed to fix is no longer the problem that is occurring. Testing and evaluating rule changes in a Legal Regulatory Lab might be completed in 24-30 months because regulation testing is focused on specific regulations with supporting data collected and analyzed to support or reject any change.

The possibility exists that some changes may become obvious based on less than 24-months' worth of data, but generally, participants would operate in the Legal Regulatory Lab for two years, which still would substantially reduce the time to improve regulation of legal services.¹³

¹³ Utah has already modified its Legal Regulatory Lab based on early data. For example, as of the Utah Supreme Court's December 10, 2020, statement on referral fees, the Innovation Office will not consider applications setting forth bare referral fee arrangements between lawyers and nonlawyers. Bare referral fees are compensation paid to nonlawyers for the sole purpose of ensuring the referral of legal work. The Innovation Office will continue to consider applications in which fee sharing is one component in a more comprehensive innovative proposal. See: <https://utahinnovationoffice.org/about/what-we-do/>.

2.5 Non-recommendations for the Legal Regulatory Lab

2.5.1 No Skirting of Regulations

The POLB is not recommending the creation of a non-regulated environment. Rather, the intent is to determine the appropriate regulations to protect consumers of legal services from harm.

2.5.2 No Unauthorized Practice of Law

The POLB is not recommending the creation of an environment that encourages the Unauthorized Practice of Law (UPL). Every participant in the Legal Regulatory Lab would be subject to a specific Supreme Court Order that both authorizes participation in the Legal Regulatory Lab and details the regulations in effect in the lab.

Rather, the intent of the Legal Regulatory Lab is to provide a pathway for legal professionals and entrepreneurs to provide nontraditional legal service under the authorization and active supervision of the Washington Supreme Court or its delegate, the Legal Regulatory Reform Board.

3.0 Recommendation Two: Create a Legal Regulatory Lab Board

The POLB recommends that the Supreme Court create a Legal Regulatory Lab Board to manage and operate a Legal Regulatory Lab for the Supreme Court.

3.1 The Legal Regulatory Lab Board

The POLB recommends that an independent Supreme Court Board, like the POLB, be created by the Supreme Court. The Legal Regulatory Lab Board would report to the Supreme Court and would be administered by WSBA.

The POLB investigated several possible structures for an authority to run the Legal Regulatory Lab, including a Board that would report to the Administrative Office of the Court, and a standalone Board.

After careful consideration of the alternatives, the POLB is recommending the Supreme Court stay with the model of an independent Board administered by the WSBA as this model already works in Washington as shown by the POLB, the ATJ Board, and the Disciplinary Board. These boards perform duties and responsibilities for the Supreme Court in an independent manner, while benefiting from the administration and oversight of WSBA.

Note: This is a variation from the Utah Legal Regulatory Sandbox, where the Utah Office of Innovation reports to the Utah Supreme Court, with no apparent connection the Utah State Bar.

3.2 Legal Regulatory Board Responsibilities

The responsibilities of the Legal Regulatory Lab Board would be to:

- Evaluate and recommend applicants for participation in the Legal Regulatory Lab
- Monitor performance of participants operating in the Legal Regulatory Lab
- Take corrective action, including suspension of participation in the Legal Regulatory Lab in cases of consumer harm.

3.3 Composition of the Legal Regulatory Lab Board

The POLB recommends that, like the POLB, the Legal Regulatory Lab Board would have 13 voting members, where at least five members must not be legal professionals (that is, these members must be from the public or other stakeholders residing in Washington state.)

The Legal Regulatory Lab Board will have nonvoting staff liaisons with WSBA, the WSBA Board of Governors, the ATJ Board, and the POLB to facilitate communications between WSBA and the Boards.

Affirmative actions should be taken to nominate voting members with experience:

- Working in underrepresented communities
- Providing legal aid and pro bono services
- Working in the technology community.

3.4 Consulting Expertise and Chargeback for WSBA Services

The POLB recommends that the Legal Regulatory Lab Board core membership would pull in expertise as needed based on the applicant and the nontraditional legal service, from a variety of sources, including the Washington Supreme Court, WSBA, the WSBA sections (for specific legal subject matter expertise), the law schools in Washington State, and members of the bar and the tech community.

For some of the legal-related services provided by WSBA to the Legal Regulatory Lab Board, such as providing a legal opinion about regulating a nontraditional legal service, the Legal Regulatory Lab Board would pay back to WSBA the cost of such an opinion. (See Recommendation Three: Funding the Legal Regulatory Lab).

Note: This is a variation from the Utah Legal Regulatory Sandbox, where the Utah Office of Innovation appears to be funded by grants and is not using any resources from the Utah State Bar or the Utah Courts. However, at some point Utah will likely have to use some application and participation funding to cover costs of the Office of Innovation and the Legal Regulatory Sandbox.

3.5 Legal Regulatory Lab Board and Conflicts of Interest

The Legal Regulatory Lab Board may have a situation where a legal professional or public member of the board may have a personal or business relationship with an applicant to the Legal Regulatory Lab. If such a circumstance should arise, that Legal Regulatory Board member would have to recuse themselves from the consideration or voting on the application or review of the applicant's participation in the Legal Regulatory Lab.

4.0 Recommendation Three: Funding the Legal Regulatory Lab Board

The POLB recommends that the Supreme Court fund the Legal Regulatory Lab Board and operation of the Legal Regulatory Lab by authorizing the collection of fees from applicants and participants, and from licensing fees from those participants who after successful completion of a term operating in the lab, may provide the legal service in Washington.

4.1 Application Fees

Generally, each applicant will pay the costs of reviewing their application, and participation in the lab.

Most of the review of an application will be made by the Legal Regulatory Lab Board. However, such a review may need assistance from WSBA, including legal expertise and administrative help. The POLB estimates that such assistance from WSBA in reviewing each application to participate in the Legal Regulatory Lab will require approximately four person hours—two hours provided by a legal professional and two administrative hours. Based on an estimated cost of \$200 per hour for the legal professional, and \$100 per hour for the administrative staff for a total cost of \$600.00 per application.

To cover these costs, the POLB recommends that the cost per application will be \$1,000, to be paid for by each applicant. Again, the costs of such legal and administrative services provided by WSBA personnel, would be collected by the Legal Regulatory Lab Board, and transferred as a chargeback to WSBA.

4.2 Participation Fees

A participant's actions and operations in the lab will be reviewed by the Legal Regulatory Lab Board. Again, the POLB estimates that reviewing each quarterly report submitted by a participant will require services from the WSBA. These services are estimated at approximately two person hours—one hour provided by a legal professional, and one hour provided by administrative staff. Based again on an estimated cost of \$200 per hour for the legal professional, and \$100 per hour for the administrative staff for a total cost of \$300 per review. As there will be eight quarterly reviews during a two-year term in the Legal Regulatory Lab, then the total cost of services provided by WSBA for participation in the Legal Regulatory Lab would be \$2,400.

The POLB recommends this cost be paid by each participant in the lab will be \$2,500. Again, any legal and administrative service provided by the WSBA personnel will be transferred as a chargeback to WSBA. However, if the service is provided solely by the Legal Regulatory Lab Board, then the board retains the funds to cover its costs.

4.3 Licensure Fees

The POLB recommends that a successful participant of the Legal Regulatory Lab, who successfully completes participation in the Legal Regulatory Lab and who subsequently may provide legal services in Washington will pay an annual license fee to the Washington State Bar Association or the Legal Regulatory Lab Board. Such fees, and who they will be paid to will be determined when there are successful participants authorized to provide nontraditional legal services. Such a fee could be a one-time annual fee, or a transaction-based fee based on the number of consumers that use the legal service.

4.4 Subsidization of Nonprofit Applicants and Participants

The POLB recommends that the fees for nonprofit applicants and participants in the Legal Regulatory Lab be subsidized by the for-profit applicants and participants, by grant money raised for this purpose, and from licensure fees for the formerly nontraditional legal services (versus licensure fees from legal professionals).

4.5 The Role of Grant Money

The POLB recommends that the Legal Regulatory Lab Board be permitted to seek grant money for two purposes. As noted in Section 4.4 above, grant money will be sought to fund application and participation of nonprofits in the Legal Regulatory Lab. Grant money should also be raised to fund the testing of the lab models and processes in reducing the ATJ gap.

The POLB has investigated the availability of such grants and has a good faith belief that the Legal Regulatory Lab Board could apply for and get grants for these purposes, from charitable and for-profit organizations that fund legal reform.

5.0 Recommendation Four: Licensure of Successful Legal Regulatory Lab Participants

The POLB recommends that the Supreme Court create a license class that will authorize successful participants of the Legal Regulatory Lab to offer legal services to people in Washington, under a specific Supreme Court Order that defines the level of regulation that the legal service must comply with, an annual report to the Legal Regulatory Lab Board and WSBA, and that any annual licensure fees to be paid to either the Legal Regulatory Lab Board or WSBA.

5.1 Definition of Successful Legal Regulatory Lab Participation

Successful Legal Regulatory Lab participation that would qualify a participant for authorization to practice and licensure would be marked by the nontraditional legal service having been offered to consumers in Washington for two years, without an unresolved consumer complaint of harm, and without violation of the rules for the offering of the nontraditional service as detailed in the Supreme Court Order which authorized participation in the Legal Regulatory Lab.

5.2 Nontraditional Legal Service Licensure

There is an open question as to who should be responsible for nontraditional legal service licensure. On one hand, as WSBA is authorized by the Supreme Court to admit and regulate legal professionals practicing law in Washington, and the Supreme Court has delegated the responsibility for administering membership to the bar including, managing discipline of legal professionals, WSBA could also perform similar duties for nontraditional legal service providers who are admitted to practice law by completing successful participation in the Legal Regulatory Lab.

This means that although WSBA has been involved in regulating people practicing law, the change created by this recommendation is that WSBA would be regulating both people and entities practicing law or offering legal services in Washington state. This would potentially reduce duplication of staff and other resources to perform similar activities.

However, feedback from stakeholders and members of the POLB raises concerns with WSBA involvement in any Legal Regulatory Lab function, including licensure, as such involvement could have a chilling effect on participants willingness to use the Legal Regulatory Lab. This is especially the case if participants feel that WSBA might stand in the way of eventual licensure to protect its lawyer members market for legal services, or that WSBA might ask the Supreme Court to terminate the lab, like WSBA's request to the Court to sundown the LLLT program.

This matter does not have to be completely decided until the Legal Regulatory Lab is running as there will be two years from when the lab accepts its first participant until licensure becomes an issue, and the most appropriate licensure body must be determined. What is import at this point is to recognize that licensure is the desired output of a successful term in the lab.

6.0 The Washington Legal Regulatory Lab Model

Although the POLB recommendation for a Legal Regulatory Lab follows the Utah model, there are places where the POLB is recommending minor improvements based on observations of the Utah Legal Regulatory Sandbox. This section of the Blueprint details the Washington model, which the Legal Regulatory Lab Board will incorporate into an operation manual for the lab to be approved by the Supreme Court when the Legal Regulatory Lab is created.

6.1 Legal Regulatory Lab Application Process

A person or entity wanting to offer a nontraditional legal service in the Legal Regulatory Lab will apply by detailing:

- The applicant person or entity's structure and key personnel
- The nontraditional legal services the person or entity wants to provide in Washington State
- How the nontraditional legal service will reduce the ATJ gap
- All potential harms to consumers the nontraditional legal service may create, and the risk that the harm might occur
- For each identified potential harm, how the applicant will mitigate such harm

- How these ATJ gap and harm mitigation factors will be measured and reported while operating in the Legal Regulatory Lab.

If the applicant's application shows that the nontraditional legal service meets the goals of participation in the Legal Regulatory Lab, then the Legal Regulatory Lab Board will recommend that the Supreme Court approve a Court Order that details the regulations the participant must comply with while offering the nontraditional legal service.

After approval by the Supreme Court, the entity may provide the defined and approved services and only the defined and approved services under the Court Order and under the ongoing supervision of the Legal Regulatory Lab Board.

While operating in the Legal Regulatory Lab, the participant will provide quarterly reports measuring performance against goals. Based on these reports, the participant may continue to operate in the Legal Regulatory Lab, or it may be necessary for a participant or the Legal Regulatory Lab Board to request a modification to the Supreme Court Order based on new knowledge gained from operating in the Legal Regulatory Lab.

Sometimes, it may also be necessary to terminate operation of the nontraditional legal service because the nontraditional legal service does not reduce the ATJ gap or is causing consumer harm.

Consumer harm could include factors such as loss of money, poor or incomplete legal service, untimely legal service, failure to exercise a legal right, or failure to meet a legal obligation. The Legal Regulatory Lab Board will provide a mechanism that ensures consumers know that the nontraditional legal service being offered to them is being offered through a Legal Regulatory Lab, and how they can report any issues with the nontraditional legal service to the Legal Regulatory Lab Board.

If at the end of the Legal Regulatory Lab term the participant is continuing to operate in compliance with the Supreme Court Order and to meet ATJ goals without causing consumer harm, then a Supreme Court Order that defines the nontraditional legal service’s ongoing operation in Washington State will be drafted by the Legal Regulatory Lab Board for approving the Supreme Court.

If the Supreme Court approves such a Court Order, then the nontraditional legal service providers may continue to operate within the boundaries of that Supreme Court Order. Such a Supreme Court Order could also include specifics on any disciplinary action that would apply if the service deviated from the order, and any fee or other responsibilities that apply to the nontraditional legal service provider as it continues to operate.

This overall model for a Legal Regulatory Lab is shown in Figure 1.

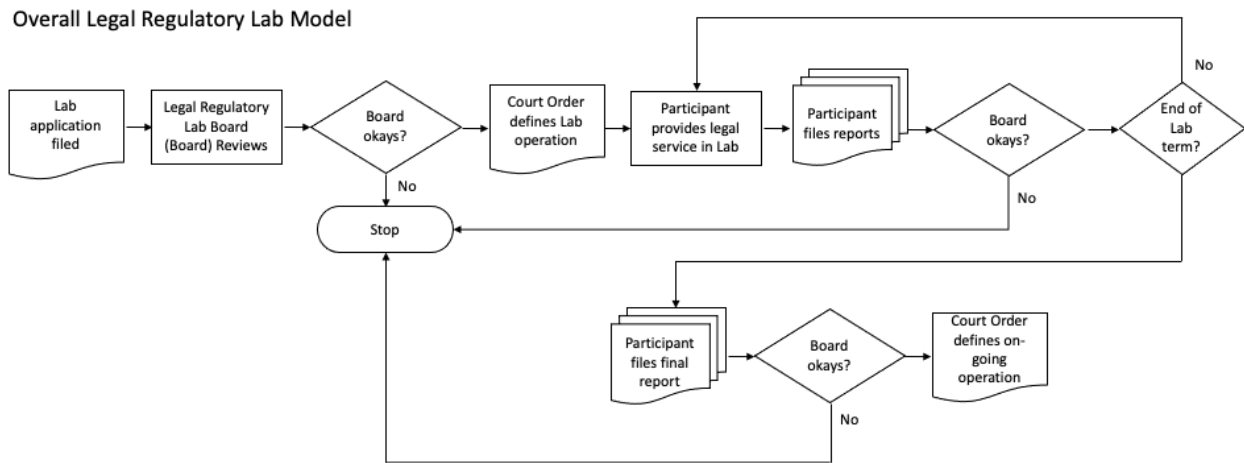


Figure 1. Overall Legal Regulatory Lab Model

While operating in the Legal Regulatory Lab, participants are still subject to all statutes, regulations, court rules, and court orders. For example, operating in the Legal Regulatory Lab does not protect the entity from prosecution for violations of the Washington State Consumer Protection Act (RCW 19.86).¹⁴

¹⁴ Washington Consumer Protection Act, RCW 19.86, available at <https://apps.leg.wa.gov/rcw/default.aspx?cite=19.86>.

A legal professional working for the nontraditional legal service providers is not automatically protected from discipline for violation of an RPC. The only protections or safe harbor provided by the Legal Regulatory Lab is for statutes and court rules relating to UPL and to specific RPCs as defined in the Supreme Court Order.

Similarly, participants approved for operation after successfully completing a term in the Legal Regulatory Lab remain subject all other applicable statutes, regulations, and court rules and to the Supreme Court Order, including business, licensing, and financial regulations.

To prevent consumer harm, the Legal Regulatory Lab model must be transparent. It must be obvious to consumers which nontraditional legal service providers may operate in the Legal Regulatory Lab, and which are authorized after operating successfully in the Legal Regulatory Lab to continue to provide legal services in Washington.

6.2 A Model for Assessing Legal Regulatory Lab Applications and Participation

The POLB has created a model to guide the Legal Regulatory Lab Board decisions on whether to accept an applicant to the Legal Regulatory Lab, and to assist in monitoring a participant's time in the Legal Regulatory Lab. The model helps guide decisions based on the risk of harm to consumers, when such risk—if any—is most likely to occur, and whether the nontraditional legal service being evaluated in the Legal Regulatory Lab impacts the ATJ gap (see Figure 2).

Legal Regulatory Lab Risk Analysis Model

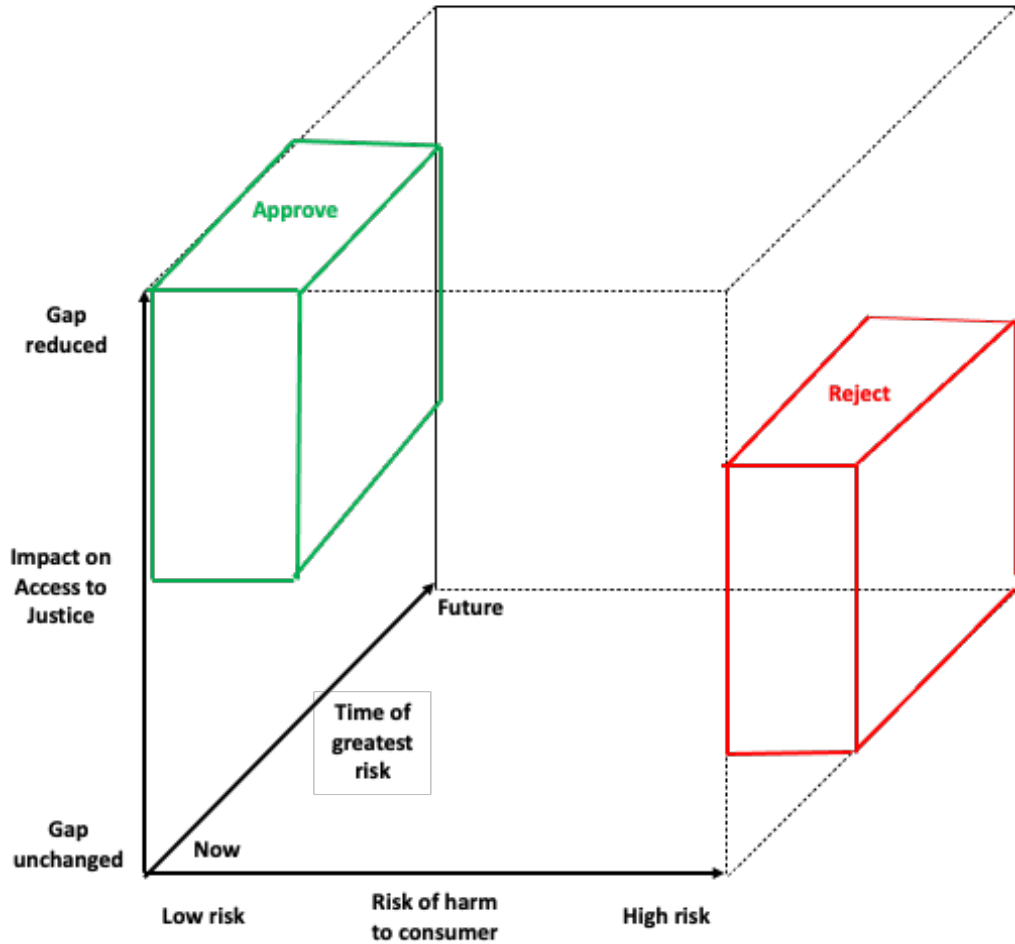


Figure 2. Legal Regulatory Lab Risk Analysis Model

6.2.1 Risk of Harm to Consumer

The horizontal axis of this model (labeled ‘Risk of harm to consumer’) shows that applicants for participation in the Legal Regulatory Lab will be evaluated based on the estimated risk of consumer harm created by allowing consumers to use the nontraditional legal service.

6.2.2 Reducing the ATJ Gap

The vertical axis of this model (labeled ‘Impact on ATJ’) shows that applicants for participation in the Legal Regulatory Lab will be evaluated based on how much their proposed nontraditional legal service reduces the ATJ gap.

6.2.3 When Risk of Harm is Greatest

The diagonal axis in this model (labeled ‘Time of greatest risk’) shows that applicants for participation can also be measured against whether potential harm to consumers is likely to be noticed or occur in the present (now) or the future (later).

6.2.4 Model Usage Examples

Applicants proposing to use the Legal Regulatory Lab to test a nontraditional legal service that appears to reduce the ATJ gap, that is determined to have a low risk of harm, and where harm to consumers—if any—occurs in the present (making the harm easier to mitigate) would likely be approved. For example, an online legal service designed to assist a person get a temporary protection order might fall in the green area of the Legal Regulatory Lab Risk Analysis Model and be easily approved for participation in the Legal Regulatory Lab.

Applicants proposing to use the Legal Regulatory Lab to test a nontraditional legal service with a lesser impact on the ATJ gap and a higher risk of harm (especially where harm might not be recognized immediately) will need deeper consideration and may be denied admission to the Legal Regulatory Lab.

Such applicants may have to submit additional information and be subject to additional data collection requirements while in the Legal Regulatory Lab and potentially after successfully leaving the Legal Regulatory Lab. For example, an online trust generation application that reduces the ATJ gap but might not show evidence of harm for several years might not be appropriate for participation in the Legal Regulatory Lab.

Between the green and red box in the Legal Regulatory Lab Risk Analysis Model may fall proposed nontraditional legal services that may be granted admission to the Legal Regulatory Lab if suitable data can be collected and analyzed to determine reduction of the ATJ gap, the benefit to consumers, and the risk of harm to consumers to determine whether admission to the Legal Regulatory Lab is appropriate.

Once in the Legal Regulatory Lab, ongoing evaluation and review will continue to evaluate where within the Legal Regulatory Lab Risk Analysis Model a particular applicant's nontraditional legal service lies, whether the benefits outweigh any risk of harm to consumers, and whether continued operation in the Legal Regulatory Lab or a form of licensure should be allowed.

6.3 Measuring Risk of Harm to Consumers

To put a scale on the Legal Regulatory Lab Risk Analysis Model to measure risk of harm to consumers, the POLB recommends that applicants must disclose each anticipated potential harm to consumers, and for each potential harm indicate a score based on the likelihood of the harm occurring (very likely, possible, or almost certain), versus the impact of the harm (negligible, manageable, or catastrophic). A potential harm scoring 6 or higher may be too risky for participation in the Legal Regulatory Lab.

Although an applicant will self-score each risk, the Legal Regulatory Lab Board will review this data and create the final score in each risk category.

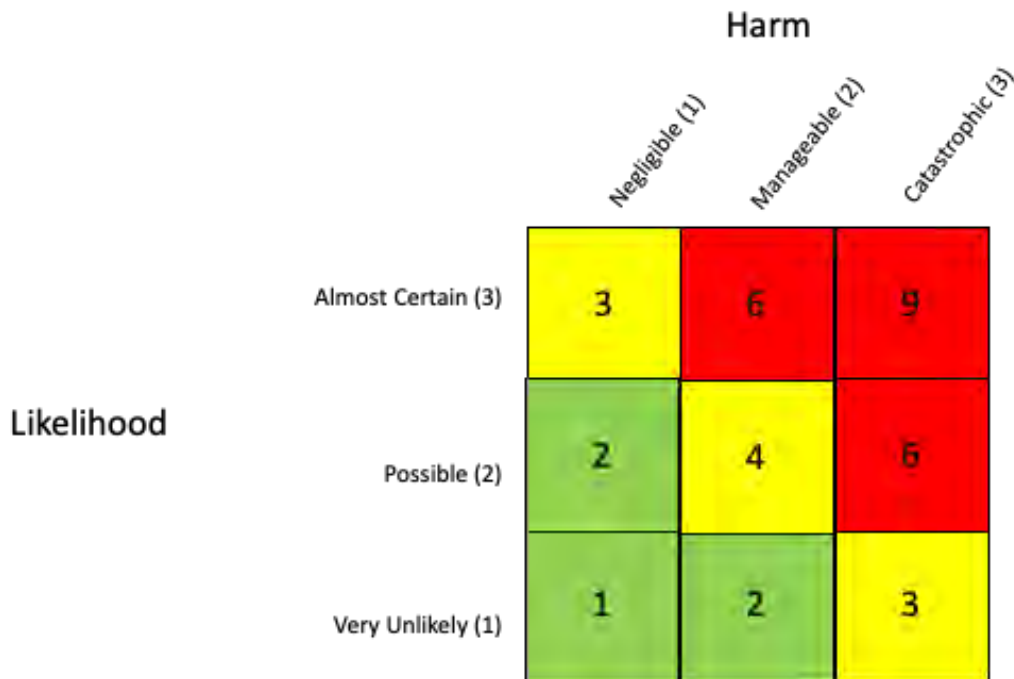


Figure 3: Measuring Risk of Harm to Consumers

6.4 Measuring Access to Justice Impact

To put a scale on the Legal Regulatory Lab Risk Analysis Model for measuring impact on the Access to Justice gap, the POLB recommends that applicants must disclose any anticipated impact their nontraditional legal service may have on the ATJ gap and indicate a score based on the likelihood of addressing the ATG gap and the level of impact.

In addition, for online legal services, applicants will also defined how their nontraditional legal service complies with the Access to Justice Technology principles, as adopted by Supreme Court of Washington Order 25700-B-627.¹⁵

¹⁵ These principles are available at <https://www.srln.org/system/files/attachments/ATJ%20Technology%20Principles.pdf>.

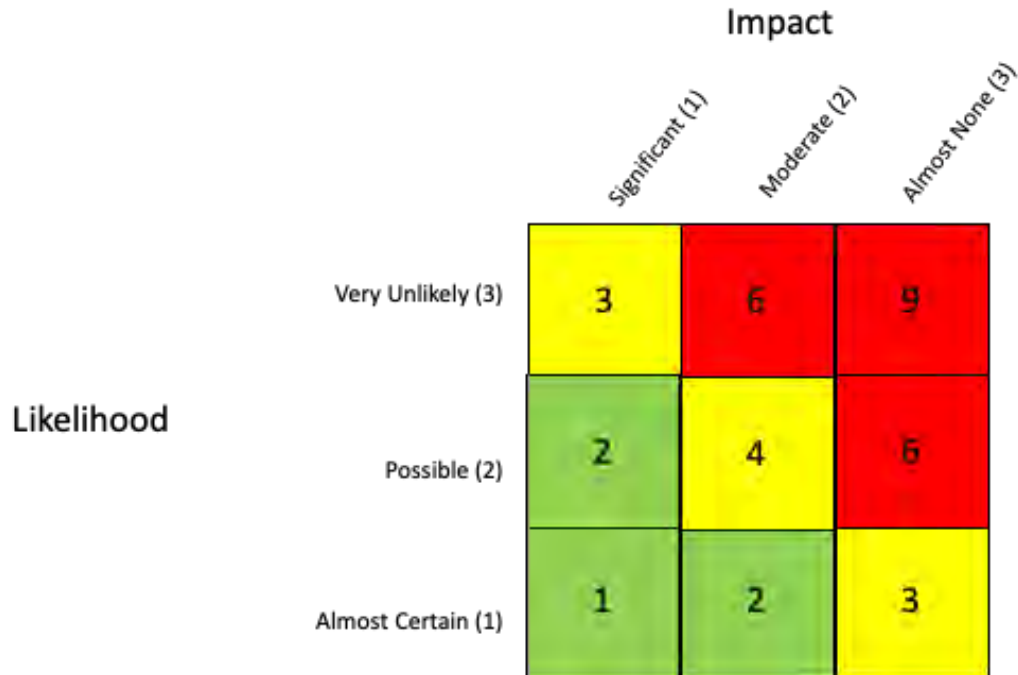


Figure 4: Measuring Access to Justice Impact

Here a harm scoring 6 or higher would not eliminate a nontraditional legal service from being admitted to the Legal Regulatory Lab, but, if resources in the Legal Regulatory Lab were constrained, those applicants with low scores (more likely positive impact on the ATJ gap) would be admitted first.

6.5 Measuring When Harm Occurs

To put a scale on the Legal Regulatory Lab Risk Analysis Model for measuring when a possible harm to consumers might occur, the POLB recommends that applicants must disclose when potential harms to consumers—if any—are likely to occur, and for each potential harm indicate a score based on the likelihood of the harm occurring (almost certain, possible, or very unlikely), versus when the harm would occur (less than 4 years, 5 to 10 years, or 11 years or greater). A time of impact score of 6 or higher would be too risky for participation in the Legal Regulatory Lab.

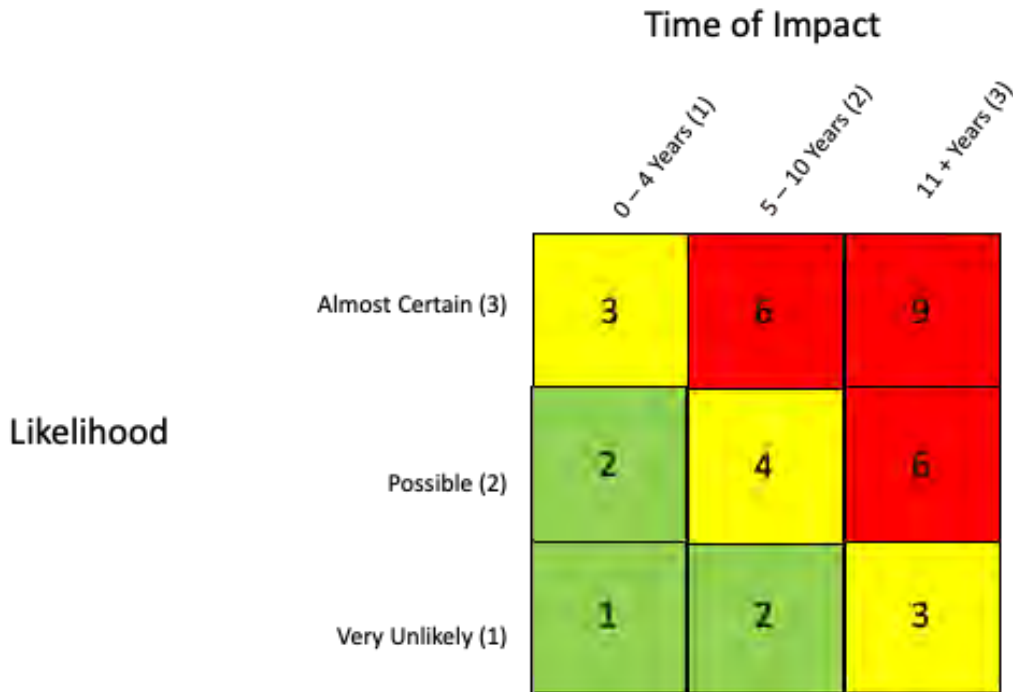


Figure 5: Measuring When Harm Occurs

6.6 Variance from the Utah Regulatory Sandbox

Note: Section 6.6 describes Utah’s risk analysis model, which relies on the type of nontraditional legal service to assign a risk to lab participants.

The Utah Legal Regulatory Sandbox appears to assign risk to participants based on the business or service model being evaluated as follows:

6.6.1 Utah Low Risk Service Model Applicants

In the Utah Legal Regulatory Sandbox, these participants are considered to have a low risk of creating consumer harm:

- Legal professional employed or managed by a nonlegal professional
- Less than 50% nonlegal professional ownership
- Software-based legal document completion with legal professional involvement.

6.6.2 Utah Low or Moderate Risk Service Model Applicants

In the Utah Legal Regulatory Sandbox, these participants are considered to have a low or moderate risk of creating consumer harm:

- Legal professionals sharing fees with nonlegal professionals
- Intermediary platform¹⁶
- 50% or more nonlegal professional ownership.

6.6.3 Utah Moderate Risk Service Model Applicants

In the Utah Legal Regulatory Sandbox, these participants are considered to have a moderate risk of creating consumer harm:

- Nonlegal professional provider with nonlegal professional involvement
- Software provider with legal professional involvement.

6.6.4 Utah High Risk Service Model Applicants

In the Utah Legal Regulatory Sandbox, these participants are considered to have a high risk of creating consumer harm:

- Nonlegal professional provider without legal professional involvement
- Software provider without legal professional involvement.

6.6.5 Disbarred, Revoked, and Suspended Legal Professionals

The POLB recommends that disbarred, revoked, and suspended legal professionals cannot apply or participate in the Legal Regulatory Lab in Washington.

Note: Utah appears to allow some participation by disbarred or suspended lawyers in the Utah Legal Regulatory Sandbox.

¹⁶ Intermediary platform means a software- or online-based service that connects lawyers with interested consumers, or which offers other legal practice support services such as timekeeping, billing, videoconferencing.

6.7 Admission to the Legal Regulatory Lab

A proposed flowchart for the admission process to the Legal Regulatory Lab is shown in Figure 6.

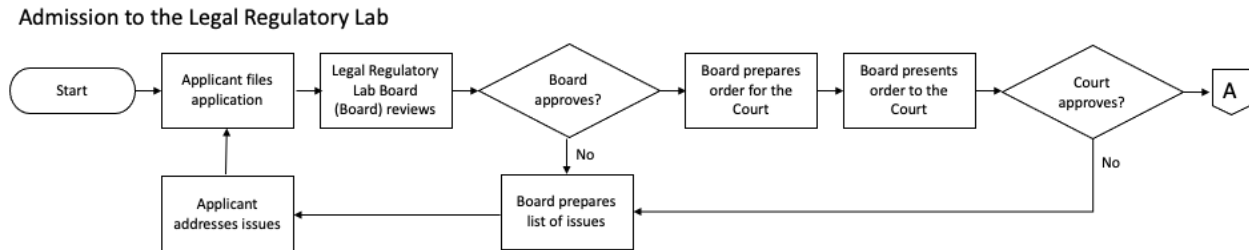


Figure 6. Admission to the Legal Regulatory Lab

Admission to the Legal Regulatory Lab begins with an applicant applying (see Legal Regulatory Lab Application below) with the Legal Regulatory Lab Board. (For a sample completed application, see Appendix B.)

The Legal Regulatory Lab Board will review the application, using the Legal Regulatory Lab Risk Analysis Models and other criteria as warranted.

If the Legal Regulatory Lab Board approves the application, it will draft an order for the Supreme Court (see Legal Regulatory Lab Approval Order below) that defines the regulations in effect and operational data to be collected while the applicant is offering nontraditional legal service and participating in the Legal Regulatory Lab. (For a sample Supreme Court order, see Appendix C.)

If the Supreme Court approves the order, then the applicant can operate for a maximum of two years in the Legal Regulatory Lab and offer the nontraditional legal service in Washington State for as long as the operating reports show no harm to consumers, and the Court Order remains in effect.

If the Legal Regulatory Lab Board has issues with or questions about the application, or the Supreme Court has any concerns about issuing the order, the applicant may address the issues and ask that its application be reviewed again.

6.8 Legal Regulatory Lab Application

At a minimum, applicants to the Legal Regulatory Lab must provide the following information:

6.8.1 Description of the Proposed Nontraditional Legal Service

A description of the proposed nontraditional legal service, including:

- a) The nature and scope of the nontraditional legal service, including the specific legal issue(s) the nontraditional legal service will address
- b) The intended market for the nontraditional legal service and whether it is or intends to operate in another jurisdiction's Legal Regulatory Lab
- c) The entity providing the nontraditional legal service, including state of incorporation and key management
- d) When the provision of nontraditional legal service would be anticipated to be offered in Washington
- e) The costs of the nontraditional legal service to consumers
- f) Which RPCs or other regulations need to be modified, and how they would be modified, to provide the nontraditional legal service in the Legal Regulatory Lab.

6.8.2 How the Nontraditional Legal Service Reduces the ATJ Gap

A description of the nontraditional legal service benefits, including:

- a) Which specific consumers the nontraditional legal service is designed to serve
- b) How the nontraditional legal service provides a high-quality legal service
- c) How the nontraditional legal service is cost-effective
- d) How the nontraditional legal service is more accessible to consumers than available legal services

- e) Other aspects of the nontraditional legal service that help close the ATJ gap
- f) An overall ATJ impact score, based on the Legal Regulatory Lab risk analysis models.

6.8.3 Risk of Harm to Consumers

A description of the risk of harm to consumers that the nontraditional legal service will create, including:

- a) What potential harm could befall a consumer using the nontraditional legal service
- b) Consumers most at risk of harm
- c) When the risk is likely to occur (near- or long-term)
- d) How any risk of harm can be measured (that is, what data will be collected to show risk and steps to mitigate the risk)
- e) For each identified potential harm to consumers, a risk impact score based on the Legal Regulatory Lab risk analysis models.

6.8.4 Personal or Entity Information

A description of the person or entity proposing the nontraditional legal service, including:

- a) Name of the person or entity
- b) Type of person or entity (for person, legal professional or non-professional)
- c) State of incorporation (domestic and foreign registrations and registered agents)
- d) Entity officers
- e) Years of operation
- f) Financial information
- g) Business plan for the nontraditional legal service
- h) Number of legal professionals (if any) involved in the creation and management of the nontraditional legal service

- i) Number on nonlegal professionals (if any) involved in the creation and management of the nontraditional legal service
- j) Any legal or disciplinary actions against any person involved in the nontraditional legal service.

6.8.5 Other Material Information

Any other information that will help the Legal Regulatory Lab Board and the Supreme Court evaluate admission to the Legal Regulatory Lab, such as a description of RPCs or other regulations that may need to be modified in the Legal Regulatory Lab.

6.9 Legal Regulatory Lab Approval Order

When the Legal Regulatory Lab Board recommends approval an applicant for operation in the Legal Regulatory Lab, the Legal Regulatory Lab Board will draft an order for the Supreme Court outlining the nontraditional legal service provider's duration and the oversight of the Supreme Court via the Legal Regulatory Lab Board while the nontraditional legal service is in the Legal Regulatory Lab. Elements of such an order include:

6.9.1 Approved Nontraditional Legal Service

A description of the nontraditional legal service, including any legal transactions that the nontraditional legal service can perform.

6.9.2 Unapproved Legal Services

A description of the specific legal work that the nontraditional legal service cannot perform.

6.9.3 Appropriate Regulation

A description of regulations, including any RPCs, that will apply to the provision of the nontraditional legal service, and any new or proposed modified RPCs that might be needed.

6.9.4 Data Reporting

A description of the data to be reported to the Legal Regulatory Lab Board on a quarterly basis, and mandatory data to be provided at the end of the Legal Regulatory Lab duration. The data collected will be analyzed to show whether the ATJ gap was reduced, and whether the entity managed risk to consumers.

Required data will differ by the services being provided, but may include:

- a) Number of consumers served since last report
- b) Number of completed transactions or services
- c) Number of incomplete transactions or services (and explanation)
- d) Average cost per transaction or service
- e) Elapsed time to provide each transaction or service
- f) Number and type of complaint(s)
- g) Number of complaints resolved and manner of resolution
- h) Time to resolve each complaint
- i) Other data based on the transaction or service.

6.9.5 Mitigation Plan

A description of the mitigation plan if harm to consumers occurs.

6.9.6 Legal Regulatory Lab Duration

The duration of time the applicant may operate in the Legal Regulatory Lab (typically two years for all applicants).

6.9.7 Rejected Applicants

An applicant who is not approved for participation in the Legal Regulatory Lab will be given the opportunity to revise its application and address any matters that resulted in rejection from the Legal Regulatory Lab.

6.10 Operating in the Legal Regulatory Lab

A proposed flowchart for operating in the Legal Regulatory Lab is shown in Figure 7.

Operating in the Legal Regulatory Lab

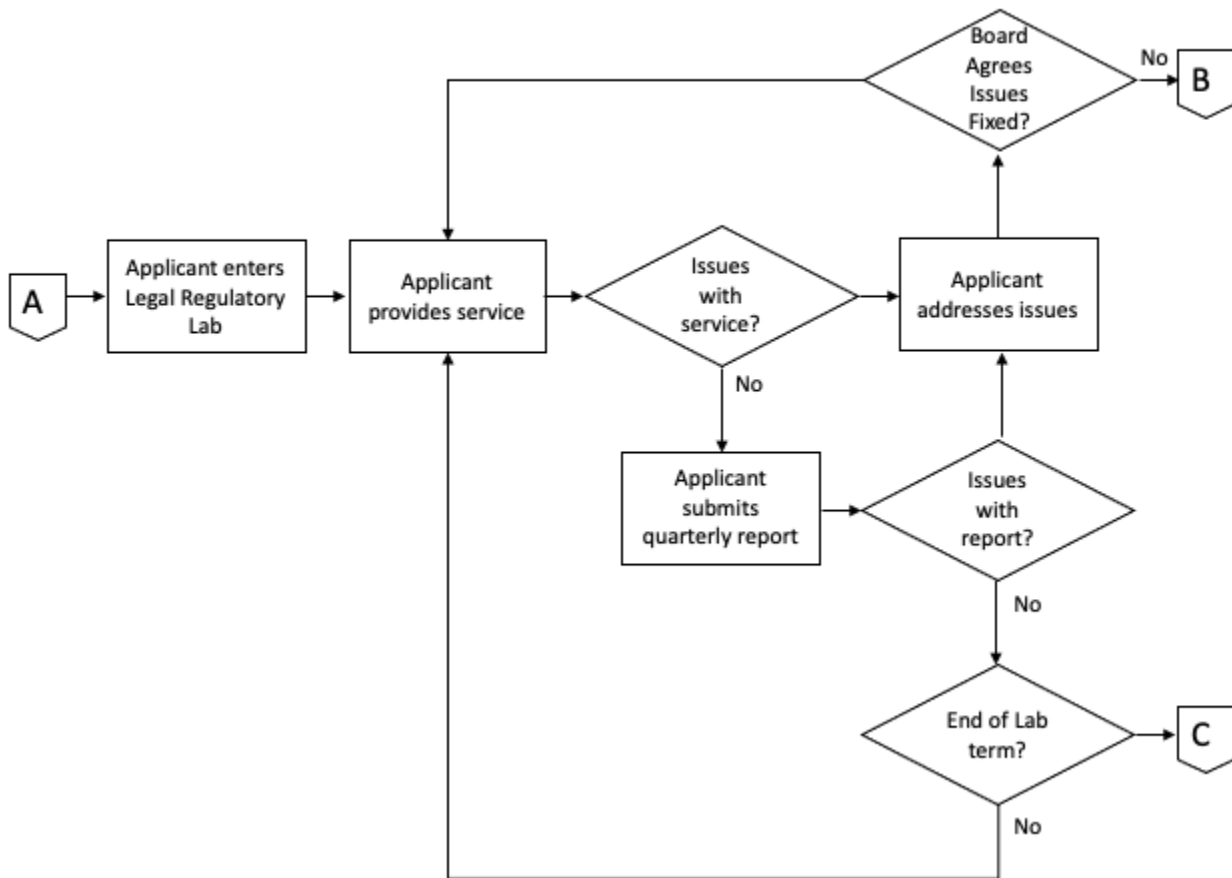


Figure 7. Operating in the Legal Regulatory Lab

Operation in the Legal Regulatory Lab begins with the applicant getting an order from the Supreme Court defining operation of the nontraditional legal service in the Legal Regulatory Lab.

If there are issues reported with the nontraditional legal service, the applicant must address such issues to the satisfaction of the Legal Regulatory Lab Board to continue operating in the Legal Regulatory Lab.

Even if there are no issues or consumer complaints reported with the nontraditional legal service, the applicant must submit quarterly reports to the Legal Regulatory Lab Board (see Data Reporting, above). If there are issues with the report, the applicant must address the issues to the Legal Regulatory Lab Board's satisfaction to continue to provide the legal service in the Legal Regulatory Lab.

However, if the applicant does not address the issues and continues to operate, then the protection of the legal regulatory Lab ends (see Termination from the Legal Regulatory Lab, below).

If the applicant operates in the Legal Regulatory Lab and continues without issue to the end of the term, then the applicant leaves the Legal Regulatory Lab (see Licensure, below).

Operations in the Legal Regulatory Lab continue in this manner until the end of the time in the Legal Regulatory Lab as defined in the Supreme Court Order. If the Supreme Court does not authorize continued operation of the nontraditional legal service after the end of the time in the Legal Regulatory Lab, an orderly shutdown will be needed to ensure no consumers are harmed by withdrawal of the nontraditional legal service.

6.11 Termination from the Legal Regulatory Lab

A proposed flowchart for termination from the Legal Regulatory Lab for cause is shown in Figure 8.

Exiting the Legal Regulatory Lab (Termination for Cause)

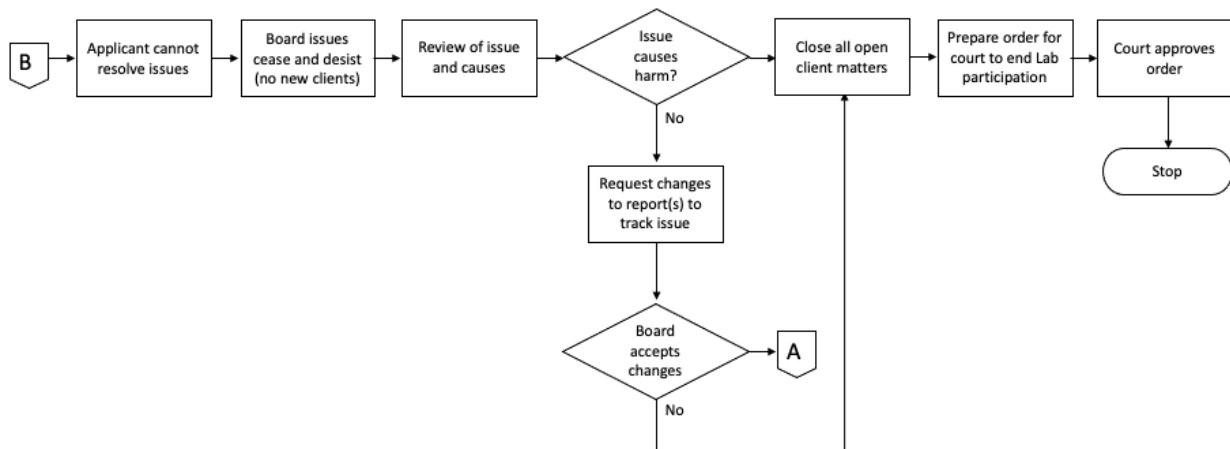


Figure 8. Exiting the Legal Regulatory Lab (Termination for Cause)

If an applicant’s operation in the Legal Regulatory Lab creates issues, such as consumer harm, then the Legal Regulatory Lab Board will instruct the applicant to cease taking on new clients and conclude existing transactions while the Legal Regulatory Lab Board reviews the issues and causes.

If the Legal Regulatory Lab Board determines the issue is harming consumers, then the applicant will close all pending matters promptly and place the applicant under the review of the Legal Regulatory Lab Board. The Legal Regulatory Lab Board will review the reported data and data about the incidents of harm and may have a hearing with the applicant to review the situation. If the Legal Regulatory Lab Board determines the legal service is causing harm, then the Legal Regulatory Lab Board will prepare a court order to terminate the applicant’s authorization to operate in the Legal Regulatory Lab.

It will be necessary to decide how to handle nontraditional legal service that do not affect the ATJ gap and do not harm consumers. The Supreme Court may not want to authorize such services—mere lack of harm may not justify allowing continued operation.

If the issue does not involve harming consumers, then the Legal Regulatory Lab Board will work with the applicant to continue to monitor the issue (which may require additional reporting), and the applicant may resume operation in the Legal Regulatory Lab.

If after receiving an order from the Supreme Court withdrawing authorization to provide the nontraditional legal service, and the applicant ignores such an order and continues offering such services in the Washington State legal market, then the applicant would be subject to action under the Consumer Protection Act and UPL statutes, and any other laws that apply.

6.12 Licensure (Exiting the Legal Regulatory Lab)

A proposed flowchart for successfully exiting from the Legal Regulatory Lab is shown in Figure 9.

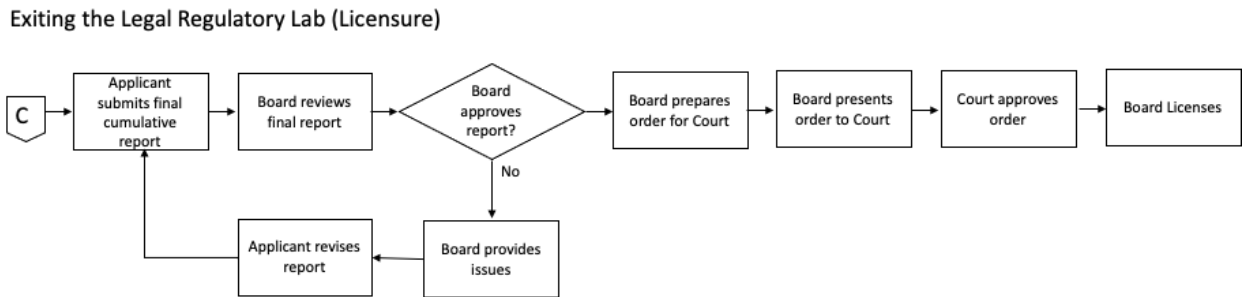


Figure 9. Licensure (Exiting Legal Regulatory Lab)

If an applicant completes the duration of the time in the Legal Regulatory Lab and there are no outstanding issues after review of the final report by the Legal Regulatory Lab Board, then the Legal Regulatory Lab Board will prepare an order for the Supreme Court.

The Supreme Court will have the discretion to approve or not approve the order, particularly if the Supreme Court feels the data does not support the conclusion the nontraditional legal service should be allowed to continue to operate. If the Supreme Court approves the order, then the applicant may provide the nontraditional legal service within the structure defined by that Supreme Court Order. The Supreme Court can determine whether the nontraditional legal service addresses ATJ to such a positive degree that it will allow other nontraditional legal service providers to follow the same order (without going through the Legal Regulatory Lab).

6.13 Duration of Participation in the Legal Regulatory Lab

Once created, the Legal Regulatory Lab and the Legal Regulatory Lab Board will exist and continue to fulfill its duties and functions as outlined by the Supreme Court Orders until the Supreme Court changes such orders. Each applicant will be authorized by the Supreme Court Order to participate in the Legal Regulatory Lab under the applicant's relevant court order for two years.

Note: This differs from Utah, where the Legal Regulatory Sandbox is approved for a two-year duration, but which will likely be renewed for a longer term.

7.0 Next Steps

This is a Blueprint for the Legal Regulatory Lab. The next steps include:

- a) Incorporating feedback from the Court, the WSBA Board of Governors, and other stakeholders
- b) Formalizing the Legal Regulatory Lab Board and appoint members
- c) Fund-raising (grants)
- d) Determining the RPCs and other regulations that can be tested within the Legal Regulatory Lab and that cannot be tested within the Legal Regulatory Lab
- e) Formalizing application and participant processes in Legal Regulatory Lab Operation Manual
- f) Formalizing the court orders (templates)
- g) Creating a reporting database schema and database for collecting Legal Regulatory Lab data (and standardizing with other states)
- h) Finding two test organizations to run through the process to determine what changes are needed to improve the Legal Regulatory Lab and expand capacity.

8.0 Appendix A: What Problem Does a Legal Regulatory Lab Address

8.1 The Practice of Law in Washington State

Under Washington State statutes and court rules, only an authorized and licensed lawyer, a person supervised by an authorized and licensed lawyer, a Limited License Legal Technician (LLLT), or a Limited Practice Officer (LPO) can lawfully provide legal services to the public.

8.2 The ATJ Gap in Washington State

The Civil Legal Needs study update stated: “more than three-quarters of all low-income households in Washington State experience at least one civil (not criminal) legal problem each year. In the aggregate, low-income people experience more than one million important civil legal problems annually.”¹⁷

Additionally, “low-income people face more than 85 percent of their legal problems without help from an attorney. Attorney assistance is most successfully secured in family-related matters, but even here only 30 percent of legal problems reported are addressed with the assistance of an attorney. Removing family-related problems, low-income people receive help from an attorney with respect to less than 10 percent of all civil legal problems.”¹⁸

An update to the study in 2015 found that due to a variety of economic and social factors, “the average number of civil legal problems per low-income household having nearly tripled since 2003.”¹⁹

¹⁷ Washington State Supreme Court, Task Force on Civil Equal Justice Funding, The Washington State Civil Legal Needs Study, September 2003, available at <https://www.courts.wa.gov/newsinfo/content/taskforce/civillegalneeds.pdf>.

¹⁸ Id.

¹⁹ Washington State Supreme Court, Civil Legal Needs Study Update Committee, 2015 Washington State Civil Legal Needs Study Update, Oct. 2015, available at https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf.

The Civil Legal Needs Update challenged the courts and the officers of the courts including judges, lawyers, LLLTs, and LPOs to ensure that low-income people in Washington State understand their legal rights and know where to look for legal help when they need it; to squarely address not only problems presented, but the systems that result in disparate experiences depending on one’s race, ethnicity, victim status or other identifying characteristics; and to know the costs and consequences of administering a system of justice that denies large segments of the population the ability to assert and effectively defend core legal rights.

It is clear “for decades, the United States has sought to bridge this ATJ gap through incremental improvement, such as volunteerism (i.e., pro bono work) and legal aid.”²⁰ However, “closing this ATJ gap requires both incremental improvement and breakthrough change.”²¹

8.3 Online Legal Services

A variety of entities are offering online legal services. Many of these entities are helping people with their civil legal problems. Under the statute and rules, these entities may be unlawfully practicing law.

One such entity, Legal Zoom, assists people by providing form-based legal services, and they may refer a person to an authorized legal practitioner (lawyer, LLLT, or LPO). Today, LegalZoom operates in Washington State under an Assurance of Discontinuance between LegalZoom and the Washington State Attorney General’s Office.²²

²⁰ Robert W. Gordon, *Lawyers, the Legal Profession & Access to Justice in the United States, A Brief History*, DAEDALUS, Winter 2019, at 177, 178.

²¹ Georgetown Law Ctr. *On Ethics & the Legal Profession, 2020 Report on the State of the Legal Market*, 2-3 (2020)

²² *In Re the Matter of LegalZoom.com, Inc. a Delaware Corporation*, Sept. 15, 2010 available at https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/News/Press_Releases/2010/LegalZoomAOD.pdf.

This agreement essentially requires LegalZoom to follow guidelines outlined in the agreement, such as not “Comparing, directly or by implication, the costs of Respondent’s self-help products, i.e., legal forms as contemplated in GR24(b)(8), and clerical services with those provided by an attorney, without, in close proximity to each such comparison, clearly and conspicuously disclosing to Washington consumers that Respondent is not a law firm and is not a substitute for an attorney or law firm.”²³

Although it is not clear whether LegalZoom was the first entity to offer online legal services to people in Washington, many others have followed and online legal services are available covering a wide variety of legal services including family law, immigration, arbitration assistance, traffic infractions, and other civil legal matters. Some of these entities are Washington based (that is, registered with the Washington Secretary of State) and others are foreign entities.

At its annual meeting with the Supreme Court on Feb. 4, 2021, the POLB identified there were over 50 OLS providers providing legal services in Washington State. Approximately 20 of these providers, such as WestLaw and CLIO, primarily provide services to legal professionals. Over 14 legal service providers, such as Avvo and LegalZoom, provide services to both legal professionals and the public, including referring people to a legal professional (generally a lawyer). Finally, over 17 legal service providers, such as FairShake and Hello Divorce, target their services to the public.

These OLS providers offer legal services across a wide spectrum of legal matters, including family law, contract disputes, traffic infractions, and immigration. Several service models are in use, including referrals to legal professionals and do-it-yourself services. They are getting positive reviews from both the public and the press and are raising significant venture capital, which means they will continue to offer more services.

²³ Id. at 2.1(a).

To be clear, these services may not be targeting people in Washington specifically; because they are internet services, they are there if people in Washington try to use them.

The advantage of such online legal services is they are addressing the ATJ gap in Washington. People using such services are likely doing better with their legal matter than simply being a pro-se litigant. They provide timely and often simplified advice. Typically, they are also less expensive than traditional legal services.

The disadvantage of such online legal services is they are not regulated in a similar manner as traditional legal services and may not be following Washington statutes and court rules. They may not be offering accurate and complete advice. Consumer harm may be going unreported.

8.4 UPL Complaints and Online Legal Services

As of April 2021, the POLB has had two UPL complaints brought to its attention. Neither were referred to the Attorney General's Office or a county prosecutor for action because there was no evidence of harm to the consumer in either case. However, this does not mean that the entities were not practicing law.

8.5 Addressing ATJ and Online Legal Services

Several jurisdictions in the US and Canada are addressing the ATJ gap by examining the role that online legal services could play. Several alternatives be considered from doing nothing to using a regulatory lab to take a risk-based and data-driven approach to regulatory reform, particularly regarding regulating online legal services and ABS.

The danger of doing nothing is that the online legal services are not going away. Again, this is evidenced by the investment of venture capital into the companies offering such services. And there is the danger such services will become accepted by the public and spontaneous deregulation will occur. Some would argue this is already taking place. An example of spontaneous deregulation can be found in what happened to municipalities when ride-share and home-share services entered cities without regard to cab and zoning ordinances.

As various businesses try to create new service delivery models aimed at filling the urgent need for legal advice, they find their ideas and initiatives stifled by certain existing regulatory rules. Many smaller legal service startups can't secure funding because there are questions as to whether their businesses may operate; meanwhile, regulators hesitate to amend the existing rules, citing potential harm to the public because of these new business models and service providers. New business models, innovative partnerships, and creative approaches to new licenses are all shut down by the lack of flexibility under the current rules.

With so many people unable to access meaningful legal assistance, the time has come for us to consider opening the pool of legal service providers and eliminating the limitation that only attorneys and LLLTs may own law firms. Without data, we cannot do so responsibly. There is a simple way to solve both problems: a Legal Regulatory Lab.

9.0 Appendix B: Sample Washington Legal Regulatory Lab Application

This is a mockup or illustrative sample of how an applicant might supply information to the Legal Regulatory Lab Board for consideration to test a nontraditional legal service in the Legal Regulatory Lab. The company is fictitious, but much of the data is accurate and might reflect information for an online software based legal service.

9.1 General Legal Regulatory Lab Information for Applicants

9.1.1 Purpose of the Legal Regulatory Lab

The Legal Regulatory Lab tests and evaluates innovative models for providing nontraditional legal service that reduce the ATJ gap, while minimizing the risk of harm to the public. Such innovative services may not be capable of being offered under the Rules of Professional Conduct (RPC) or would be considered the Unlawful Practice of Law under the Revised Code of Washington (RCW) 2.48.180.

9.1.2 Authority for the Legal Regulatory Lab

The Washington State Legal Regulatory Lab is authorized by Washington Supreme Court Order (number), dated (date).

9.1.3 Disbarred or Suspended Legal Professionals

No legal professional disbarred or suspended by any bar or licensing authority can participate in any entity offering nontraditional legal service in the Legal Regulatory Lab.

9.1.4 No Temporary Admission to Practice in Washington

The Legal Regulatory Lab is not a means by which out-of-state lawyers can practice law in Washington State, without otherwise complying with the WSBA regulations as delegated by the Washington Supreme Court to the WSBA.

9.1.5 No Impact on Washington State or Federal Laws or Regulations

The Legal Regulatory Lab does not and cannot impact requirements imposed by other applicable Washington or Federal Laws, the laws or requirements imposed by other jurisdictions, or the requirements imposed by other regulatory agencies. Authorization to provide nontraditional legal service within the Legal Regulatory Lab does not release or indemnify any entity or individual from conforming to all other applicable laws, regulations, and court rules.

9.1.6 Legal Professionals Still Bound by RPCs

Except as temporarily modified by the Supreme Court Order allowing the entity to provide nontraditional legal service within the Legal Regulatory Lab, legal professionals working with entities in the Legal Regulatory Lab shall maintain their duties under the RPCs.

9.1.7 Applications and Reports are Public Information

Applications for admission to the Legal Regulatory Lab, and reports of operations in the Legal Regulatory Lab are public documents to ensure the transparency of the Legal Regulatory Lab.

Entities whose nontraditional legal service involve trade secrets as defined by RCW 19.108.010(4) may request such trade secrets be handled by the Legal Regulatory Lab Board under RCW 19.108.050.

9.1.8 Penalties for False or Misleading Application Information

Making false or materially misleading statements in this application is the basis for loss of authorization to participate in the Legal Regulatory Lab, and other criminal and civil sanctions may apply.

9.1.9 Changing Information

If information supplied as part of this application changes, the entity shall ensure the information is updated promptly.

9.2 Description of the Proposed Nontraditional Legal Service

9.2.1 Legal Service Model

- Legal professionals employed or managed by non-legal professionals
- Less than 50% non-legal professional entity ownership
- Over 51% non-legal professional entity ownership
- Legal professional sharing fees with non-legal professional
- Non-legal professional service provider with legal professional involvement
- Non-legal professional service provider without legal professional involvement
- Software or internet service provider with legal professional involvement
- Software or internet service provider without legal professional involvement**
- Other: _____

9.2.2 Primary Legal Service Category of Legal Service

Select One

- Accident/Injury
- Adult care
- Business
- Civil misdemeanor
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End-of-life Planning
- Family law
- Financial issues
- Healthcare
- Housing (Rental)**
- Housing (Mortgage)
- Housing (Manufactured Home)

- Immigration
- Military
- Native American and Tribal Law
- Public benefits
- Real estate
- Traffic

9.2.3 Secondary Legal Service Category of Legal Service

Select all that apply

- Accident/Injury
- Adult care
- Business
- Civil misdemeanor
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End-of-life Planning
- Family law
- Financial issues
- Healthcare
- Housing (Rental)
- Housing (Mortgage)
- Housing (Manufactured Home)**
- Immigration
- Military
- Native American and Tribal Law

- Public benefits
- Real estate
- Traffic

9.2.4 Nature and Scope of the Nontraditional Legal Service

“Safe Rental Spaces Washington” (SRSWA) is an online legal service (OLS) designed to assist tenants with a smartphone, tablet, or personal computer secure their rights against a landlord renting an unsafe (uninhabitable) premise.

SRSWA helps a tenant secure their rights under the Washington Residential Landlord Tenant Act (RLTA), including the Revised Code of Washington (RCW) 59.18.070(1), 59.18.070(2), 59.18.070(3), 59.18.080, 59.18.090, and common law cases *Apostle v. City of Seattle* (70 Wash. 2d 59), *Javins v. First National Realty Corporation* (428 F.2d 1071), *Foisy v. Wyman* (83 Wash. 2d 27), and *Landis & Landis Const. LLC v. Nation* (286 P. 3d 979).

To use the application, the tenant downloads the SRSWA application from the Apple or Android store to their smartphone or tablet. A version for Windows or macOS based devices can be downloaded from the SRSWA website. The application is a free download. The tenant enters information about their landlord, property, who notices about the tenancy are to be sent to per the lease, and the issue making their rental unit unsafe (uninhabitable).

Machine learning based artificial intelligence determines whether the issue is an imminent health hazard, such as no heat in the winter or extreme rodent infestation, a minor problem, such as a refrigerator or stove not working, or some other matter making their residence unsafe.

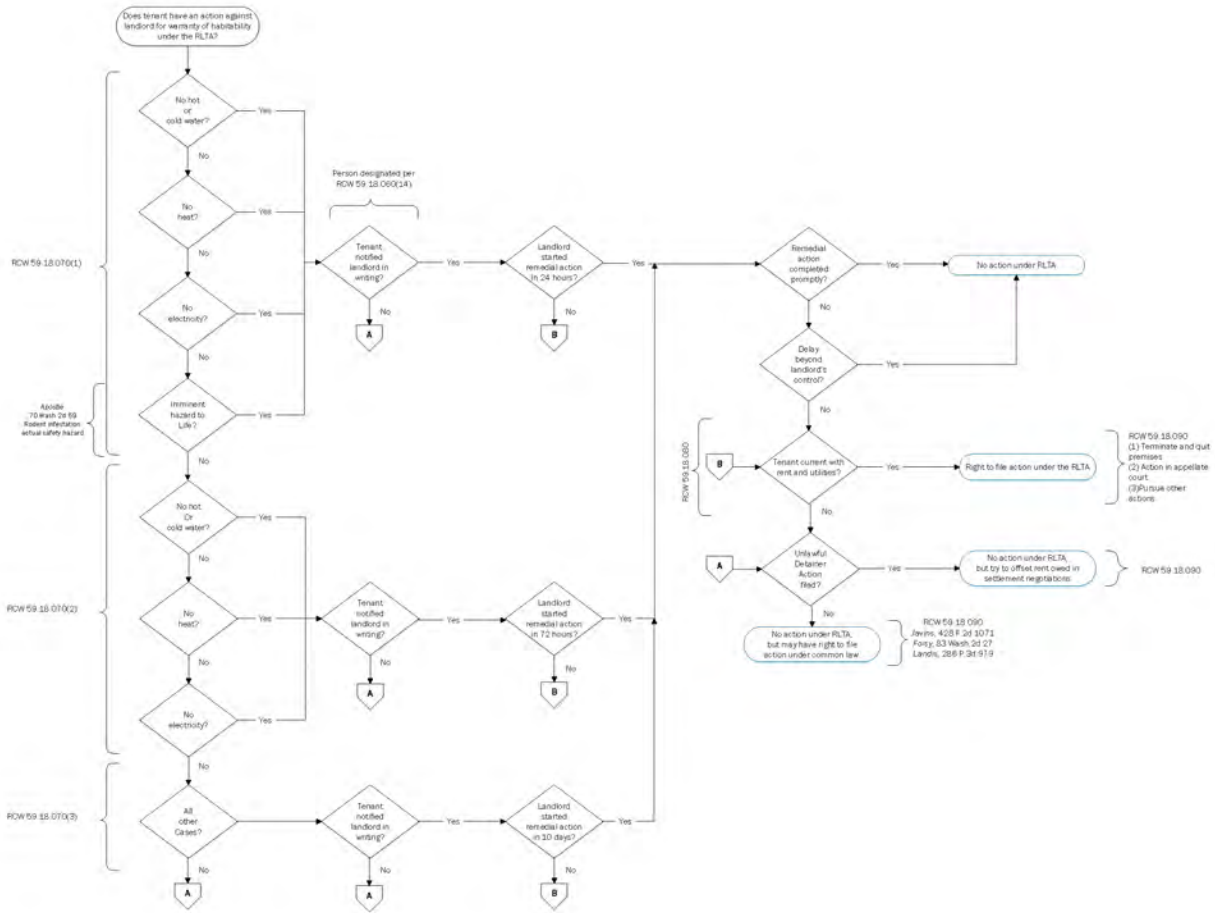
Based on the specific uninhabitable condition, the SRSWA application will generate and send a notice requiring that the landlord commence repairs in the statutorily defined period. Such notice will be sent so it proves service, such as certified mail.

If the landlord does not commence remedial action in the statutorily defined period, and the delay is the landlord's fault (landlord could rectify issue if they chose to but have not yet acted), then the SRSWA application will guide the tenant through exercising their statutory rights including terminating the lease and quitting the premises, suing the landlord for damages in small-claims court, or effecting repairs and charging the landlord for the cost of repairs and damages.

If available, the lease can be scanned, including documents on the status of the mechanical systems in the rental unit, and the mold, smoke detector, and tenant's obligations under the lease will be scanned and machine learning analyze the data to modify the algorithm.

Application is doing more than merely functioning as a scrivener to fill-in forms but is deciding about the tenant's legal rights such as determining which part of the statute applies in each scenario, delivering notices in manner which assures proof of service, and commencing a legal action including potential starting a civil case in small claims or other court.

In complex cases, the SRSWA application will assist the client in finding lawyers willing to sue the landlord.



9.2.5 The Intended Market for the Nontraditional Legal Service

The population of Washington State in July 2019 was 7,614,893.²⁴ The Census Bureau estimated there were 3,195,004 housing units. A housing unit is a house, an apartment, a group of rooms, or a single room. 63% of the housing units are owner occupied, so 37% are rented. With about 2.55 people per housing unit, the calculated number of people renting would be $(3,195,004 * 0.37) * 2.55$ or 3,014,486.27.

²⁴ <https://www.census.gov/quickfacts/WA>.

The number of households in Seattle are 323,446.²⁵ Using the same estimates as for the state, the number of rental households would be $(323,446 * 0.37)$ or 119,675 units. Looking at City of Seattle Code complaints for 2019²⁶, the number of complaints about power, heat, plumbing, mold, and bugs was about 25% of the total code complaints. This means that approximately $(119,675 * 0.25)$ or 29,918 rental units in Seattle had a potential safety or habitability issue.

Using this number statewide, $(3,195,004 * 0.25)$ or 798,751 rental units per year in Washington had a habitability issue.

The SRSWA application is not designed for any other jurisdiction at this time, as each state has different landlord-tenant law statutes.

9.2.6 When the Provision of Nontraditional Legal Service Can Begin

The SRSWA application is in beta testing and will be ready for initial distribution to consumers in January 2022.

9.3 How the Nontraditional Legal Service Reduces the ATJ Gap

9.3.1 Which Specific Consumers the Nontraditional Legal Service Targets

The SRSWA application targets tenants in Washington State.

9.3.2 How the Nontraditional Legal Service Provides High-quality Service

The SRSWA algorithms, machine learning training, and test data has been reviewed by lawyers who advise tenants in the RLTA for a variety of agencies, including the King County Bar Association Housing Justice Project, and the Tenants Union. It follows the statutory definition of what constitutes or makes a rental unit uninhabitable, and the rights of tenants and the obligations of landlords. A professor at Seattle University who teaches a Landlord-Tenant class has also reviewed the application's logic and algorithms and helped to create test data.

²⁵ <http://www.seattle.gov/opcd/population-and-demographics/about-seattle>

²⁶ <https://data.seattle.gov/Community/Code-Complaints-and-Violations-Map/rsmq-5vwm>

Anonymized data about each transaction, and the status of the transaction over time, and source documents are used with machine learning to better train the algorithm and ensure it is working correctly and protecting tenant's rights.

Consumers can report a problem through the application, and a chat interface assists them with most issues. Consumers with complex problems outside the scope of the application will be referred to an attorney who provides legal services to tenants.

9.3.3 How the Nontraditional Legal Service is Cost-effective

The SRSWA application is free to download. Tenants will be charged only all costs associated with their transaction, such as the costs of sending certified mail or other notices.

Washington Tenant Software makes money by selling information about bad rental units, and bad landlords (those continually failing to repair rental units) to companies such as Zillow and Apartments.com who value such data. No tenant data is sold or traded to pay for SRSWA costs.

9.3.4 How the Nontraditional Legal Service is Consumer Accessible

Although a tenant/consumer might figure out how to correctly follow an uninhabitable issue through the legal process correctly, few seem able to do more than report to a county or city code enforcement office which might take timely action.

Most consumers make incorrect assumptions such as they can withhold or stop paying rent, leading to potential eviction (unlawful detainer) actions.

According to the US Census, Washingtonians have a high percentage of computers in their homes (greater than 90%), and most have access to high-speed internet, making the application highly available.

Few attorneys will take on uninhabitability matters for tenants, as few tenants can afford to pay hundreds of dollars per hour for such legal service.

Therefore, the SRSWA application should enable more tenants to exercise their legal rights under the RLTA.

9.3.5 Other Aspects of the Nontraditional Legal Service that Close the ATJ Gap.

Many tenants live with the problem, and incur additional costs because of damage to their health, loss of wages, or harm from attempting repairs on their own.

The lower the income, the less likely the person can make repairs. Many fear retaliation including eviction or non-renewal of the lease. Others worry about being labeled a problem tenant, making it hard to rent another unit.

Few attorneys practice the tenant side of landlord-tenant law.

9.3.6 Estimated ATJ Reduction Score

Given the information in this section on reducing the ATJ gap, the SRSWA application estimates the likelihood of reducing the gap is possible (2), and the impact is significant (1), giving the application a score of 2.

9.4 Risk of Harm to Consumers

9.4.1 What Potential Harm Could Befall a Consumer

Consumers may be harmed if they overstate the nature of the problem, fail to take subsequent steps in the process promptly, or stop using the application once they initiate a complaint to the landlord.

To mitigate the harm, the SRSWA application will email the consumer with the status of their matter on an ongoing basis, and clearly detailing the next steps and deadlines.

It may not scale across WA because of each court having different court rules (for example, not all Washington county courts

support e-filing). However, it may be possible to modify the application to accommodate different statutes, but that is not part of the current plans.

9.4.2 Consumers at Most Risk of Harm

The SRSWA application will be initially released in English and Spanish. Although every attempt has been made to use non-legal language and terms, uninhabitability and unlawful detainer matters can include complex scenarios and fact patterns, therefore, those with low reading skills or literacy may make mistakes using the application.

Those consumers in poorer communities, where affordable housing is at a premium, are at risk of retaliation from the landlord, but such risk may be less than if the tenant tried to act on their own (without assistance of the application or a legal professional).

9.4.3 Potential Consumer Harm Score

Risk	Likelihood	Harm	Mitigation	Risk Score
Misstatement of inhabitability issue	2	2	Clear descriptions of problems	4
Failure to follow steps, take required step	2	2	Application prompts consumer to take next step before any deadline	4
Stop using the application before resolution of the matter	1	3	Application notes lack of activity and representative follows up	3
			Average Risk	3.6

9.4.4 When the Risk is Likely to Occur (Present or Future)

The greatest risk of consumer harm occurs when the consumer initially uses the application and lessens over time (uninhabitable issues have a relatively short timeline).

Risk	Likelihood	Occurs	Mitigation	Risk Score
Misstatement of inhabitability issue	2	1	Clear descriptions of problems	2
Failure to follow steps, take required step	2	1	Application prompts consumer to take next step before any deadline	2
Stop using the application before resolution of the matter	1	1	Application notes lack of activity and representative follows up	1
			Average Risk	1.6

9.4.5 How Any Risk of Harm can be Measured

The application collects anonymized data about usage, including started transactions, unfinished or abandoned transactions, and failed transactions.

Consumers can report and track issues with the application through a portal and an issue id for tracking will be assigned to any complaint entered through the application.

Consumer satisfaction will be measured after each transaction.

9.5 Entity Information

9.5.1 Type of Entity

Washington Tenant Software is a Washington State LLC. The LLC is the developer of the SRSWA application.

9.5.2 Officers

John and Jane Doe are the members of Washington Tenant Software LLC. John Doe is the member manager.

9.5.3 Years of Operation

Washington Tenant Software was incorporated in 2019.

9.5.4 Financial Information

Washington Tenant Software has raised \$2 million dollars from Angel Investors and is not expected to seek any additional funding until it is in the market. SRSWA is the entity's first application.

9.5.5 Business Plan for the Nontraditional Legal Service

In 6.5.4, WTS has raised capital to fund the initial release of the application. In 6.3.3 Washington Tenant Software makes money selling information about landlords and rental units, not client or tenant data.

9.6 Other Material Information

SRSWA intends to compensate lawyers advising about the RLTA with monetary payments for work performed and does not intend on having any legal professionals on staff or as members of the corporation.

SRSWA is a software development firm and is not a law firm.

10.0 Appendix C: Sample Supreme Court Order Laboratory Participation

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE)
APPLICATION OF WASHINGTON TENANT)
SOFTWARE – SAFE SPACES WASHINGTON) ORDER
PARTICIPATION IN THE WASHINGTON) No 00000-A-000
COURTS LEGAL REGULATORY SANDOX)

WHEREAS, the Washington State Supreme Court has determined to implement a strategic initiative to evaluate and assess efficacy of nontraditional legal services to provide legal services that lessen the ATJ gap in Washington state while minimizing risk of consumer harm, and to evaluate the correct level of regulation for such nontraditional legal services;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Washington Tenant Software, a Washington State entity, may offer legal services from its Safe Rental Spaces Washington application in Washington State as an entity providing software or internet services provider without legal professional involvement.

Washington Tenant Software shall only offer legal services in Washington State in the Housing—Rental legal services area.

Washington Tenant Software may refer clients with a complex habitability issue, which the Safe Rental Spaces Software cannot process, to a licensed and authorized legal professional in Washington, and to charge a referral fee to such legal professionals.

Washington Tenant Software shall conform to the reporting requirements imposed by the Washington Courts Legal Regulatory Lab Board.

Washington Tenant Software shall prominently display disclosure to consumers using the Safe Rental Spaces Washington application it is operating in the Washington Courts Legal Regulatory Lab, that it is a non-legal professional ownership company and is not a law firm, and how consumers can report a problem with the application or service.

If Washington Tenant Software desires to change these requirements, it must submit any such change to the Washington Courts Legal Regulatory Lab Board for assessment and a modification to this order.

This authority is granted for 24 months from the date the nontraditional legal service is provided to consumers in Washington State, as reported to the Washington Courts Legal Regulatory Lab Board.

This authority and any such extension or permanent authorization is subject to Washington Tenant Software's compliance with the conditions and regulations set forth by the Washington Courts Legal Regulatory Lab Board, the Washington Courts Legal Regulatory Lab Board's recommendation to the Supreme Court, and verification by the Washington Courts Legal Regulatory Board's verification that Washington Tenant Software has a record of compliance with all requirements, statutes, regulations, and court rules and the nontraditional legal services are not harming consumers.

DATED at Olympia, Washington this <day> day of <month>, <year>.

***Narrowing the Access-to-Justice Gap by
Reimagining Regulation***

**Report and Recommendations from
THE UTAH WORK GROUP ON REGULATORY REFORM**

August 2019

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INTRODUCTION: Toward Equal Access to Justice

“An estimated five billion people have unmet justice needs globally. This justice gap includes people who cannot obtain justice for everyday problems, people who are excluded from the opportunity the law provides, and people who live in extreme conditions of injustice.”¹ This predicament is not unique to third-world countries: According to the World Justice Project, the United States is presently tied for 99th out of 126 countries in terms of access to and affordability of civil justice.² An astonishing “86% of the civil legal problems reported by low-income Americans in [2016–17] received inadequate or no legal help.”³ Yet at the same time, access to justice should be the very hallmark of the American legal system. To quote Chief Justice John Marshall, the “essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws”⁴ And “[o]ne of the first duties of government is to afford that protection.”⁵

The Utah Judiciary, the branch of government with constitutional responsibility for the administration of justice, has been in the vanguard of initiatives aimed at solving the access-to-justice problem. The judiciary, under the leadership of the Utah Supreme Court (Supreme Court or Court) and the Judicial Council, has established state-wide pro bono efforts, moved to systematize court-approved forms and make them easily accessible online, established a new legal profession in Licensed Paralegal Practitioners (LPPs), and piloted an online dispute resolution model for small claims court. Each of these initiatives takes an important step toward narrowing the access-to-justice gap. But the most promising initiative, and the focus of this report, involves profoundly reimagining the way legal services are regulated in order to harness the power of entrepreneurship, capital, and machine learning in the legal arena.

In the latter part of 2018, the Supreme Court, at the request of the Utah State Bar (Utah Bar or Bar), charged Justice Deno Himonas and John Lund (past President of the Bar) with organizing a work group to study and make recommendations to the Court about optimizing the regulatory structure for legal services in the Age of Disruption. More specifically, the work

¹ Task Force on Justice, *Measuring the Justice Gap*, WORLD JUSTICE PROJECT (Feb. 6, 2019), https://worldjusticeproject.org/sites/default/files/documents/Measuring%20the%20Justice%20Gap_Feb2019.pdf (last visited Aug. 12, 2019); see also GILLIAN K. HADFIELD, *RULES FOR A FLAT WORLD: WHY HUMANS INVENTED LAW AND HOW TO REINVENT IT FOR A COMPLEX GLOBAL ECONOMY* 281 (2017) (estimating four billion people live “outside of the rule of law—with little access to basic legal tools”).

² WORLD JUSTICE PROJECT, *Rule of Law Index 2019*, https://worldjusticeproject.org/sites/default/files/documents/WJP_RuleofLawIndex_2019_Website_reduced.pdf (last visited Aug. 12, 2019).

³ LEGAL SERVICES CORPORATION, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans* (June 2017), <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf> (last visited Aug. 12, 2019).

⁴ *Marbury v. Madison*, 5 U.S. 137, 163 (1803).

⁵ *Id.*

group was charged with optimizing regulation in a manner that fosters innovation and promotes other market forces so as to increase access to and affordability of legal services. With this objective firmly in mind, members of the Utah court system and the Utah Bar, leading academics, and other experts, working closely together, have outlined what a new regulatory structure should look like. This new regulatory structure provides for broad-based investment and participation in business entities that provide legal services to the public, including non-lawyer investment in and ownership of these entities, through two concurrent approaches: (1) substantially loosening restrictions on the corporate practice of law, lawyer advertising, solicitation, and fee arrangements, including referrals and fee sharing; and (2) simultaneously establishing a new regulatory body (sometimes referred to as a regulator) under the supervision and direction of the Supreme Court to advance and implement a risk-based, empirically-grounded regulatory process for legal service entities. The new regulatory structure should also solicit non-traditional sources of legal services, including non-lawyers and technology companies, and allow them to test innovative legal service models and delivery systems through the use of a “regulatory sandbox” approach, which permits innovation to happen in designated areas while addressing risk and generating data to inform the regulatory process.⁶

Bridging the access-to-justice gap is no easy undertaking: it requires multi-dimensional vision, strong public leadership, and perseverance. It also requires timely action. And it is the view of the work group that the time for regulatory reform is now. Without such reform, it is our belief that the American legal system will continue to underserve the public, causing the access-to-justice gap to expand. Therefore, the work group respectfully urges the Supreme Court to adopt the recommendations outlined in this report.

THE UTAH WORK GROUP ON REGULATORY REFORM

The core mission of the work group is to optimize the regulatory structure for legal services in the Age of Disruption in a way that fosters innovation and promotes other market forces so as to increase access to and affordability of legal services.

In the fall of 2018 and winter of 2019, Supreme Court Justice Deno Himonas and John Lund, past president of the Utah Bar, gathered members of the Utah court system and the Bar, leading academics, and other experts to form the work group. Justice Himonas and Mr. Lund

⁶ The Utah work group is not going it alone in this space. Arizona, California, and the Institute for the Advancement of the American Legal System are all evaluating and moving toward regulatory reform in an effort to narrow the access-to-justice gap. See Brenna Goth & Sam Skolnik, *Arizona Weighs Role of Non-Lawyers in Boosting Access to Justice*, BLOOMBERG BIG LAW BUSINESS (Aug. 15, 2019), <https://biglawbusiness.com/arizona-weighs-role-of-non-lawyers-in-boosting-access-to-justice> (last visited Aug. 16, 2018); see also Institute for the Advancement of the American Legal System, *Unlocking Legal Regulation*, UNIVERSITY OF DENVER (forthcoming) (on file with author).

co-chair the work group. In addition to Justice Himonas and Mr. Lund, the group is comprised of H. Dickson Burton, immediate past President of the Bar; Dr. Thomas Clarke, Vice President of Research and Technology for the National Center for State Courts (NCSC) (ret.); Cathy Dupont, Deputy Utah State Courts Administrator; Dr. Gillian Hadfield, Professor of Law and Professor of Strategic Management, University of Toronto Faculty of Law; Dr. Margaret Hagan, Director of the Legal Design Lab and Lecturer in Law at Stanford Law School; Steve Johnson, past Chair of the Court's Advisory Committee on the Rules of Professional Conduct; Lucy Ricca, former Executive Director of and current Fellow with the Stanford Center on the Legal Profession; Gordon Smith, Dean of the J. Reuben Clark Law School at Brigham Young University and Glen L. Farr Professor of Law; Heather White, past Co-Chair of the Bar Innovation in Law Practice Committee; and Elizabeth Wright, General Counsel to the Bar.⁷

The impetus for the work group was a letter sent by Mr. Burton to the Court on behalf of the State Bar.⁸ The letter correctly noted that “[a]ccess to justice in Utah remains a significant and growing problem.” The Bar set forth its belief that, to help combat that problem, “a key step to getting legal representation to more people is to substantially reform the regulatory setting in which lawyers operate.” The Bar therefore requested that “the Court establish a small working group to promptly study possible reforms and make recommendations for revisions, possibly major revisions, to the rules of professional responsibility so as to permit lawyers to more effectively and more affordably provide legal services and do related promotion of those services.”

The work group understood from the outset that, as outlined in the letter to the Court, the charge involved “the consideration” and evaluation of “(1) the effect of modern information technology and modern consumer patterns on the current rules, (2) the potential value, in terms of making legal services accessible to clients, of non-lawyer investment and ownership in entities providing legal services and the related regulatory issues, (3) the prospect of broadening the availability of legal services through flat fee and other alternative fee arrangements not currently permitted by the rules, (4) whether there is continuing justification for the rules against direct solicitation, (5) whether and how to permit and structure lawyer use of referral systems such as Avvo in light of the rule against referral fees[,] and [(6)] the related trends and approaches being considered and/or implemented in other bars, such as Oregon and the [American Bar Association’s (ABA)] work in this area.”

⁷ A short biography for each member of the work group can be found at Appendix A. We would also like to extend a special thanks to Dolores Celio, Judicial Assistant to Justice Himonas, and Kevin Heiner (J.D. 2018, Columbia Law School) and John Peterson (J.D. 2016, Harvard Law School), law clerks to Justice Himonas, for their invaluable help researching, writing, and editing this report.

⁸ A copy of Mr. Burton’s letter is attached at Appendix B.

THE NEED FOR REGULATORY REFORM TO ADDRESS THE ACCESS-TO-JUSTICE GAP IN THE AGE OF DISRUPTION

Nelson Mandela poignantly observed that “[a] nation should not be judged by how it treats its highest citizens, but its lowest ones.”⁹ In the United States, millions of our citizens who experience problems with domestic violence, veterans’ benefits, disability access, housing conditions, health care, debt collection, and other civil justice issues cannot afford legal services and are not eligible for assistance from the civil legal aid system. This failure affects not only low-income people, but wide swaths of the population.¹⁰ The inability of these people to seek and obtain a remedy through the courts or through informal dispute resolution processes undermines the operation of the rule of law. Our justice system should be judged harshly by this failure.

This failure, however, should not be laid at the feet of lawyers. As a profession, lawyers have and continue to give generously of their time and money in an effort to mind the gap. But, as history has shown, we cannot volunteer or donate the problem away. Likewise, minor tweaks, while often helpful, are just that—minor. Serious reform requires recognition that our existing regulatory approaches are not working. And they are not working because they are not risk-sensitive and market-driven. Instead, they attempt to solve potential problems by imagining what could possibly go wrong and then dictating the business model for how legal services must be provided. This protectionistic approach has had catastrophic effects on access to justice. What follows is an examination of why and how we must shift from such a prescriptive approach based on abstract risk considerations to an outcomes-based and risk-appropriate paradigm.

⁹ NELSON MANDELA, *LONG WALK TO FREEDOM* 23 (1994).

¹⁰ *See, e.g.*, GILLIAN K. HADFIELD, *RULES FOR A FLAT WORLD: WHY HUMANS INVENTED LAW AND HOW TO REINVENT IT FOR A COMPLEX GLOBAL ECONOMY* 179 (2017).

The Access-to-Justice Gap

In this report, we describe the “access-to-justice gap” as the difference between the legal needs of ordinary Americans and the resources available to meet those needs. As noted, the civil justice system in the United States currently is tied for 99th out of 126 countries in terms of access and affordability.¹¹ And the United States has consistently shown poorly when it comes to access and affordability of civil justice: in 2015, the U.S. ranked 65th out of 102 countries¹²; in 2016, 94th out of 112¹³; and in 2017-2018, 94th out of 112.^{14,15} Without access to justice, “people are unable to have their voice heard, exercise their rights, challenge discrimination or hold decision-makers accountable.”¹⁶ In the U.S., many people “go it alone without legal representation in disputes where they risk losing their job, their livelihood, their home, or their children, or seek a restraining order against an abuser.”¹⁷

The access-to-justice gap is especially acute among low-income Americans. In 2017, the Legal Services Corporation (LSC) contracted with NORC at the University of Chicago to explore the extent of the access-to-justice gap. NORC conducted a national survey of “low-income households” (i.e., households at or below 125% of the Federal Poverty Level (FPL)) and analyzed data from LSC’s 2017 Intake Census, through which 133 LSC grantee programs “tracked the number of individuals approaching them for help with a civil legal problem whom they were unable to serve, able to serve to some extent (but not fully), and able to serve fully.”¹⁸ The Census Bureau estimates that the number of people living below the FPL is about 60 million

¹¹ WORLD JUSTICE PROJECT, *Rule of Law Index 2019*, https://worldjusticeproject.org/sites/default/files/documents/WJP_RuleofLawIndex_2019_Website_reduced.pdf (last visited Aug. 12, 2019).

¹² WORLD JUSTICE PROJECT, *Rule of Law Index 2015*, https://worldjusticeproject.org/sites/default/files/documents/roli_2015_0.pdf (last visited Aug. 12, 2019).

¹³ WORLD JUSTICE PROJECT, *Rule of Law Index 2016*, https://worldjusticeproject.org/sites/default/files/documents/RoLI_Final-Digital_0.pdf (last visited Aug. 12, 2019).

¹⁴ WORLD JUSTICE PROJECT, *Rule of Law Index 2017–2018*, https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2018-June-Online-Edition_0.pdf (last visited Aug. 12, 2019).

¹⁵ The World Justice Project generates these rankings using data generated from questionnaires. The questionnaires are sent to people that the World Justice Project has identified as local experts. The responses to the questionnaires are codified as numeric values, normalized, and then subjected to a series of tests to identify possible biases and errors. The data are also subjected to a sensitivity analysis to determine the statistical reliability of the results. The data are then converted to country scores and rankings that represent the assessment of more than 120,000 households and 3,800 legal experts across the countries included in the rankings. See WORLD JUSTICE PROJECT, *Rule of Law Index 2019*, https://worldjusticeproject.org/sites/default/files/documents/WJP_RuleofLawIndex_2019_Website_reduced.pdf (last visited Aug. 12, 2019) (explaining methodology for the World Justice Project Rule of Law Index).

¹⁶ UNITED NATIONS AND THE RULE OF LAW, *Access to Justice*, <https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/> (last visited Aug. 12, 2019).

¹⁷ LEGAL SERVICES CORPORATION, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans* (June 2017), <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf> (last visited Aug. 12, 2019).

¹⁸ *Id.*

people, including roughly 19 million children. The three key findings of the report about this population are equal parts fascinating and disturbing:

1. Eighty-six percent [86%] of the civil legal problems faced by low-income Americans in a given year receive inadequate or no legal help;
2. Of the estimated 1.7 million civil legal problems for which low-income Americans seek LSC-funded legal aid, 1.0 to 1.2 million (62% to 72%) receive inadequate or no legal assistance; and
3. In 2017, low-income Americans will likely not get their legal needs fully met for between 907,000 and 1.2 million civil legal problems that they bring to LSC-funded legal aid programs due to limited resources among LSC grantees. This represents the vast majority (85% to 97%) of all the problems receiving limited or no legal assistance from LSC grantees.¹⁹

According to the LSC report, the most common civil legal problems relate to health (41% of low-income households) and consumer-finance (37% of low-income households) issues. Several other categories of civil legal problems—rental housing, children and custody, and education—affected more than one-fourth of low-income households.²⁰

In a study conducted in 2015, two years before the LSC report, NCSC looked at the access-to-justice gap by examining the non-domestic civil caseloads in 152 courts in 10 urban counties. The resulting report, *The Landscape of Civil Litigation in State Courts* [hereinafter the *Landscape*],²¹ showed that civil litigation predictably clusters around a few subjects (debt collection, landlord/tenant cases, and small claims cases involving disputes valued at \$12,000 or less) and results in very small monetary judgments (“three-quarters (75%) of all judgments were less than \$5,200”), suggesting that, “[f]or most represented litigants, the costs of litigating a case through trial would greatly exceed the monetary value of the case.”²² Not surprisingly then, at least one party was self-represented in most cases (76%), proving that “[t]he idealized picture of an adversarial system in which both parties are represented by competent attorneys who can assert all legitimate claims and defenses is an illusion.”²³ A majority of cases were disposed of through default judgments or settlements.²⁴ The report concluded, “[t]he picture of

¹⁹ *Id.*

²⁰ *Id.*

²¹ Civil Justice Initiative, *The Landscape of Civil Litigation in State Courts*, NATIONAL CENTER FOR STATE COURTS, <https://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx> (last visited Aug. 12, 2019). The “*Landscape* dataset consisted of all non-domestic civil cases disposed of between July 1, 2012[,] and June 30, 2015[,] in 152 courts with civil jurisdiction in 10 urban counties. The 925,344 cases comprise approximately five percent (5%) of state civil caseloads nationally.” *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

civil litigation that emerges from the *Landscape* dataset confirms the longstanding criticism that the civil justice system takes too long and costs too much.” The result is predictable: “[M]any litigants with meritorious claims and defenses are effectively denied access to justice in state courts because it is not economically feasible to litigate these cases.”²⁵

Raw data from the Third District Court for the State of Utah suggest that its caseload tracks the caseloads studied in the *Landscape* report.²⁶ In 2018, 54,664 civil and family law matters were filed in the Third District.²⁷ Of these cases, 51% were debt collection, 7% were landlord/tenant, and approximately 19% were family law cases. Moreover, the data show that the idealized adversarial system in which both parties are represented by competent attorneys is not flourishing in Utah: ***At least one party was unrepresented throughout the entirety of the suit in 93% of all civil and family law disputes disposed of in the Third District in 2018.***

And the public is taking notice. In the 2018 State of the State Courts-Survey Analysis commissioned by NCSC, “[a] broad majority (59%) say ‘state courts are not doing enough to empower regular people to navigate the court system without an attorney.’”²⁸ And “[o]nly a third (33%) believe courts are providing the information to do so.”²⁹

The Supreme Court and the Judicial Council are resolutely working toward narrowing the access-to-justice gap. To this end, they have established a statewide pro bono system to improve the delivery of free legal services to needy parties; established a new profession—the LPP—to deliver legal services in debt collection, landlord/tenant, and family law matters; and piloted an online dispute resolution model in small claims court. These efforts are important and should be supported and expanded. But they are not enough. As NCSC recognized in the *Landscape*, “civil justice reform can no longer be delayed or even implemented incrementally through mere changes in rules of procedure.”³⁰ What “is imperative [is] that court leaders move with dispatch to improve civil case management with tools and methods that align with the

²⁵ *Id.* A legal needs survey conducted by New York in 2010 demonstrates just how stark this problem is. For example, the New York Task Force found that, in New York City, 99 percent of tenants are unrepresented when faced with eviction and homelessness. THE TASK FORCE TO EXPAND ACCESS TO CIVIL LEGAL SERVICES IN NEW YORK, *Report to the Chief Judge of the State of New York* 17 (Nov. 2010), <http://ww2.nycourts.gov/sites/default/files/document/files/2018-04/CLS-TaskForceREPORT.pdf> (last visited Aug. 12, 2019). In consumer credit card debt collection matters, 99 percent of New Yorkers were unrepresented, while 100 percent of the entities bringing the collections were represented. *Id.* at 16.

²⁶ The data set forth in this paragraph were provided by court services personnel for the Administrative Office of the Courts of Utah.

²⁷ For purposes of this report, the Third District Court includes all adult courts, including justice courts, in Salt Lake, Summit, and Tooele Counties.

²⁸ Memorandum from GBA Strategies to National Center for State Courts (Dec. 3, 2018) (on file with author).

²⁹ *Id.*

³⁰ Civil Justice Initiative, *The Landscape of Civil Litigation in State Courts*, NATIONAL CENTER FOR STATE COURTS, <https://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx> (last visited Aug. 12, 2019).

realities of modern civil dockets to control costs, reduce delays, and ensure fairness for litigants.”³¹ And, perhaps, if we move efficiently and meaningfully enough, we can avoid a harsh but accurate assessment of our civil justice system by future generations.

The Age of Disruption

We live in an age where disruptive innovation is occurring non-stop.³² So-called “incumbent” institutions must continuously innovate to maintain and protect their positions and functions in society. The justice system is no exception. The shift of most court civil business to cases involving self-represented litigants, the rise of average education levels, and the unaffordability of lawyers has driven a new market for legal services serviced partly by non-traditional providers, which pushes the boundaries of what is the unauthorized practice of law.

Courts have struggled to adjust to a world in which unrepresented litigants are the norm. Many cases resolve by default or by failures to comply with required court processes. Judges either require special training to facilitate cases or must create special dockets where the rules of evidence are suspended. Civil and family caseloads are dropping as lawyers become ever more expensive and some litigants decide to proceed without assistance.³³ At the same time, alternative providers of dispute resolution are enticing more and more litigants away from the courts at both the high end (complex civil cases) and the low end (parking tickets, consumer debt, simple divorces, etc.).

Technology has been the leading force in disrupting the way we acquire and consume goods, sleep, work, and play. And it has certainly already altered the practice of law as we have heretofore known it. It has enabled litigants to reduce the costs of litigation, from providing them with access to information about the legal system they did not previously have to pressuring lawyers to use tools that make the litigation process less costly. Automated forms have empowered litigants to represent themselves and helped generate effective documents ranging from transactional documents (such as those used in wills, real estate purchase contracts, and business formations) to litigation pleadings (such as those in divorces, debt collection actions, and contract disputes). Moreover, lawyers have been forced to compete by lowering prices by means such as using electronic communications and document storage and transmittal, eliminating copying costs, electronically Bates stamping discovery documents

³¹ *Id.*

³² See Clayton M. Christensen, Michael E. Raynor & Rory McDonald, *What is Disruptive Innovation?*, HARVARD BUSINESS REVIEW (Dec. 2015), <https://hbr.org/2015/12/what-is-disruptive-innovation> (last visited Aug. 12, 2019).

³³ See NATIONAL CENTER FOR STATE COURTS, *Data Visualizations*, <https://public.tableau.com/profile/ncscviz/vizhome/CSPCaseloadDashboard/CaseDashboard> (last visited Aug. 12, 2019), and Court Statistics Project, *National Overview*, NATIONAL CENTER FOR STATE COURTS, <http://www.courtstatistics.org/NCSC-Analysis/National-Overview.aspx> (last visited Aug. 12, 2019) for data summaries of the trends.

(reducing the time to do so from hours to seconds), and even employing artificial intelligence that can review thousands of pages of documents and pull relevant documents for review and use with greater accuracy than humans.

Lawyers have also benefitted from the rise of technology in several ways. Technology has enabled lawyers and law firms to dramatically cut costs in certain areas by streamlining communications with clients, simplifying and streamlining case management and billing, automating discovery, and enabling telecommuting—which allows lawyers to conduct business remotely rather than having to travel hundreds, if not thousands, of miles—just to name a few.

And, again, courts have not been immune from disruption. They, too, compete in this ever-changing world that continuing advances in technology bring. More access for litigants means a heavier workload for many already overburdened judges and their staff. Courts also have been required to handle more cases with unrepresented litigants, which increases the time spent reviewing arguments and theories and preparing rulings and orders that people without legal training can understand and follow without explanation from a lawyer. But not all disruption has created legal burdens. Disruption has also brought with it increases in efficiency, from electronic filing and storage to telephone conferences for discovery disputes and other non-dispositive matters. Information filed with the court is now more easily retrieved as well.

The potential benefits for access to justice from legal disruptions are significant. If legal services can be provided to litigants and those with potential legal problems in a much more cost effective way, then true access to justice becomes possible for millions of people who currently get no help and do nothing. Technology, especially online legal services, exponentially increases the potential to improve access to justice. But it also simultaneously increases the risk of legal and practical harm to users if those services are not of sufficient quality. However, the potential benefits are too large to pass up, so changing how legal services are regulated to both open the door to innovation and protect litigants and other users in responsible ways is critical.

Because of the assumed monopoly on the provision of legal services by lawyers (and a few related, sanctioned roles³⁴), current regulation focuses on requirements for lawyers. If

³⁴ For example, Utah allows LPPs to assist clients in a limited number of areas in which the LPP is licensed. UTAH STATE BAR, *Licensed Paralegal Practitioner*, <https://www.utahbar.org/licensed-paralegal-practitioner/> (last visited Aug. 12, 2019). Other states have similar programs. Washington allows limited license legal technicians to advise and assist people through divorce, child custody, and other family law matters, WASHINGTON STATE BAR ASSOCIATION, *Limited License Legal Technicians* (July 24, 2019), <https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-license-legal-technicians> (last visited Aug. 12, 2019), and permits limited practice officers to select, prepare, and complete certain approved documents used in loan agreements and the sale of real or personal property, WASHINGTON STATE BAR ASSOCIATION, *Limited Practice Officers*, <https://www.wsba.org/for-legal-professionals/join-the-legal-profession-in-wa/limited-practice-officers> (last visited Aug. 12, 2019). And Arizona

innovation brings a wide variety of legal services to consumers, then the strategy of regulating narrow roles will no longer suffice. There needs to be a way to regulate a broad array of legal services created and provided in different ways. This approach needs to be consistent, cost effective, and safe.

ACHIEVING REFORM—A ROADMAP TO SUCCESS

Fundamental reform of how legal services are regulated requires equal parts courage, caution, imagination, and deliberation. The current paradigm is deeply entrenched in the country's justice system, in the hearts and minds of those who have dedicated themselves to the law, and even in our society at large. With rare exception, long gone are the days when an Abraham Lincoln could "read into" the practice of law. For over a century now, the entry point to be allowed to provide legal services has been territory controlled by law schools molding Juris Doctors (JDs) and courts and bar associations assessing the character and fitness and broad legal knowledge of those JDs. Oddly though, in most jurisdictions, once admitted—and subject only to continuing legal education and conduct requirements—an attorney may provide any legal service across the entire spectrum of needs, everything from writing a will or closing a major contract to defending a felony or filing a class action. While very few divorce lawyers would take on a major real estate deal, their licenses allow them to do just that. The regulatory scheme regulates the provider, not the service.

This approach, though faithfully followed for the past century, has not yielded a broad-based legal services industry that provides affordable legal services to all members of society. Far from it. And this approach is coming under more pressure on a daily basis. Technologies and market forces keep undermining the fundamental premise that lawyers, and lawyers alone, can provide suitable legal services as consumers are increasingly finding tools to meet their needs outside of the regulated legal profession.

As to what the future holds for legal services, hardly anything is clear. What the Greek philosopher Heraclitus said in the 5th century B.C. is as true now as it was then: "Life is flux."³⁵ The only constant is change. So, realistically, drafting a roadmap for the way forward is best viewed as attempting to chart a course in the right direction, watching how the winds blow, tending the lines carefully, and trimming the sails as needed.

allows legal document preparers to prepare and provide certain legal documents without the supervision of an attorney. STATE BAR OF ARIZONA, *Legal Document Preparers*, <https://www.azbar.org/lawyerconcerns/regulationofnon-lawyers/legaldocumentpreparers/> (last visited Aug. 12, 2019).

³⁵ Joshua J. Mark, *Heraclitus of Ephesus*, ANCIENT HISTORY ENCYCLOPEDIA (July 14, 2010), https://www.ancient.eu/Heraclitus_of_Ephesos/ (last visited Aug. 10, 2019).

Narrowing the Access-to-Justice Gap by Reimagining Regulation

To correctly set that course, we have studied other regulatory reform efforts and how they have fared. The most comprehensive example, and a good source of guidance and insight, is the United Kingdom’s Legal Services Act of 2007 (the LSA). We have provided a thorough discussion of the LSA and its strengths and weaknesses in Appendix C. The LSA is a broad-based reform that identifies key elements for success, such as independent regulators, a risk-based approach, use of guiding principles, and the articulation of the specific outcomes expected from the regulation. With these elements in place, room can be made both for new approaches by lawyers and for innovators with ideas for legal services that do not involve lawyers.

We have also spent a great deal of time thinking about, researching, and analyzing the rules of professional responsibility and the creation of a new regulator of legal services. Through our deliberative process we came to think of two tracks, both of which are critical to the path to successful reform.

Track A: Loosening restrictions on lawyers—To make room for new approaches by lawyers, we informed ourselves about movements across the country to loosen some of the restrictions on lawyers so that they can both compete and innovate. We collaborated with the Court’s Advisory Committee on the Rules of Professional Conduct. That committee participated in a design lab led by Professor Margaret Hagan of Stanford Law, which allowed for all who participated to imagine rule changes that would still fully protect clients without unduly hampering lawyers from harnessing the power of capital, collaboration, and technology. Our specific recommendations for changes to the Rules of Professional Conduct and the supporting rationale are set forth below.

Track B: The creation of a new regulatory body—Lawyers are no longer the only ones who provide legal services. There are now LPPs and other licensed paralegal professionals.³⁶ There are companies providing online legal forms and assistance with court processes. There are referral services. There are even limited types of legal services being provided by other professionals, such as real estate professionals and tax preparers. And there are many others who would be fully capable of providing discrete legal services but who lack the required license to do so. If one considers the byzantine world of Social Security, there are undoubtedly clerks working for the Social Security Administration who, if they were allowed to, could give someone much better advice about how to process a claim than could all but a few of the lawyers licensed to practice law in Utah.

So should room be made for people other than lawyers and organizations other than law firms to provide certain legal services? The answer is clearly yes. We have concluded that allowing for greater competition, subject to proper regulatory oversight, will bring innovation

³⁶ Utah will license its first LPPs within the next few weeks.

to the legal services industry in ways that are not even imaginable today. Critically, we believe that allowing for that innovation will be the solution to the access-to-justice problem that plagues our country. The question is: How can we allow for that innovation without creating intolerable levels of risk for the consumers of legal services? Our full answer to that is the detailed recommendation set forth below and in Appendix D. But the key steps we recommend are first to create a regulatory body armed with a set of risk-based principles for regulation, and second to permit that body to allow providers to provisionally test and prove their services in a “regulatory sandbox” environment, where data can be gathered and innovation can be assessed and revised as needed before more permanent licensure is granted. This body would operate under the supervision and direction of the Supreme Court. Initial funding would be obtained through grants.³⁷

Track A: Freeing Up Lawyers to Compete By Easing the Rules of Professional Conduct

Certain rules of professional conduct have been viewed by lawyers as impeding their ability to increase business and survive in the online world. Restrictions on lawyer advertising, fee sharing, and ownership of and investment in law firms by non-lawyers are concepts that need serious amendment if we are to improve competition and successfully close the access-to-justice gap.³⁸ This is a step that we believe must be taken independent of the creation of a new regulatory body. Nor are we alone in this belief. “California has taken a step towards altering the role of lawyers after a state bar task force [in June 2019] advanced controversial proposals for new ethics rules that would allow non-lawyers to invest in law firms and tech companies to provide limited legal services.”³⁹ And Arizona has recently followed suit.⁴⁰

Lawyer Advertising

Traditionally, lawyer advertising was frowned upon as being undignified. Courts went so far as to say that advertising would undermine the attorney’s sense of self-worth and tarnish the dignified public image of the profession. This changed somewhat with the United States Supreme Court’s decision in *Bates v. State Bar of Arizona*, which recognized that the lawyer

³⁷ By way of example, the Administrative Office of the Utah Courts should soon have the opportunity to enter into a Memorandum of Understanding (MOU) with the Institute for the Advancement of the American Legal System. As envisioned, the MOU would provide partial backing for this project. Implementation of the MOU would be subject to, among other items, the Court adopting the work group’s report and recommendations.

³⁸ Some of these restrictions are already worked around and effectively bypassed through means such as litigation financing. By loosening these restrictions and bringing some of these workarounds within the purview of the new rules, we can ensure more effective regulation of those workarounds and provide better protection for consumers.

³⁹ Roy Strom, *California Opens Door to More Legal Tech, Non-Lawyer Roles (1)*, BLOOMBERG BIG LAW BUSINESS (July 2, 2019), <https://biglawbusiness.com/california-opens-door-to-more-non-lawyer-roles-tech-solutions> (last visited Aug. 10, 2019).

⁴⁰ Brenna Goth & Sam Skolnik, *Arizona Weighs Role of Non-Lawyers in Boosting Access to Justice*, BLOOMBERG BIG LAW BUSINESS (Aug. 15, 2019), <https://biglawbusiness.com/arizona-weighs-role-of-non-lawyers-in-boosting-access-to-justice> (last visited Aug. 16, 2018).

advertising ban in place in Arizona inhibited the free flow of information and kept the public in ignorance.⁴¹ The Court held that Arizona's total ban on lawyer advertising violated the free speech guarantee of the First Amendment.⁴² This case opened the door to lawyer advertising across the country.

The *Bates* Court did, however, allow states to ban false, deceptive, or misleading advertising, and to regulate the manner in which lawyers may solicit business in person. States can require warnings and disclaimers on advertising and impose reasonable restrictions on the time, place, and manner of advertising. And following the *Bates* decision, most states included such restrictions in their rules of professional conduct. Utah was one of those states.

Despite *Bates* and the many other court rulings since 1977 that removed restrictions on lawyer advertising, the belief on the part of some that lawyer advertising needs to be carefully constrained has persisted. As recently as 2013, the Bar submitted a petition to the Supreme Court requesting that lawyers be required to submit copies of all advertising and solicitations to a Lawyer Advertising Review Committee no later than the date of mailing or publishing of the advertisements or solicitations, so that the ads could be reviewed for appropriateness. The purpose of the proposed rule was to prevent Las Vegas-style advertising from creeping into Utah. Thankfully, the proposed rule was not adopted.

Last year, in recognition of the changing legal landscape, the ABA attempted to simplify the advertising and solicitation rules. Certain changes were made to the Model Rules of Professional Conduct, and states were encouraged to adopt similar rules. The Court's Advisory Committee on the Rules of Professional Conduct has monitored these changes to the Model Rules and has a review and update of the Utah advertising rules on its agenda.

The Advisory Committee's review includes an analysis of the purpose of the rules and the need to protect the public while simultaneously allowing the members of the public to be better-informed of the legal services available to them. The Committee must consider the reality that lawyers may advertise online and through attorney-matching services, pay-per-click ads, link-sharing, legal blogs, and social network accounts in order to promote services. The main concern should be the protection of the public from false, misleading, or overreaching solicitations and advertising. Any other regulation of lawyer advertising seems to serve no legitimate purpose; indeed, it is blunt, ex ante, and—like so many current regulations—neither outcomes-based nor risk-appropriate.

⁴¹ 433 U.S. 350, 365 (1977).

⁴² *Id.* at 384.

The Committee’s review of advertising standards is well underway and we understand that a proposal should be sent to the Court for its consideration within the next two months. We applaud the Committee’s efforts with respect to lawyer advertising.

Lawyer Referral Fees

Utah Rule of Professional Conduct 7.2 prohibits a lawyer from giving anything of value to a person for recommending the lawyer’s services or for channeling professional work to the lawyer.⁴³ But use of paid referrals is one method for allowing clients to find needed legal services and one of the ways lawyers can find new clients. Again, this rule should be amended to balance the risk of harm to prospective clients with the benefit to lawyers and clients through an outcomes-based and risk-appropriate methodology.

Ownership of Law Firms and Sharing Legal Fees with Non-Lawyers

Non-lawyers have traditionally been prohibited from owning and controlling any interest in law firms. Utah Rule of Professional Conduct 5.4 provides that a “lawyer shall not permit a person who recommends, employs or pays the lawyer to render legal services for another to direct or regulate the lawyer’s professional judgment in rendering such legal services.”⁴⁴ The rules also prohibit a lawyer from “practic[ing] with or in the form of a professional corporation or association authorized to practice law for a profit” if a non-lawyer owns any interest therein, if a non-lawyer is a director or officer or has a similar position of responsibility in the firm, or if a non-lawyer has a right to direct or control the professional judgment of the lawyer.⁴⁵

The ABA Ethics 2000 Commission vigorously debated the concept of non-lawyer ownership of law firms in 2000. The ABA House ultimately rejected a proposal to allow non-lawyer ownership of law firms. Since then, however, a number of jurisdictions have seen the need to reevaluate such proposals. In Washington, D.C., the rules of professional conduct now allow for non-lawyer ownership of firms under certain conditions.⁴⁶ And as of June 2019, a state bar task force in California advanced a proposal that would allow non-lawyers to invest in law firms.⁴⁷ Most notably, “[i]n a July 11 meeting, the Arizona task force voted to recommend

⁴³ UTAH R. PROF’L CONDUCT 7.2(f).

⁴⁴ UTAH R. PROF’L CONDUCT 5.4(c).

⁴⁵ UTAH R. PROF’L CONDUCT 5.4(d).

⁴⁶ D.C. R. PROF’L CONDUCT 5.4(b). Rule 5.4(b) permits non-lawyer ownership of firms if (1) the law firm has as its sole purpose the provision of legal services, (2) all persons having management duties of an ownership interest agree to abide by the rules of professional conduct for lawyers, (3) the managing lawyers in the firm undertake to be responsible for the non-lawyer participants, and (4) these conditions are set forth in writing. *See id.*

⁴⁷ California has proposed two different amendments to its own rule 5.4. The first proposal is seen as an incremental evolution of the current rule. *See* STATE BAR OF CALIFORNIA TASK FORCE ON ACCESS THROUGH INNOVATION OF

scrapping Rule 5.4 . . . in its entirety.”⁴⁸ And, “[i]n a related move, the panel voted . . . to amend the state’s ethical rules to allow lawyers and nonlawyers to form new legal services businesses known as ‘alternative business structures.’”⁴⁹ We believe the Arizona approach has much to offer. Indeed, we view the elimination or substantial relaxation of Rule 5.4 as key to allowing lawyers to fully and comfortably participate in the technological revolution. Without such a change, lawyers will be at risk of not being able to engage with entrepreneurs across a wide swath of platforms.

Track B: The Creation of a New Regulatory Body

Alongside the proposed revisions set forth in Track A, we propose developing a new regulatory body for legal services in the State of Utah. Rule revisions are necessary to propel any change, but our position is that wide-reaching and impactful change will only follow reimagining the regulatory approach. Therefore, as the Supreme Court moves forward with revising the rules of practice, we endorse the simultaneous creation of a new regulator, operating under the supervision and direction of the Supreme Court, for the provision of legal services.

The proposed regulator will implement a regulatory system:

LEGAL SERVICES, *Recommendation Letter on Proposed Rule 5.4 [Alternative 1]* (June 18, 2019), <http://board.calbar.ca.gov/docs/agendaitem/Public/agendaitem1000024362.pdf> (last visited Aug. 12, 2019). The second proposal is much more comprehensive and is meant to create a major shift in how financial arrangements with non-lawyers are regulated. See STATE BAR OF CALIFORNIA TASK FORCE ON ACCESS THROUGH INNOVATION OF LEGAL SERVICES, *Recommendation Letter on Proposed Rule 5.4 [Alternative 2]* (June 14, 2019), <http://board.calbar.ca.gov/docs/agendaitem/Public/agendaitem1000024359.pdf> (last visited Aug. 12, 2019). This proposal allows for fee sharing between a lawyer or law firm and any person or organization not authorized to practice law if:

(1) the lawyer or law firm enters into a written agreement to share the fee with the person or organization not authorized to practice law; (2) the client has consented in writing, either at the time of the agreement to share fees or as soon thereafter as reasonably practicable, after a full written disclosure to the client of: (i) the fact that the fee will be shared with a person or organization not authorized to practice law; (ii) the identity of the person or organization; and (iii) the terms of the fee sharing; (3) there is no interference with the lawyer’s independent professional judgment or with the lawyer-client relationship; and (4) the total fee charged is not unconscionable as that term is defined in rule 1.5 and is not increased solely by reason of the agreement to share the fee.

Id.

⁴⁸ Brenna Goth & Sam Skolnik, *Arizona Weighs Role of Non-Lawyers in Boosting Access to Justice*, BLOOMBERG BIG LAW BUSINESS (Aug. 15, 2019), <https://biglawbusiness.com/arizona-weighs-role-of-non-lawyers-in-boosting-access-to-justice> (last visited Aug. 16, 2018).

⁴⁹ *Id.*

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1. Driven by clearly articulated policy objectives and regulatory principles (objectives-based regulation);
2. Using appropriate and state-of-the-art regulatory tools (licensing, data gathering, monitoring, enforcement, etc.); and
3. Guided by the assessment, analysis, and mitigation of consumer risk (risk-based regulation).⁵⁰

We suggest the following core policy objective for the new system: *To ensure consumers access to a well-developed, high-quality, innovative, and competitive market for legal services.*

As the core policy objective indicates, the explicit goal of this approach is to develop a regulatory framework that allows, supports, and encourages the growth of a vibrant market for legal services in Utah and, ultimately, across the United States. At every regulatory step, the regulator should consider how its actions impact the core objective, choosing those paths that enhance, not diminish, the achievement of that objective. Potential impacts on the core objective, from either the regulator's own decisions or from actions by participants in the market, will be measured and assessed in terms of risk to the core objective. The regulator will be guided by this primary question: What is the evidence of risk, if any, that this action will create in the consumer market for legal services? This is objectives-based, risk-based regulation.⁵¹

Examples:

- *What evidence do we see of consumer harm caused by improper influence by non-lawyer owners over legal decisions? What steps can we take to mitigate these risks in the market?*
- *What do the data tell us about the risks of consumer harm from software-enabled legal assistance in an area such as will writing? Are the actual risks of harm more likely or more significant than the risks of a consumer acting on their own or through a lawyer?⁵² How can the risks be mitigated?*

⁵⁰ Robert Baldwin & Julia Black, *Really Responsive Regulation*, 71 MOD. L. REV. 59, 65–68 (2008) (explaining risk-based regulation).

⁵¹ *Id.*

⁵² In the U.K., for example, will writing is not a regulated legal activity. The government considered and ultimately rejected a proposal to make will writing a regulated legal activity because it found that there was not a sufficient showing that regulation was necessary or that other interventions could not address concerns around quality and service. See Catherine Fairbairn, *Regulation of will writers*, Briefing Paper No. 05683 16, HOUSE OF COMMONS LIBRARY (Nov. 29, 2018), <http://researchbriefings.files.parliament.uk/documents/SN05683/SN05683.pdf> (last visited Aug. 21, 2019). The investigation by the government showed essentially the same error rate (about 1 in 4) in wills drafted by attorneys and non-attorney legal service providers. The error rate was the same across complex and simple wills. See LEGAL SERVICES CONSUMER PANEL, *Regulating will-writing* 3 (July 2011),

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- *What do the data indicate about the risk of consumer harm from non-lawyers providing legal advice in the area of eviction defense? Is the risk of these kinds of harm more significant than the harm we currently see for pro se defendants? What steps should be required to ensure and maintain quality service?*
- *What are the data on the risks of cyber and data security to consumers of legal services? Where is the impact most likely and greatest, and what regulatory resources should be brought to bear?*

This approach is meant to be open, flexible, and focused on the reality of the consumer experience with the law and legal services. The system we propose is designed specifically for the regulation of consumer-facing legal services and targeted at the risks posed to the purchasers of legal services. Opening the legal services market to more models, services, and competition will serve other important objectives including access to justice, the public interest, the rule of law, and the administration of the courts.

We propose development of the new regulatory system take place in two phases.

Phase 1

In Phase 1, the Supreme Court will set up an implementation task force much akin to the approach the Court took with respect to LPPs and online dispute resolution.⁵³ The implementation task force will be responsible for, among other items, (1) obtaining funding for the regulator, primarily through grant applications, (2) recommending necessary rule changes to the Court, (3) creating and operating a Phase 1 regulator responsible for overseeing a legal regulatory sandbox for non-traditional legal services, (4) gathering and analyzing data and other information in order to evaluate and optimize the regulatory process, and (5) preparing a final report and recommendation to the Court regarding the structure of the Phase 2 regulator. We believe Phase 1 should last approximately two years.

In short, in Phase 1, the regulator will operate as a pilot and will focus on developing an empirical approach to objectives- and risk-based regulation of legal services. The regulator will operate within the Court as part of the implementation task force.

https://www.legalservicesconsumerpanel.org.uk/publications/research_and_reports/documents/ConsumerPanel_WillwritingReport_Final.pdf (last visited Aug. 21, 2019).

⁵³ The implementation task force may include representatives from the Court, from Bar leadership, and others with applicable expertise—including perhaps representatives from the legal technology sector.

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During Phase 1, the regulator will operate alongside the Utah Bar, which will continue to have authority over lawyers and LPPs.⁵⁴ The regulator will regulate non-traditional legal services: organizations offering legal services to the public that have ownership, a business structure/organization, or service offerings currently not authorized under Utah practice of law and professional conduct rules. Non-traditional legal entities could include: non-lawyer owned and/or managed corporations or non-profits or individuals/entities proposing to use non-lawyer human or technology expertise to provide legal assistance to the public. The regulator's focus will be on the activity or service proposed and the risks presented to consumers by that activity or service.

Also during Phase 1, the regulator will oversee the limited market of legal entities admitted to participate in a legal regulatory sandbox. The regulatory sandbox is a policy structure that creates a controlled environment in which new consumer-centered innovations, which may be illegal (or unethical) under current regulations, can be piloted and evaluated. The goal is to allow the Court and aspiring innovators to develop new offerings that could benefit the public, validate them with the public, and understand how current regulations might need to be selectively or permanently relaxed to permit these and other innovations. Financial regulators have used regulatory sandboxes over the past decade to encourage more public-oriented technology innovations that otherwise might have been inhibited or illegal under existing regulations.⁵⁵ In the legal domain, the United Kingdom's Solicitors Regulation Authority (SRA) has also created a structure—the Innovation Space—that introduces a system of waivers of regulatory roles for organizations to pilot ideas that might benefit the public.⁵⁶

Establishing a legal regulatory sandbox is inherent to Phase 1 of our proposed new regulatory system. Although we are well aware that particular rules will need to be relaxed or

⁵⁴ Given the Bar's expertise regulating lawyers, including in licensing and enforcement, the regulator may benefit from drawing on such expertise.

⁵⁵ The United Kingdom's Financial Conduct Authority created the first regulatory sandbox in 2016. Since then, it has overseen 4 cohorts of regulatory sandboxes to promote financial services innovation. The Monetary Authority of Singapore has run sandboxes to encourage experimentation with financial technology. Abu Dhabi's Regulatory Lab set up a sandbox for financial technology that involved the Abu Dhabi Registration Authority, Financial Services Regulatory Authority, and the courts. Other financial technology sandboxes have been run in Australia, Mauritius, the Netherlands, Canada, Thailand, Denmark, and Switzerland. Some of the things being tested in financial sandboxes include new insurance, retirement, retail banking, investment, and retail lending offerings. In 2018, Arizona launched a regulatory sandbox for financial technology, specifically to promote entrepreneurship and investment around blockchain, cryptocurrencies, and other emerging technologies. See Arizona Attorney General, *Welcome To Arizona's FinTech Sandbox*, STATE OF ARIZONA, <https://www.azag.gov/fintech> (last visited Aug. 21, 2019). And in May 2019, Utah launched its own financial technology sandbox. See Department of Commerce, *Regulatory Sandbox*, STATE OF UTAH, <https://commerce.utah.gov/sandbox.html> (last visited Aug. 21, 2019).

⁵⁶ SOLICITORS REGULATION AUTHORITY, *Enabling innovation: Consultation on a new approach to waivers and developing the SRA Innovation Space* (Apr. 12, 2018), <https://www.sra.org.uk/sra/consultations/enabling-innovation.page> (last visited Aug. 12, 2019).

eliminated to permit innovation, we are less certain what might be on the other side of regulatory reform. What new regulations might be appropriate to ensure that new services do not generate unacceptable risks? Because the legal market has been so strictly limited, we cannot presently catalog the risks that might develop or the regulatory methods that might be effective to appropriately identify and manage those risks. Hence, the regulatory sandbox will be as much for the development of the regulator as for the development of the models, products, and services within. Below, we have put together the key features of our sandbox for Phase 1 of the project. These are features present in regulatory sandboxes around the world.

Three key features to the regulatory sandbox:

1. **Testing out what innovations are possible.** With the relaxation or elimination of the rules around unauthorized practice, fee sharing, and corporate practice of law, we can see how much and what kinds of new innovation might be possible in the legal sector. We expect to see innovations around business models (new financing, ownership or contracting models), services (new roles for experts in other fields, collaborating with lawyers), and technology (increased use of technology to offer legal advice and guidance, use of technologies such as artificial intelligence, blockchain, and mobile). Through the sandbox, we can learn what is possible, what benefits may be realized, and what risks these new offerings present. The sandbox enables the Court and the public to understand how much innovation potential there is in the legal ecosystem, beyond mere speculation that emerging tech has promise in the legal market if regulations were changed.
2. **Tailored evaluation plans focused on risk.** The sandbox model puts the burden on companies to define how their services should be measured in regard to benefits, harms, and risks. They must propose not only what innovation is possible, but also how it can be assessed. Risk self-assessment by companies participating in the sandbox will be a key requirement in order to further our regulatory goals.
3. **New sources of data on what regulation works best.** The sandbox will be the source for the new regulator's data-driven, evidence-backed policy-making. Because sandbox participants gather and share data about their offerings' performance (at least with the regulators, if not more publicly), the sandbox can help develop standards and metrics around data-driven regulation. This is particularly needed in the legal arena because we have so little data about how people engage with the legal world. It can incentivize more companies to evaluate their offerings through a rigorous understanding of benefits and

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harms to the public, and it can help regulators develop protocols to conduct this kind of data-driven evaluation.

Sandbox participants could be an accounting firm proposing to offer legal services provided by lawyers alongside its accounting services, a technology startup using AI-enhanced software to help consumers complete legal documents (wills, trusts, incorporations, etc.), or a non-profit proposing to allow its expert paralegal staff to offer limited legal advice to clients independent of lawyer supervision. To participate in the sandbox, each provider will have to agree to share relevant data with the regulator. The regulator will identify, measure, and assess potential consumer risk and then determine whether the provider will be permitted to participate in the sandbox and with what form of security (please see a more detailed outline of our proposed Phase 1 regulatory process at Appendix D). All consumer participants in the sandbox must provide informed consent. Over the course of the two-year Phase 1 sandbox, the regulator will build up its regulatory approach—in particular, its risk identification, quantification, and response approach.

Throughout Phase 1, the regulator will be in regular reporting and communication with the Supreme Court.⁵⁷ It is the goal that, by the end of Phase 1, the regulator will have developed and refined a data-driven regulatory framework focused on the identification, assessment, mitigation, and monitoring of risk to consumers of legal services, and an enforcement approach designed to respond to evidence of consumer harm as appropriate to support the core objective. The regulator will then present a comprehensive report and proposal for Phase 2 to the Court for its review and approval.

Phase 1 needs from the Supreme Court include the following:

1. Establish the Phase 1 regulator as an implementation task force of the Court and delegate regulatory authority to set up and run the regulatory sandbox. The Court should also outline regulatory objectives and regulatory principles for the Phase 1 regulator. (Suggested principles may be found at Appendix D).
2. Establish by appropriate means that providers (including their ownership/management and their employees) approved to participate in the regulatory sandbox by the Phase 1 regulator are not engaged in the unauthorized practice of law in Utah.

⁵⁷ We wish to be quite clear that, as we have reinforced throughout the report, the regulator must be, and will be, subject to the supervision and direction of the Supreme Court.

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3. Establish that licensed Utah lawyers will not be subject to discipline for entering into business with or otherwise providing services with providers approved by the Phase 1 regulator for participation in the sandbox.

Phase 2

In Phase 2, we anticipate some form of an independent, non-profit regulator with delegated regulatory authority over some or all legal services.⁵⁸ However, we will not say much about Phase 2 in this report because we do not wish to put the cart before the horse. Phase 1 of this project allows for the carefully controlled research and development of objectives-based, risk-based regulation of legal services. Phase 2 may implement the regulatory approach across the Utah legal market more broadly.⁵⁹

It is our belief that the objectives- and risk-based regulatory approach should be the future of regulation for legal services in Utah, and indeed throughout the country. Utah has an opportunity to be a leader nationwide. Phase 2 could proceed in multiple different directions as long as the objectives-based, risk-based approach remains its key characteristic. The Court may determine that the regulator is best suited for entity regulation (i.e., regulation of non-traditional legal entities like companies) and should operate alongside the Bar, which will continue to regulate lawyers. It would then be up to the Bar, in cooperation with the Court, to assess whether and how it wants to implement objectives-based, risk-based regulation for lawyers.

The Court may, on the other hand, determine that the new regulator and the objectives-based, risk-based approach should be rolled out for all legal services in Utah. In that case, the Court will have to revise its delegation of authority to regulate the practice of law via Rule 14-102 from the Bar to the new regulator. The Bar could continue to function as a mandatory Bar with regulatory functions operated under the auspices of the Court, but now through the regulator. Alternatively, the Bar could function solely as a membership organization that awards professional titles and specialized practice certifications, maintains ethical standards,

⁵⁸ We also wish to be quite clear about the meaning of the word “independent.” By independent, we mean a regulator independent from management and control by those it regulates, i.e., lawyers. We do not mean independent of control of the Supreme Court. The independent regulator we propose in Phase 2 would, as the Bar is now, no longer be operating within the Court, but would, as the Bar also is now, still ultimately be answerable to the Court for achieving the core regulatory objective and would be subject to any requirements established by the Court.

⁵⁹ The task force is aware that the Institute for the Advancement of the American Legal System presently intends to “develop a model for a regulatory entity that would focus on risk-based regulation for legal services and would operate across state lines.” Institute for the Advancement of the American Legal System, *Unlocking Legal Regulation*, UNIVERSITY OF DENVER (forthcoming) (on file with author).

engages in advocacy, and provides continuing education.⁶⁰ It may be that those professional titles will be required by the regulator in certain oversight roles for legal service entities (e.g., Big Box Stores offering legal services to the public may be required to have Bar-approved lawyers in managerial roles) or that the Court will decide for public policy reasons that only Bar-approved lawyers may perform certain activities before the Court.

CONCLUSION

Decade after decade our judicial system has struggled to provide meaningful access to justice to our citizens. And if we are to be truly honest about it, we have not only failed, but failed miserably. What this report proposes is game-changing and, as a consequence, it may gore an ox or two or upend some apple carts (pick your cliché). Our proposal will certainly be criticized by some and lauded by others. But we are convinced that it brings the kind of energy, investment, and innovation necessary to seriously narrow the access-to-justice gap. Therefore, we respectfully request that the Supreme Court adopt the recommendations outlined in this report and direct their prompt implementation.

⁶⁰ The professional titles offered by the Bar in this system could be market indicators of levels of education, qualification and, perhaps, service. It is possible the Bar could continue to tie access to titles and certification to ethical standards of service. However, the Bar would no longer have the authority to regulate the market for legal services and members of the Bar would be forced to compete in a larger market.

APPENDIX A

DENO HIMONAS (CO-CHAIR)

Justice Deno Himonas was appointed to the Utah Supreme Court in 2015. For the decade prior, he served as a district court judge, where he was able to try hundreds of criminal, civil, and family law cases and run a felony drug court.

In addition to his judicial duties, Justice Himonas has taught at the S.J. Quinney College of Law at the University of Utah and has been a visiting lecturer at universities in Kiev, Ukraine. He is the 2017 Honorary Alumnus of the Year of the S.J. Quinney College of Law, a recipient of the Judicial Excellence award from the Utah State Bar, and a Life Fellow of the American Bar Foundation.

Justice Himonas is deeply involved in the access-to-justice movement and can often be found speaking about access-to-justice around the country. He currently chairs two access-to-justice task forces, one on licensed paralegal practitioners and the other on online dispute resolution, and co-chairs a third, which is reimagining the regulation of the practice of law.

Justice Himonas graduated with distinction from the University of Utah with a bachelor's degree in economics and went on to receive his J.D. from the University of Chicago. Upon graduation, he spent fifteen years primarily litigating complex civil matters in private practice.

JOHN LUND (CO-CHAIR)

John Lund has practiced law the old-fashioned way since 1984. He is a shareholder with Parsons Behle & Latimer, where he represents clients in challenging litigation and trials throughout the West. Mr. Lund is recognized by Chambers USA as a Band 1 lawyer for commercial litigation and is also a Fellow of the International Academy of Trial Lawyers. Mr. Lund is the immediate past president of the Utah State Bar and has been involved in leadership of the Utah Bar for over a decade. He recently concluded two terms as the lawyer representative on Utah's Judicial Council, which oversees Utah's judicial branch. He has served on various committees and projects relating to improving access to justice and innovation in the practice of law. These include co-chairing the Utah Bar's 2015 Futures Commission, developing the Utah Bar's online interactive directory of lawyers, serving on the Utah Supreme Court's task force for Licensed Paralegal Practitioners, serving on the Utah Supreme Court's task force for reform of Utah's attorney discipline system, and establishing Utah's newly formed Access to Justice Commission. Currently, Mr. Lund co-chairs a joint task force of the Utah Supreme Court and the Utah Bar that is recommending significant and potentially disruptive changes to the regulation of legal services in order to bring innovation to legal services and thereby improve access to justice.

H. DICKSON BURTON

Mr. Burton is the past President of the Utah State Bar, completing his term in July 2019. In his day job, Mr. Burton is the Managing Shareholder of TraskBritt, a nationally-recognized Intellectual Property law firm, where he litigates patent, trademark, and trade secret matters in courts around the country. He is also frequently called upon to mediate or arbitrate patent and other complex intellectual property disputes, with mediation training and certification from both the World Intellectual Property Organization and Harvard Law School. He has also served as an Adjunct Professor at the University of Utah S.J. Quinney College of Law teaching patent litigation.

Mr. Burton is the current Chair of the Local Rules Committee for the U.S. District Court for the District of Utah, and is currently serving on the Magistrate Judge Merit Selection Panel for that court.

Mr. Burton has been honored for many years in peer-review lists including Best Lawyers, IP Stars, Chambers USA, and SuperLawyers, including being listed as one of the Top 100 of all lawyers in the Mountain States.

THOMAS CLARKE

Tom Clarke has served for fourteen years as the Vice President for Research and Technology at the National Center for State Courts. Before that, Tom worked for ten years with the Washington State Administrative Office of the Courts first as the research manager and then as the CIO. As a national court consultant, Tom consulted frequently on topics relating to effective court practices, the redesign of court systems to solve business problems, access to justice strategies, and program evaluation approaches. Tom concentrated the last several years on litigant portals, case triage, new non-lawyer roles, online dispute resolution, public access/privacy policies, and new ways of regulating legal services.

CATHERINE DUPONT

Cathy Dupont is the Deputy State Court Administrator in Utah. Prior to serving as the Deputy State Court Administrator, Cathy was the Appellate Court Administrator and served as one of the Utah Supreme Court's legislative liaisons during the 2019 Legislative Session. Before joining the courts, Cathy worked as the Director of Strategy and External Relations for the state's Public Employee Health Plan and managed the Provider Relations Department and the Marketing and Communications Department. She also worked for over 20 years as an associate general counsel for the Office of Legislative Research and General Counsel, a non-partisan office responsible for drafting legislation and staffing legislative committees.

GILLIAN HADFIELD

Gillian Hadfield, B.A. (Hons.) Queens, J.D., M.A., Ph.D. (Economics) Stanford, is the Schwartz Reisman Chair in Technology and Society, Professor of Law and Professor of Strategic Management at the University of Toronto. She also serves as Director of the Schwartz Reisman Institute for Technology and Society. Her research is focused on innovative design for legal and dispute resolution systems in advanced and developing market economies; governance for artificial intelligence; the markets for law, lawyers, and dispute resolution; and contract law and theory. Professor Hadfield is a Faculty Affiliate at the Vector Institute for Artificial Intelligence in Toronto and at the Center for Human-Compatible AI at the University of California Berkeley and Senior Policy Advisor at OpenAI in San Francisco. Her book, *Rules for a Flat World: Why Humans Invented Law and How to Reinvent It for a Complex Global Economy*, was published by Oxford University Press in 2017.

Professor Hadfield served as clerk to Chief Judge Patricia Wald on the U.S. Court of Appeals, D.C. Circuit. She was previously on the faculty at the University of Southern California, New York University, and the University of California Berkeley, and has been a visiting professor at the University of Chicago, Harvard, Columbia, and Hastings College of Law. She was a 2006-07 and 2010-11 fellow of the Center for Advanced Study in the Behavioral Sciences at Stanford and a National Fellow at the Hoover Institution in 1993. She has served on the World Economic Forum's Global Future Council for Agile Governance, Future Council for the Future of Technology, Values and Policy, and Global Agenda Council for Justice. She is currently a member of the American Bar Association's Commission on the Future of Legal Education and is an advisor to courts and several organizations and technology companies engaged in innovating new ways to make law smarter and more accessible.

MARGARET HAGAN

Margaret Hagan is the Director of the Legal Design Lab at Stanford University, as well as a lecturer in the Institute of Design (the d.school). She is a lawyer, and holds a J.D. from Stanford Law School, a DPhil from Queen’s University Belfast, an MA from Central European University, and an AB from University of Chicago. She specializes in the application of human-centered design to the legal system, including the development of new public interest technology, legal visuals, and policy design. Her research and teaching focuses on the development and evaluation of new interventions to make the legal system more accessible. Her recent articles include “Participatory Design for Innovation in Access to Justice” (Daedalus 2019) and “A Human-Centered Design Approach to Access to Justice” (Ind. JL & Soc. Equal. 6, 199, 2018).

STEVEN JOHNSON

Steven Johnson is a 1977 graduate of the J. Reuben Clark Law School at Brigham Young University. He has been a member of Utah State Bar since 1977, and of the State Bar of California since 1989. He has worked for a small Salt Lake City law firm, is the former general counsel for an international marketer of turkeys and turkey products, and is currently a solo practitioner in Highland, Utah, advising and representing clients in a variety of legal matters including business and corporate issues, real property matters, and contracts; and he has also served as an arbitrator and mediator in private practice and for the Better Business Bureau.

He has spent a good part of his career serving in the Bar and serving the courts of the State of Utah to enhance access to justice. He has served as an officer, including chair, of both the Corporate Counsel Section and of the Dispute Resolution Section of the Bar. He has been a member of Utah State Bar's Fee Arbitration Panel since 1999, and chaired the Panel from 2006 to 2010. He was appointed as a member of the Supreme Court's MCLE Board in 1999, and served as Trustee of the Board for 4 years. He served 7 years as an Associate Editor of the *Utah Bar Journal* beginning in his second year of law school, and served for 10 years as a member of the Bar's Government Affairs Committee.

Mr. Johnson has served 20 years on the Supreme Court's Advisory Committee on the Rules of Professional Conduct, and for the last 9 years has served as chair of that committee. He has served as a member of the Supreme Court's Commissioner Conduct Commission for the past 9 years, and currently serves as a member of the Fourth District Justice Court Nominating Commission. He is a member of the Utah State Courts' Certified Panel of Arbitrators.

The Supreme Court has also asked him to serve on three Court task forces—the Licensed Paralegal Practitioner Task Force, the Office of Professional Conduct Task Force, and the Task Force on Regulatory Reform.

In 2018, the Supreme Court awarded him the Service to the Courts Award for his contributions to Utah's judicial system. In 2019, he was awarded the Utah State Bar's Distinguished Service Award.

Mr. Johnson served on 3 different occasions in the countries of Ethiopia and Eritrea, teaching government employees how to organize and manage farmer cooperatives so that they can go out and teach farmers how to run cooperatives to better their economic status. He has helped them to amend their cooperative codes to eliminate inconsistencies and to fill in gaps in the laws.

LUCY RICCA

Lucy Ricca is a Fellow and former Executive Director of the Stanford Center on the Legal Profession at Stanford Law School. Ricca was a Lecturer at the law school and has written on the regulation of the profession, the changing practice of law, and diversity in the profession. As Executive Director, Ricca coordinated all aspects of the Center's activities, including developing the direction and goals for the Center and overseeing operations, publications, programs, research, and other inter-disciplinary projects, including development and fundraising for the Stanford Legal Design Lab. Ricca joined Stanford Law School in June 2013, after clerking for Judge James P. Jones of the United States District Court for the Western District of Virginia. Before clerking, Ricca practiced white collar criminal defense, securities, antitrust, and complex commercial litigation as an associate at Orrick, Herrington & Sutcliffe. Ricca received her B.A. cum laude in History from Dartmouth College and her J.D. from the University of Virginia School of Law.

D. GORDON SMITH

D. Gordon Smith is the Dean and Glen L. Farr Professor of Law of the J. Reuben Clark Law School, Brigham Young University. Dean Smith is a leading figure in the field of law and entrepreneurship and has done foundational work on fiduciary theory. He has also made important contributions to the academic literature on corporate governance and transactional lawyering. For his work in promoting the study of corpus linguistics and design thinking in law schools, Dean Smith was included in the Fastcase 50 (2017), which honors “the law’s smartest, most courageous innovators, techies, visionaries, & leaders.”

Dean Smith earned a JD from the University of Chicago Law School and a BS in Accounting from Brigham Young University. He has taught at six law schools in the U.S., as well as law programs in Australia, China, England, Finland, France, Germany, and Hong Kong. Before entering academe, Dean Smith clerked for Judge W. Eugene Davis in the United States Court of Appeals for the Fifth Circuit and was an associate in the Delaware office of the international law firm Skadden, Arps, Slate, Meagher & Flom.

HEATHER S. WHITE

Heather White is a partner with the Salt Lake City-based law firm of Snow Christensen & Martineau, where she leads the firm’s Governmental Law Practice Group. Her primary focus is on the defense of government entities in high profile civil rights disputes. Heather is a 1996 graduate of the University of Utah, S.J. Quinney College of Law.

Heather defends governmental entities and their officers against complaints asserting the deprivation of civil rights. These include all types of claims of alleged misconduct, such as excessive force, search and seizure, wrongful arrest, false imprisonment, malicious prosecution, abuse of process and denial of medical care, to name a few. At any given time, Heather is involved in multiple officer-involved shooting cases from inception, including investigations by the Department of Justice and press inquiries, through conclusion.

With deep respect for her Utah police officer clients, and their dedication to society at great personal expense, Heather has become their trusted confidant and advisor. She listens closely to determine individual needs – whether in out-of-court settlements or in public trials – then presses forward assertively with a customized approach and legal strategy. To better understand and closely connect with her clients, and the matters they are involved in, Heather regularly joins officers in the field participating in police ride-alongs. She is certified by the Force Science Institute and conducts training sessions for law enforcement throughout the state, including both client and non-client entities.

Heather also represents the two primary insurers of government entities in the State of Utah—the Utah Risk Management Mutual Association and the Utah Local Governments Trust—as well as a number of self-insured governmental agencies. She believes in the importance of educating her clients on legally related elements of their complex, public careers. In this effort, Heather regularly speaks to agencies and insurers on police training issues, liability, risk management, and incident-prevention issues.

Heather has an extensive track record of governmental civil rights cases and trials, with multiple favorable defense verdicts in state and federal trial and appeals courts. In addition, Heather regularly defends governments against claims involving accidents with government vehicles and premises liability, such as “slip and fall” accidents that might involve sidewalks, water meters, or swimming pools, cemeteries, playgrounds, recreational centers and others.

Heather is a frequent trainer, presenter, and author, covering a wide range of governmental law topics and current governmental law headline subjects.

Heather is actively involved in professional and civic organizations including: American Academy of Trial Attorneys; Utah Bar Technology and Innovation Committee; Salt Lake County

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Bar, Utah State Bar, and Federal Bar Association; Model Utah Jury Instructions, Chair of Subcommittee on Civil Rights Instructions; Magistrate Merit Selection Panel; Defense Research Institute; Utah Defense Lawyers Association; and Utah Municipal Attorneys Association

Heather has maintained a steady 5.0 Martindale-Hubbell® Peer review rating; is consistently recognized as a Utah Super Lawyer by Super Lawyer Magazine; is regularly recognized as a Utah Legal Elite by Utah Business Magazine; is listed in Best Lawyers in America; and was named a Distinguished Faculty member by Lorman Education Services.

ELIZABETH A. WRIGHT

Elizabeth Wright is General Counsel for the Utah State Bar. She is a graduate of Hamilton College and Case Western Reserve School of Law. She is admitted in New York and Utah and was an Assistant Corporation Counsel for the City of New York before moving to Utah. Wright began working for the Utah State Bar in 2011 as the Coordinator of the New Lawyer Training Program. She became General Counsel in 2014. As General Counsel, Elizabeth represents the Bar and also works closely with Bar and Court committees to modify and propose rules governing the practice of law in Utah. Elizabeth served on both the Executive and Steering Committees for Utah’s Licensed Paralegal Practitioner Program helping to develop rules for the program. Elizabeth currently serves on the Utah Task Force on Legal Reform which is exploring changing the regulatory structure in Utah to foster innovation and promote market forces to increase access to and affordability of legal services.

APPENDIX B



John C. Baldwin
Executive Director

Board of Bar Commissioners

H. Dickson Burton
President
TraskBritt
Salt Lake City

Herm Olsen
President-elect
Hillyard Anderson & Olsen
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S. Grace Acosta
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August 22, 2018

VIA EMAIL to cathyd@utcourts.gov

Justices of the Utah Supreme Court
c/o Appellate Court Administrator
450 S. State Street
P.O. Box 140230
Salt Lake City, UT 84114

Dear Justices of the Utah Supreme Court,

Access to justice in Utah remains a significant and growing problem. It can be readily seen in the data regarding self-represented parties in the Utah court system. However, it is a much broader and complex issue which not only involves all sort of legal needs but overlaps with a host of other challenges confronted by low and middle-income people living in Utah. We believe lawyers can and should be part of the solution to this problem. There are times well before a court action when some simple advice from an attorney could prevent a problem or resolve a conflict. Yet, as the Bar's recent survey shows, very high percentages of individuals and businesses in Utah have no sense of the value lawyers can provide, they do not know how to find the right lawyer and they believe that it will be too costly to get a lawyer's help.

There are undoubtedly many steps needed in many places. However, we believe a key step to getting legal representation to more people is to substantially reform the regulatory setting in which lawyers operate. We request the Court establish a small working group to promptly study possible reforms and make recommendations to the Court. The purpose of the working group would be to evaluate and make recommendations for revisions, possibly major revisions, to the rules of professional responsibility so as to permit lawyers to more effectively and more affordably provide legal services and do related promotion of those services. The specific areas of focus would be rules concerning (1) fee sharing, (2) advertising and (3) fee arrangements. There are also some conflict of interest issues implicated by some of the possible revisions in these areas.

The work would include consideration of (1) the effect of modern information technology and modern consumer patterns on the current rules, (2) the potential value, in terms of making legal services accessible to clients, of non-lawyer investment and ownership in entities providing legal services and the related regulatory issues, (3) the prospect of broadening the availability of legal services through flat fee and other alternative fee arrangements not currently permitted by the rules, (4) whether there is continuing justification for the rules against direct solicitation, (5) whether and how to permit and structure lawyer use of referral systems such as Avvo in light of the rule against referral fees and (5) the related trends and approaches being considered and/or implemented in other bars, such as Oregon and the ABA's work in this area.

Serving the public. Working for justice.

Narrowing the Access-to-Justice Gap by Reimagining Regulation

Justices of the Utah Supreme Court
c/o Appellate Court Administrator
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In terms of the makeup of the group, we suggest that the group be co-chaired by a Supreme Court Justice and the immediate past president of the Bar, John Lund. We believe the Bar's general counsel can provide support. We would also suggest including the chair of Court's Committee on the Rules of Professional Responsibility and would also ask that Cathy Dupont be appointed to the committee. Importantly the group should be made up of people who will actually study and consider recommended changes. In that vein, we propose including one of the leaders from the Bar's Innovation in Law Practice Committee, possibly Heather White, Co-chair of that Committee.

Once established, we believe the group could be expected to provide a report and recommendation to the Court within 6 months.

We would be most pleased to attend the Court's Conference on August 27 and discuss our proposal in more detail and answer any questions or concerns from the members of the Court.

Sincerely,



H. Dickson Burton

cc: Richard H. Schwermer (ricks@utahcourts.gov)
John R. Lund (jlund@parsonsbehle.com)
John Baldwin (jbaldwin@utahbar.org)

APPENDIX C

THE LEGAL SERVICES ACT OF 2007

The Legal Services Act (LSA) overhauled the regulation of legal services in the United Kingdom.⁶¹ The regulatory overhaul was precipitated by an overall push for regulatory reform across the U.K., looking particularly at how restrictive rules and norms in the professions impacted competition and the cost of legal services. The goal of the regulatory reform was explicitly consumer and competition focused: “Putting Consumers First.”⁶² Through these reforms, the U.K. legal profession lost its self-regulatory power. The profession is now regulated by an entity, not controlled by lawyers, answerable to Parliament.

Approach of the LSA

The LSA sought to create an objectives-based, risk-based system for the regulation of legal services in the U.K. The Act itself does not set out detailed, prescriptive rules of behavior to be followed by regulated entities. Rather, the Act sets out regulatory objectives and principles to guide the regulators. It is the responsibility of the regulators to develop the details of the system within those guidelines. “Regulation needs to be proportionate and targeted, focused on outcomes and reflecting real risks in the market. It needs to tackle risk of consumer detriment but, in doing so, stop short of creating an excessive burden that might stifle innovation or restrain competition.”⁶³

1. Objectives and Principles (set out in the LSA)

a. Objectives:⁶⁴

- i. Protecting and promoting the public interest;
- ii. Supporting the constitutional principle of the rules of law;
- iii. Improving access to justice;
- iv. Protecting and promoting the interests of consumers;
- v. Promoting competition in the provision of regulated services;

⁶¹ These reforms were limited to England and Wales. Scotland is independently assessing legal market reforms. The U.K. has always had a very different system from the U.S.—split bar system, several other legal roles, many services we consider to be practice of law are not so considered in the U.K. (including providing legal advice). See Stephen Mayson, *Independent Review of Legal Services Regulation: Assessment of the Current Regulatory Framework* (University College London Centre for Ethics & Law, Working Paper LSR-0, 2019), https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr_wp_lsr-0_assessment_1903_v2.pdf (last visited Aug. 13, 2019).

⁶² See LEGAL SERVICES BOARD, *History of the reforms*, https://www.legalservicesboard.org.uk/about_us/history_reforms/index.htm (last visited Aug. 13, 2019).

⁶³ See LEGAL SERVICES BOARD, *Improving Access to Justice: Rationalising the Scope of Regulation*, https://www.legalservicesboard.org.uk/projects/rationalising_scope_of_regulation/index.htm (last visited June 13, 2019).

⁶⁴ The objectives are not defined in the Act but the LSB published a separate paper defining the objectives. See LEGAL SERVICES BOARD, *The regulatory objectives: Legal Services Act 2007*, https://www.legalservicesboard.org.uk/news_publications/publications/pdf/regulatory_objectives.pdf (last visited Aug. 13, 2019).

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- vi. Encouraging an independent, strong, diverse, and effective legal profession;
- vii. Increasing public understanding of the citizen’s legal rights and duties; and
- viii. Promoting and maintaining adherence to professional principles.

b. Principles:

- i. Authorized persons should act with independence and integrity;
- ii. Authorized persons should maintain proper standards of work;
- iii. Authorized persons should act in the best interests of clients;
- iv. Those who exercise before any court a right of audience, or conduct litigation in relation to proceedings in any court, by virtue of being authorized persons should comply with their duty to the court to act with independence in the interests of justice; and
- v. Affairs of clients should be kept confidential.⁶⁵

What Is the Regulatory Structure?

The LSA establishes one overarching regulator, the Legal Services Board (LSB). The LSB is a government regulator accountable to Parliament. The primary duty of the LSB is to “promote the regulatory objectives” when carrying out its regulatory functions.⁶⁶

The Lord Chancellor, a member of the U.K. Parliament and also Secretary of State for Justice, appoints the members of the LSB. The Board is made up of both lawyers and laypeople, and has a lay chairperson.⁶⁷ The Act creates a Legal Services Consumer Panel made up of lay people that advises the LSB on various relevant topics, particularly those considering public interest.⁶⁸ The Act also establishes a separate Office of Legal Complaints to address and help resolve consumer complaints.

Instead of directly regulating legal services providers, the LSB regulates multiple “front-line” regulators, which in turn regulate different sectors of the profession (see chart below for

⁶⁵ Legal Services Act 2007, c.29, Part 1, § 1, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019).

⁶⁶ *Id.*, Part 2, § 3, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019). The LSB does not have a standalone objective or the power to promote the regulatory objectives separate from its established regulator functions.

⁶⁷ *Id.*, sch. 4, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019).

⁶⁸ *Id.*, Part 2, § 8, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019). The Consumer Panel has significant independent authority under the Act, including the ability to independently report to the public on advice that it gives the LSB.

overview). The LSB has authority to set governance requirements and performance targets, review rules and procedures, and investigate the front-line regulators.⁶⁹

The LSA defines certain regulated activities and persons. Both the activities and the persons follow historically grounded legal roles in the U.K. As will be discussed in more detail below, recent reviews of the effectiveness of the LSA reforms have offered strong criticism of the retention of these traditional activities and roles within the new regulatory regime.

The LSA designates six specific activities as “reserved activities”:

1. The exercise of a right of audience;
2. The conduct of litigation;
3. Reserved instrument activities (transactions involving real or personal property but not including wills);
4. Probate activities;
5. Notarial activities; and
6. The administration of oaths.⁷⁰

Those activities can only be performed by people (“authorized persons”) granted a license through one of the regulators. It is a criminal offense for an unauthorized person to perform any of the reserved activities.⁷¹ All activities other than these six are unregulated (such as the provision of ordinary legal advice or assistance with legal documents) and may be performed by any person or entity.⁷²

Nine roles are designated “authorized persons” under the LSA.

1. Solicitor;
2. Barrister;
3. Legal executive;
4. Notary;
5. Licensed conveyancer;
6. Patent attorney;

⁶⁹ *Id.*, Part 4, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019). The chart below does not list all of the front-line regulators. A complete list can be found here: <http://www.legislation.gov.uk/ukpga/2007/29/schedule/4>.

⁷⁰ *Id.*, Part 3, § 12(1), <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019).

⁷¹ *Id.*, Part 3, §§ 14, 17, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019).

⁷² In June 2016, the LSB published a report on the unregulated market for legal services. It estimated that, in cases in which parties sought legal advice, 37% was sought from non-profit legal service providers and between 4.5–5.5% was sought from for profit providers. See LEGAL SERVICES BOARD, *Research Summary: Unregulated Legal Services Providers* (June 2016), <https://research.legalservicesboard.org.uk/wp-content/media/Unregulated-providers-research-summary.pdf> (last visited Aug. 13, 2019). Based on this data, the LSB decided not to extend their regulatory reach at this time.

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7. Trademark attorney;
8. Costs lawyer;⁷³ and
9. Chartered accountant.⁷⁴

Each group is authorized to perform certain reserved activities (e.g. barristers, solicitors, and legal executives can perform all reserved activities except for notarial activities).⁷⁵

The front-line regulators generally align with authorized persons roles (e.g. the Bar Standards Board (BSB) regulates the activities of barristers and the SRA regulates the activities of solicitors). There is certainly overlap, particularly when individuals are working within regulated entities (e.g. it is common for conveyancers, legal executives, and barristers to work in entities regulated by the SRA and almost all notaries are also solicitors).

The front-line regulators are required to promote the regulatory objectives.⁷⁶ Pre-LSA, the front-line regulators were, like our bar associations, the trade associations for their associated groups. Post-LSA, they are required to separate any advocacy work from regulatory work.⁷⁷

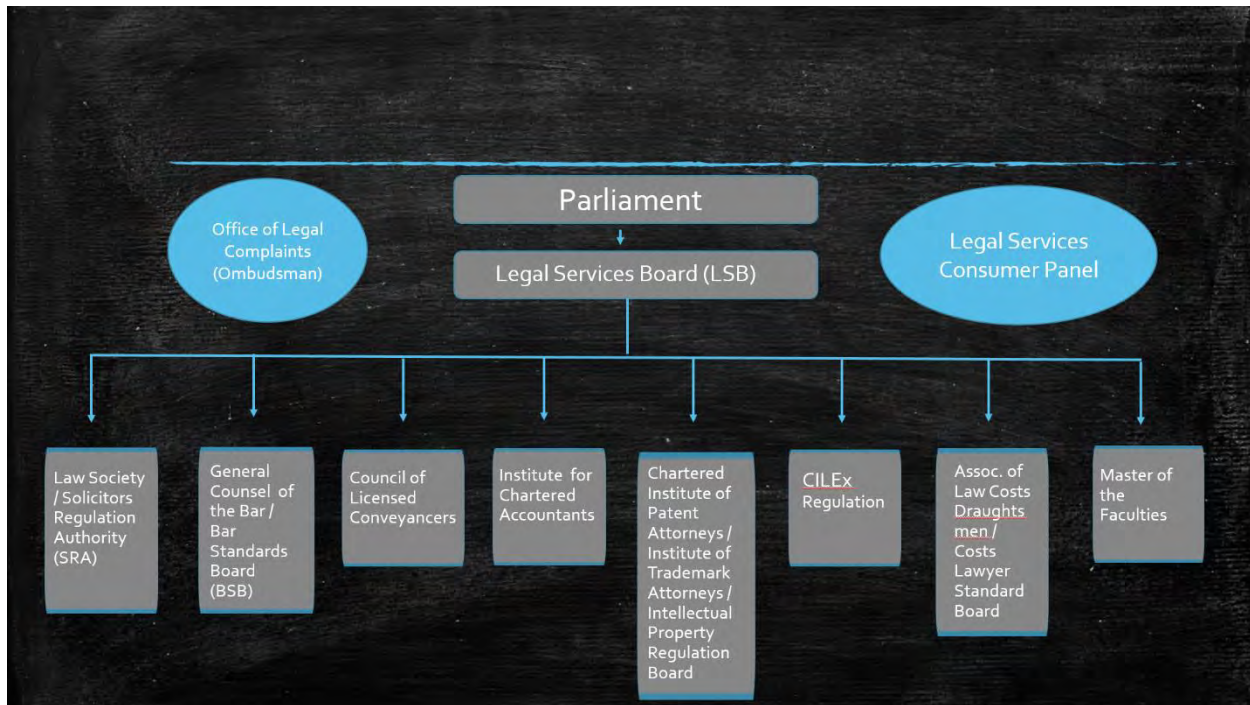
⁷³ A costs lawyer is a specialist in the law governing the allocation of costs in the U.K. legal system. Unlike the American system, under British law, prevailing parties in litigation are routinely allowed to collect their “costs” (including attorneys’ fees) from losing parties. Also, clients may seek an assessment of their legal bills from a court, which is authorized to adjust the bill.

⁷⁴ See Legal Services Act, c.29, sch. 5, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019).

⁷⁵ *Id.*, sch. 4, Part 1, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019).

⁷⁶ *Id.*, Part 4, § 28, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019).

⁷⁷ *Id.*, Part 4, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019). The system is somewhat complex. Under the current approach, the designated regulators under the LSB are the traditional representative organizations for the legal role (i.e. the Law Society, the General Counsel of the Bar, the Association of Law Costs Draughtsmen). Under the LSA, those organizations are required to put the regulatory function beyond the representative function, leading to the creation of the current operating regulators (i.e., the Solicitors Regulation Authority, the Bar Standards Board, and the Costs Lawyer Standard Board). One of the bigger criticisms of the LSA reforms is that this approach does not go far enough to separate the regulatory function from the representative/advocacy function and the LSB is assessing changes to make that separation more complete.



The LSA authorizes and regulates non-lawyer owned legal service entities that are called Alternative Business Structures (ABSs) (discussed in detail below).

What Does This Actually Look Like: The Solicitors Regulation Authority

The Solicitors Regulation Authority is the largest regulator of legal services in the U.K., regulating solicitors and ABSs. The SRA describes its regulatory approach as follows:

The outcomes-focused approach to regulation means that our goal is to ensure that legal services providers deliver positive outcomes for consumers of legal services and the public, in line with the intent of the LSA regulatory objectives. This is in contrast to our historical rules-based approach: we no longer focus on prescribing how those we regulate provide services, but instead focus on the outcomes for the public and consumers that result from their activities.⁷⁸

The SRA establishes specific regulatory outcomes to measure its progress toward the LSA's regulatory objectives.

- Outcome 1: The public interest is protected by ensuring that legal services are delivered ethically and the public have confidence in the legal system.
- Outcome 2: The market for legal services is competitive and diverse, and operates in the interests of consumers.

⁷⁸ SOLICITORS REGULATION AUTHORITY, *SRA Risk Framework* (Mar. 2014), <http://docplayer.net/45754930-Sra-regulatory-risk-framework-march-2014.html> (last visited June 13, 2019).

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- Outcome 3: Consumers can access the services they need, receive a proper service and are treated fairly.
- Outcome 4: Regulation is effective, efficient and meets the principles of better regulation.⁷⁹

The SRA outlines ten principles for regulated individuals and entities, including upholding the rule of law and the proper administration of justice, not allowing your lawyer independence to be compromised, acting in the best interests of the client, running a legal business in a way that encourages equality of opportunity and diversity, and protecting clients' money and assets.⁸⁰

The SRA issues a Code of Conduct, which contains professional standards for people and entities under its jurisdiction. These are not “rules” but rather guidance of “indicative behaviours” that the SRA would expect to see to achieve objectives (e.g. to ensure Outcome 3, solicitors should explain the scope of their representation to their client, provide (in writing) a description of all involved parties, and explain any fee arrangements).⁸¹

The SRA also issues specific rules in certain areas: accounts rules, authorization and practicing requirements, client protection (insurance and compensation fund), discipline and costs recovery, and specialist services.⁸²

Day-to-day regulatory activity at the SRA is guided by identified risks to the regulatory objectives and outcomes. Identification and prioritization of risks enables proportionate and responsive regulation.

⁷⁹ *Id.*

⁸⁰ SOLICITORS REGULATION AUTHORITY, *SRA Handbook: SRA Principles* (Dec. 6, 2018), <https://www.sra.org.uk/solicitors/handbook/handbookprinciples/content.page> (last visited Aug. 13, 2019).

⁸¹ See SOLICITORS REGULATION AUTHORITY, *SRA Handbook: Code of Conduct*, <https://www.sra.org.uk/solicitors/handbook/code/content.page> (last visited Aug. 13, 2019).

⁸² See SOLICITORS REGULATION AUTHORITY, *How we regulate*, <http://www.sra.org.uk/consumers/sra-regulate/sra-regulate.page> (last visited Aug. 13, 2019).



The SRA uses a Regulatory Risk Index that groups risks into 4 categories:⁸³

1. Firm viability risks (Risks arising from the viability of the firm and the way it is structured)
2. Firm operational risks (Risks arising from a firm's internal processes, people and systems)
3. Firm impact risks (Risk that firm or individual undertakes an action or omits to take action that impacts negatively on meeting the regulatory outcomes)
4. Market risks (Risks arising from or affecting the operation of the legal services market)⁸⁴

The SRA assesses these risks by impact (potential harm caused) and probability (likelihood of harm occurring), and categorizes risks along individual, firm, theme, and market.⁸⁵ Risk informs the regulator's decisions on admission, governance, monitoring, enforcement, and soft regulatory interventions (education, etc.). Using this approach enables interventions to be proactive and flexible, including:

1. instituting controls on how a firm or individual practices;
2. issuing a warning about future conduct;

⁸³ According to Crispin Passmore, former Executive Director of Supervision and Education of the SRA, the SRA is moving away from the Regulatory Risk Index and focusing more of its approach on proactive and thematic risk assessments.

⁸⁴ SOLICITORS REGULATION AUTHORITY, *SRA Risk Framework* (Mar. 21, 2014), <https://www.sra.org.uk/risk/risk-framework.page> (last visited June 13, 2019).

⁸⁵ *See id.*

3. closing a firm with immediate effect or imposing a disciplinary sanction, such as a fine;
4. informing the market about undesirable trends and risks;
5. adapting regulatory policy to minimize recurrence of an issue; and
6. setting qualification standards and ongoing competency requirements.⁸⁶

Alternative Business Structures

The LSA permitted participation in legal service providers by those who are not qualified lawyers: entities with lay ownership, management, or investment are designated ABSs under the Act.⁸⁷

Multiple regulators are approved to regulate ABSs, including the SRA, the BSB, the Council of Licensed Conveyancers, the Institute for Chartered Accountants, and the Intellectual Property Regulation Board.

An ABS is either (1) a firm where a “non-authorized person” is a manager of the firm or has an ownership-type interest in the firm or (2) a firm where “another body” is a manager of the firm or has an ownership-type interest in the firm and at least 10 percent of the “body” is controlled by non-lawyers.⁸⁸

ABSs may offer non-legal services alongside legal services.⁸⁹ ABSs are regulated as entities and each authorized person within the entity is independently regulated and subject to discipline. The ABS must always have at least one manager who is an authorized person under the LSA.⁹⁰ Regardless of ownership structure, control over the right to practice law must remain

⁸⁶ *Id.*

⁸⁷ Legal Services Act 2007, c.29, Part 5, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019). See also Stephen Mayson, *Independent Review of Legal Services Regulation: Assessment of the Current Regulatory Framework* (University College London Centre for Ethics & Law, Working Paper LSR-0, 2019), https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr_wp_lsr-0_assessment_1903_v2.pdf. Note: the LSA also permitted Legal Disciplinary Practices (LDP), through which different categories of authorized persons can enter into partnerships (e.g. barristers and solicitors working together).

⁸⁸ Legal Services Act 2007, c.29, Part 5, § 72, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019); see also THE LAW SOCIETY, *Alternative Business Structures* (May 21, 2018), <https://www.lawsociety.org.uk/support-services/advice/practice-notes/alternative-business-structures/> (last visited Aug. 13, 2019).

⁸⁹ See Legal Services Act, 2007, c.29, Part 5, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019). Note that the ability to offer non-legal services alongside legal services differentiates this structure from those permitted in Washington, D.C. under its Rule 5.4(b), which permits lawyers to enter into business with non-lawyers (including non-lawyer owners or managers) but the sole purpose of the business must be providing legal services. See WASHINGTON, D.C. BAR, *Rules of Professional Conduct, Rule 5.4: Professional Independence of a Lawyer*, <https://www.dcbbar.org/bar-resources/legal-ethics/amended-rules/rule5-04.cfm> (last visited Aug. 13, 2019).

⁹⁰ Legal Services Act, 2007, c.29, Part 5, § 72, <https://www.legislation.gov.uk/ukpga/2007/29> (last visited Aug. 13, 2019).

in the hands of licensed legal professionals: designated authorized role holders.⁹¹ The SRA requires ABSs to have both legal and financial compliance officers.⁹² These roles are responsible for ensuring that the entity and all of its interest holders, managers, and employees comply both with the terms of its license and with regulations applicable to its activities (reserved and potentially non-reserved depending on the terms of the license).⁹³ If an entity, or those within it, violate the terms of the license or the rules of professional conduct, the compliance officer has a duty to correct and report to the regulator.

In keeping with the regulatory focus on opening the market and enabling competition, the bar to entry, at least within the SRA process, is relatively low. An applicant must outline which reserved activities the entity plans to offer, provide professional indemnity insurance information, and identify firm structure details (including authorized role holders) and incorporation details if applicable.⁹⁴ To grant a license, the SRA needs to be satisfied that, for example, the proposed ABS will comply with professional indemnity insurance and compensation fund requirements, appropriate compliance officers have been appointed, the authorized role holders are approved, and the lawyer-manager is qualified. The SRA may refuse to grant the license if it is not satisfied that these requirements have been shown, or if the applicant has been misleading or inaccurate, or if it feels that the ABS is “against the public interest or inconsistent with the regulatory objectives” set out in the LSA.⁹⁵ The SRA may also grant a license subject to any conditions it deems necessary.⁹⁶

Impact of the LSA

There has been some debate about the impact of the LSA on the legal services market in the U.K. and on access to justice in particular.⁹⁷ A paper produced by a workgroup chaired by Professor Stephen Mayson had this to say on the impact of the LSA:

The LSA’s reforms have gone some way in beginning to address the pressing issues of the time – independence of regulation, poor complaints handling, anti-competitive restrictions and the need for greater focus on the consumer.

⁹¹ SOLICITORS REGULATION AUTHORITY, *SRA Authorisation Rules 2011*, Rule 8.5, <https://www.sra.org.uk/solicitors/handbook/authorisationrules/content.page> (last visited Aug. 13, 2019).

⁹² *Id.*

⁹³ *Id.*

⁹⁴ SOLICITORS REGULATION AUTHORITY, *New Firm Applications* (Sep. 29, 2017), <http://www.sra.org.uk/solicitors/firm-based-authorisation/authorisation-recognition.page> (last visited Aug. 13, 2019).

⁹⁵ THE LAW SOCIETY, *Alternative Business Structures* (May 21, 2018), <https://www.lawsociety.org.uk/support-services/advice/practice-notes/alternative-business-structures/> (last visited Aug. 13, 2019).

⁹⁶ *Id.*

⁹⁷ It should be noted that as the reforms were implemented the Government dramatically reduced funding for legal aid across the U.K. and the world faced the global market downturn. See Dominic Gilbert, *Legal Aid Advice Network “Decimated” by Funding Cuts*, BBC NEWS (Dec. 10, 2018), <https://www.bbc.com/news/uk-46357169> (last visited Aug. 13, 2019).

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Regulatory reform since then has been wide ranging. Regulators have increasingly simplified and focused their processes and removed barriers to market entry, enabling innovation among new and existing providers, improving consumer choice and competition.⁹⁸

In the area of non-lawyer ownership (i.e., ABSs), the market has seen increased innovation in legal services offerings but change is unsurprisingly more incremental than revolutionary. As of February 2019, it appears that regulators have licensed over 800 entities as ABSs.⁹⁹ Most entities seeking ABS licenses are existing legal services businesses converting their license; one-fifth are new entrants.¹⁰⁰ Lawyer-ownership remains the dominant form with three-fifths of ABSs having less than 50 percent non-lawyer ownership.¹⁰¹ Approximately one-fifth of ABSs are fully owned by non-lawyers and approximately one-fifth are fully owned by lawyers with some proportion of non-lawyer managers.¹⁰² A 2014 report by the SRA sought to understand how firms changed upon gaining an ABS license. Most often, firms changed either their structure or their management under the new regulatory offering.¹⁰³ Twenty-seven percent changed the way the business was financed. The SRA found that investment was most often sought for entry into technology, to change the services offered, and for marketing.¹⁰⁴ A 2018 report by the LSB found that ABSs were three times as likely as traditionally organized entities to use technology, and ABSs, as well as newer and larger providers, have higher levels of service innovation.¹⁰⁵

⁹⁸ *Legislative Options Beyond the Legal Services Act 2007*, <https://stephenmayson.files.wordpress.com/2016/07/legislative-options-beyond-the-legal-services-act-2007.pdf> (last visited Aug 13, 2019).

⁹⁹ The SRA maintains a list of all registered ABSs at <https://www.sra.org.uk/solicitors/firm-based-authorisation/abs/abs-search.page>. This is likely a small percentage of all the legal firms in the United Kingdom. In 2015, for example, there were approximately 10,300 solicitors firms in the U.K. See Mari Sako, *Big Bang or drop in the ocean?: The Authorized Revolution in legal services in England and Wales*, THOMSON REUTERS FORUM MAGAZINE (Oct. 8, 2015), <https://blogs.thomsonreuters.com/answerson/abs-ldp-drop-ocean-england-wales/> (last visited Aug. 13, 2019).

¹⁰⁰ See LEGAL SERVICES BOARD, *Evaluation: ABS and investment in legal services 2011/12-2016/17 – Main Report 4* (June 2017), <https://research.legalservicesboard.org.uk/wp-content/media/Investment-research-2017-Report-Main-report.pdf> (last visited Aug. 13, 2019).

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ SOLICITORS REGULATION AUTHORITY, *Research on alternative business structures (ABSs): Findings from surveys with ABSs and applicants that withdrew from the licensing process 17* (May 2014), <https://www.sra.org.uk/sra/how-we-work/reports/research-abs-executive-report.page> (last visited Aug. 13, 2019).

¹⁰⁴ *Id.*

¹⁰⁵ LEGAL SERVICES BOARD, *Research Summary: Technology and Innovation in Legal Services* (Nov. 2018), <https://research.legalservicesboard.org.uk/wp-content/media/Innovation-survey-2018-web-FINAL.pdf> (last visited Aug. 13, 2019).

The market continues to develop. LegalZoom has received an ABS license and has started purchasing solicitors firms in the U.K.¹⁰⁶ Each of the Big Four accounting firms has an ABS license.¹⁰⁷ Most importantly, there is little to no evidence of ABS-specific consumer harm.¹⁰⁸

The SRA will be rolling out relatively significant changes in the form of new “Standards and Regulations (STARS)” in the coming months. Those changes are targeted at increasing liberalization of the market and increasing the efficiency of the regulatory response. Perhaps the most significant change is that solicitors will now be permitted to offer non-reserved legal activities out of unregulated businesses (i.e., a solicitor may now be employed by Tesco or a bank to offer non-reserved services like will writing).¹⁰⁹

Challenges of the LSA

In December 2016, the Competition and Markets Authority (CMA) released a report reviewing the legal services market post-LSA.¹¹⁰ Professor Stephen Mayson’s reviews of the impact of the LSA are also illuminating to understand how the reforms of the LSA may have fallen short in opening the market.¹¹¹

1. **Retention of traditional roles/activities:** As noted above, although the LSA sought to implement an objectives- and risk-based regulatory system, it also relied upon traditional legal roles and their associated activities as regulatory hooks. Both the CMA report and Professor Mayson’s work identify this continued reliance on traditional activities/roles as a proxy for regulatory strategy/intervention as problematic and limiting to the impact of the reforms. Authorized persons and reserved activities were essentially “grandfathered” or lobbied into the LSA (an “accident of history” or result of

¹⁰⁶ John Hyde, *LegalZoom Enters Market with ABS License*, THE LAW SOCIETY GAZETTE (Jan. 7, 2015), <https://www.lawgazette.co.uk/practice/legalzoom-enters-market-with-abs-licence/5045879.article> (last visited Aug. 13, 2019).

¹⁰⁷ See Joseph Evans, *Deloitte Becomes the Last of the Big Four to get ABS License for Legal Services*, THE AMERICAN LAWYER (June 22, 2018), <https://www.law.com/americanlawyer/2018/06/22/deloitte-becomes-last-of-big-four-to-get-abs-license-for-legal-services/> (last visited Aug. 13, 2019).

¹⁰⁸ See COMPETITION AND MARKETS AUTHORITY, *Legal Services Market Study: Final Report* (December 15, 2016), <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf> (last visited Aug. 13, 2019). See also Judith K. Morrow, *UK Alternative Business Structures for Legal Practice: Emerging Market and Lessons for the US*, 47 *Geo. J. Int’l L.* 665, 668 (2016).

¹⁰⁹ Crispin Passmore, *Look to the STARS*, Passmore Consulting (Mar. 20, 2019), <https://www.passmoreconsulting.co.uk/look-to-the-stars> (last visited Aug. 13, 2019).

¹¹⁰ See *id.*

¹¹¹ See Stephen Mayson, *The Legal Services Act 2007: Ten Years On, and “Mind the Gaps”* (June 2017), <https://stephenmayson.files.wordpress.com/2017/06/mayson-2017-legal-services-act-10-years-on1.pdf> (last visited Aug. 13, 2019).

political bargaining) and do not reflect a true assessment of risk.¹¹² The CMA report recommended that “[A]n optimal regulatory framework should not try to regulate all legal activities uniformly, but should have a targeted approach, where different activities are regulated differently according to the risk(s) they pose rather than regulating on the basis of the professional title of the provider undertaking it.”¹¹³

2. **Gold-plating of regulation vs. regulatory gap:** Some regulators regulate all activities of authorized persons (including non-reserved activities) while, at the same time, unreserved activities of unauthorized persons are not regulated at all (i.e., a solicitor who drafts a bad will can be subject to regulatory control but a shopkeeper who drafts a bad will is beyond legal regulatory authority because will writing is not a reserved activity). This causes excessive costs to be imposed on authorized persons, leaves possible high-risk activities beyond regulatory scope, and is very confusing to the consumer.¹¹⁴
3. **No prioritization among regulatory objectives:** The regulatory objectives set out in the LSA are listed without any indication of how the LSB or the front-line regulators are to prioritize them or weigh them in the event of a conflict between objectives.¹¹⁵
4. **Continuing challenges around consumer information gap, pricing challenges (level and transparency), and access to justice:**¹¹⁶ “[C]onsumers generally lack the experience and information they need to find their way around the legal services sector and to engage confidently with providers. Consumers find it hard to make informed choices because there is very little transparency about price, service and quality—for example, research conducted by the Legal Services Board (LSB) found that only 17% of legal services providers publish their prices online. This lack of transparency

¹¹² See *Legislative Options Beyond the Legal Services Act 2007*, <https://stephenmayson.files.wordpress.com/2016/07/legislative-options-beyond-the-legal-services-act-2007.pdf> (last visited Aug. 13, 2019).

¹¹³ See COMPETITION AND MARKETS AUTHORITY, *Legal services market study: Final report 201* (Dec. 15, 2016), <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf> (last visited Aug. 13, 2019).

¹¹⁴ See Stephen Mayson, *Independent Review of Legal Services Regulation: Assessment of the Current Regulatory Framework* 11 (University College London Centre for Ethics & Law, Working Paper LSR-0, 2019), https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr_wp_lsr-0_assessment_1903_v2.pdf (last visited Aug. 13, 2019).

¹¹⁵ Stephen Mayson, *Independent Review of Legal Services Regulation: The Rationale for Legal Services Regulation* 9 (University College London Centre for Ethics & Law, Working Paper LSR-1, 2019), https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr_wp_lsr-1_rationale_1903_v2.pdf (last visited Aug. 13, 2019).

¹¹⁶ SOLICITORS REGULATION AUTHORITY, *Price transparency* (Nov. 2018), <https://www.sra.org.uk/solicitors/resources/transparency/transparency-price-service.page> (last visited Aug. 13, 2019).

weakens competition between providers and means that some consumers do not obtain legal advice when they would benefit from it.”¹¹⁷

5. **Incomplete separation of regulatory and representative activities:** The separation of regulatory and representative activities, as required by the LSA, is incomplete and gives rise to tension.¹¹⁸

Keeping in mind that the reforms are still relatively new (ABSs began being licensed in early 2012),¹¹⁹ the most appropriate conclusion appears to be that, while the LSA initiated much needed reforms to the regulatory process and began the process of opening up the legal services market, significant challenges remain and require continued focus.

¹¹⁷ See COMPETITION AND MARKETS AUTHORITY, *Legal Services Market Study: Final Report 4* (Dec. 15, 2016), <https://assets.publishing.service.gov.uk/media/5887374d40f0b6593700001a/legal-services-market-study-final-report.pdf> (last visited Aug. 13, 2019).

¹¹⁸ See Stephen Mayson, *Independent Review of Legal Services Regulation: Assessment of the Current Regulatory Framework* 12 (University College London Centre for Ethics & Law, Working Paper LSR-0, 2019), https://www.ucl.ac.uk/ethics-law/sites/ethics-law/files/irlsr_wp_lsr-0_assessment_1903_v2.pdf (last visited Aug. 13, 2019).

¹¹⁹ See THE LAW SOCIETY, *Setting up an ABS* (Oct. 31, 2012), <https://www.lawsociety.org.uk/support-services/advice/articles/setting-up-an-abs/> (last visited Aug. 13, 2019).

APPENDIX D

REGULATOR: DETAILED PROPOSAL

Our suggested proposal for the Phase 1 regulatory structure and approach is outlined below. Although we have put a great deal of thought into this proposal, we stress that this is just a proposal. Our model assumes that the Phase 1 period will be one of research and development regarding the regulator's structure and framework and that both will likely change with increased data from the regulatory sandbox market and other inputs.

Framework (Phase 1)

The Court will operate the regulator as a task force of the Court. The Court should outline regulatory objectives for the regulator. We propose a single core objective:

To ensure consumers access to a well-developed, high-quality, innovative, and competitive market for legal services.

As discussed above, this objective purposely focuses the regulatory authority on the consumer market for legal services. The Court should also outline regulatory principles for the regulator. We propose five regulatory principles:

1. **Regulation should be based on the evaluation of risk to the consumer.** Regulatory intervention should be proportionate and responsive to the actual risks posed to the consumers of legal services.
2. **Risk to the consumer should be evaluated relative to the current legal services options available.** Risk should not be evaluated as against the idea of perfect legal representation provided by a lawyer but rather as against the reality of the current market options. For example, if 80 percent of consumers have no access to any legal help in the particular area at issue, then the evaluation of risk is as against no legal help at all.
3. **Regulation should establish probabilistic thresholds for acceptable levels of harm.** The risk-based approach does not seek to eliminate all risk or harm in the legal services market. Rather, it uses risk data to better identify and apply regulatory resources over time and across the market. A probability threshold is a tool by which the regulator identifies and directs regulatory intervention. In assessing risks, the regulator looks at the probability of a risk occurring and the magnitude of the impact should the risk occur. Based on this assessment, the regulator determines acceptable levels of risk in certain areas of legal service. Resources should be focused on areas in which there is both high probability of harm and significant impact on the consumer or the market. The thresholds in these areas will be lower than other areas. When the evidence of consumer harm crosses the established threshold, regulatory

- action is triggered.¹²⁰ Example: Under traditional regulatory approaches, the very possibility that a non-lawyer who interprets a legal document (a lease, summons, or employment contract, for example) might make an error that an attentive lawyer would not make has been taken to justify prohibiting all non-lawyers from providing any interpretation. However, if the risk is actually such that an error is made only 10% of the time, then a risk-based approach would recommend allowing non-lawyer advisors to offer aid (particularly if the alternative is not getting an interpretation from an attentive lawyer but rather proceeding on the basis of the consumer's own, potentially flawed interpretation). If a particular service or software is actually found to have an error rate exceeding 10%, then regulatory action (suspension, investigation, etc.) would be taken against that entity or person.
4. **Regulation should be empirically-driven.** Regulatory approach and actions will be supported by data. Participants in the market will submit data to the regulator throughout the process.
 5. **Regulation should be guided by a market-based approach.** The current regulatory system has prevented the development of a well-functioning market for legal services. This proposal depends on the regulatory system permitting the market to develop and function without excessive interference.

Regulator Structure

In Phase 1, the regulator will operate relatively leanly given that it will be overseeing a small marketplace (the regulatory sandbox); however, staffing needs to be sufficient to ensure that the regulator is successful from the start. The regulator must be able to respond to applicants, questions, and demands quickly and efficiently and be able to adequately monitor and assess the market's development and respond appropriately and strategically.

We preliminarily envision an executive committee or senior staff made up of a Director, a Senior Economist, and, perhaps, a Senior Technologist. It is not necessary that these individuals be lawyers. The Director will be the face of the entity, responsible for strategy, development, budget, and reporting to the Court. The Senior Economist will be responsible for developing the quantitative analytical tools used by the regulator. The Senior Technologist will be responsible both for reviewing, assessing, and explaining the technological aspects of any proposed products or services as well as offering technological expertise on a strategic level (i.e., where regulatory resources should be targeted). The support staff would need to cover

¹²⁰ The "probability threshold" approach is not unfamiliar in the legal world. Indeed, it arguably guides First Amendment constitutional law doctrine. See Jonathan S. Masur, *Probability Thresholds*, 92 IOWA L. REV. 1293, 1297 (2007).

the following functions: operations, development, and communications. Finally, we envision creating a Board of Advisors made up of both legal and non-legal leaders, including particularly leaders in technology and academics well-versed in regulatory theory.

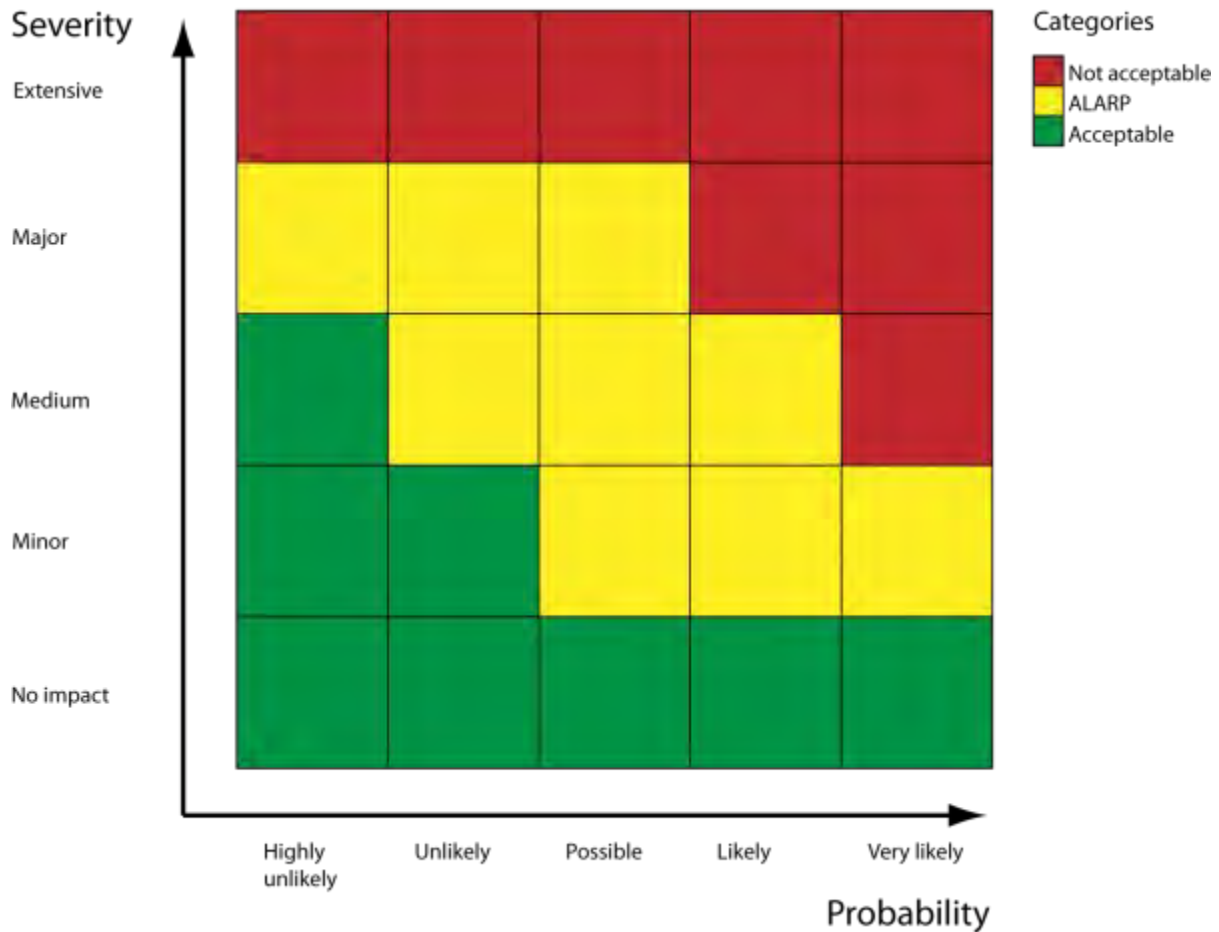
We propose that the regulator be funded primarily from fees collected from market participants. At the outset, however, we propose seeking grants for the establishment and support of the Phase 1 regulator.

Regulatory Approach

It is the regulator's job to develop a system that, applying the regulatory principles, works to achieve the regulatory objective. Identifying, quantifying, understanding, and responding to risk of consumer harm using an empirical approach is prioritized in our regulatory principles. There are two major aspects to this: (1) assessing risk of consumer harm in the market as a whole (both now and over time); and (2) assessing risk of consumer harm in a particular applicant's legal service offering.

We foresee the regulator using a risk matrix as its primary tool for identifying and understanding risk. A risk matrix is essentially a framework used to evaluate and prioritize risk based on the likelihood of occurrence and the severity of the impact. It is one of the most widespread tools used for risk evaluation. A simple example follows:

Narrowing the Access-to-Justice Gap by Reimagining Regulation



Developing the risk matrix should be the first task for the regulator in assessing the legal services market, and it should be revised and updated market-wide on an ongoing basis. The risk matrix also guides the regulator’s approach to individual regulated entities throughout the regulatory process.

We propose attention to 3 key risks:

1. Consumer achieves a poor legal result.
2. Consumer fails to exercise their legal rights because they did not know they possessed those rights.
3. Consumer purchases a legal service that is unnecessary or inappropriate for resolution of their legal issue.

Using the risk matrix, the regulator would consider likelihood and impact of each of the three key risks mentioned, as well as any other risks identified either in the market generally or as indicated for a particular participant or group of participants. For example, for an entity proposing to offer a software-enabled will drafting service (using perhaps machine learning enhanced guidance or advice or non-lawyer will experts answering questions), the regulator

would assess the likelihood that the consumer achieves a poor legal result (e.g. an unenforceable will or term) and the impact of that harm on the consumer (potentially significant, but rectifiable, in some cases).

The regulator should establish metrics by which those risks might be measured and identify the data regulated entities will be required to submit in order to assess risk on an ongoing basis. The regulated entities will be required to submit data on these in order to participate in the market. In the example above, the risk of a poor legal result can be measured through expert testing/auditing of the proposed product and through consumer satisfaction surveys. The regulator should consider what level of risk self-assessment should be required from applicants in addition to any key risks identified by the regulator.

Regulatory Process

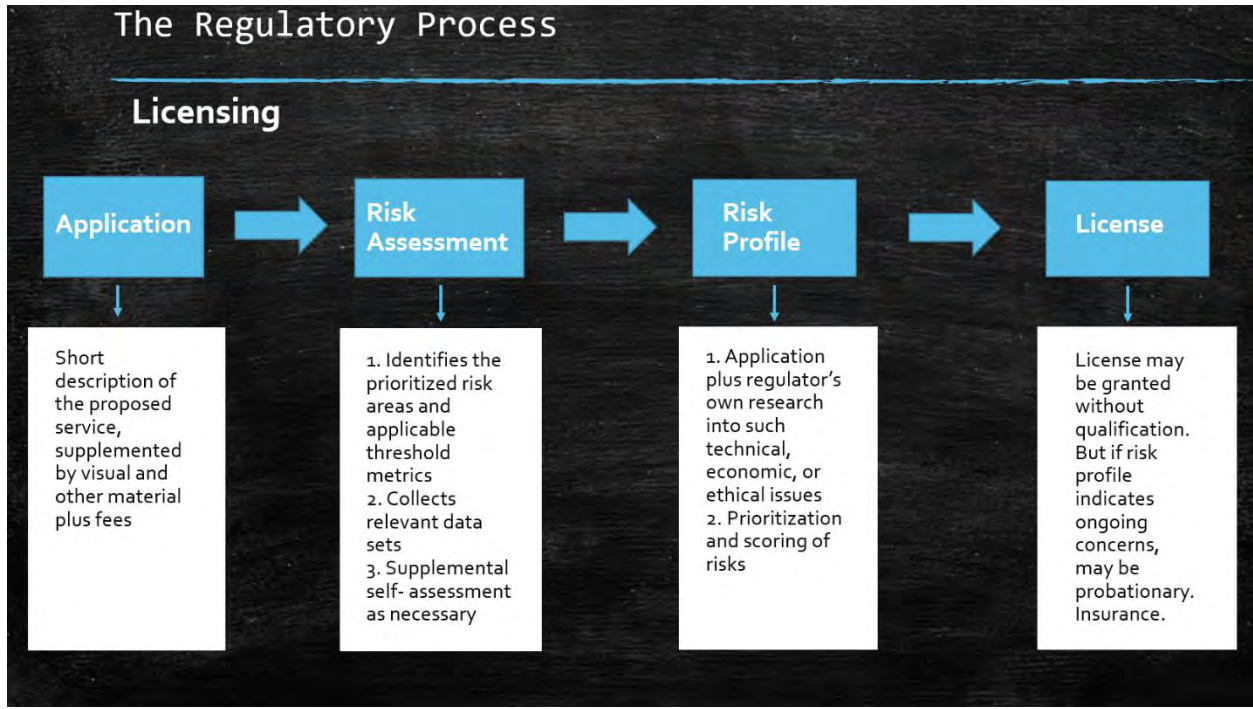
The key points of the regulatory process should be as follows: (1) licensing; (2) monitoring; and (3) enforcement. Each defines a key interaction between the regulator and the market participant.

Licensing

The licensing approach would be guided by the following analysis:

1. What is the specific nature of the risk(s) posed to the consumer by this service/product/business model?
2. Where does the proposed service/product/business model lie within the risk matrix?
3. Can the applicant provide sufficient evidence on the risk(s)?
4. What mechanisms might mitigate those risks and how? What are the costs and benefits of those mechanisms?

The visual below illustrates the proposed licensing process:



Applicant initiates process: The applicant describes the service/product/business model offered. The explanation should be simple and short. The applicant should submit supplemental materials (visuals, etc.) as necessary.

Risk Assessment: Based on the description provided in the initial application, supplemented as necessary with information requests to the applicant, the regulator initiates the risk assessment process.

1. The regulator assesses the applicant's proposal within the context of the risk matrix. Does the proposed service implicate one of the key risks, and what is the likelihood and impact of those risks being realized? The applicant must submit required data on these risks and any information on the mitigation of these risks and response to risk realization built into its model.
2. Self-assessment: the applicant will be expected to identify any risks to consumers not identified in the first step. These may be risks specific to the type of technology proposed, the business model, the area of law, or the consumer population targeted. For example, a blockchain platform for commercial smart contracting presents different concerns than a document completion tool used by self-represented litigants.
3. The regulator should develop a mechanism for sealed risk disclosures—to the extent that any necessary disclosures around technology or other risk mitigation processes should not be made public.

Narrowing the Access-to-Justice Gap by Reimagining Regulation

Fees: The applicant should submit licensing fees both at the outset of the licensing process and annually in order to maintain an active license. The fee regime will be developed to scale with the applicant's statewide revenues.

Regulator Response—Risk Profile: The regulator will then use the application and its own research into such technical, economic, or ethical issues as necessary to develop an overall risk profile of the proposed service/product/business model. A risk profile is not a list of potential risks with little or no differentiation between them. Instead, the risk profile should assess the identified risks both in relation to each other (which are the most probable, which present the greatest financial risk, etc.) and in relation to the legal services market overall. The risk profile will also guide the regulator in its regulatory approach going forward, i.e., how frequently to audit, what kind of ongoing monitoring or reporting to employ, and what kinds of enforcement tools need to be considered.

Regulator Response—Determination on Licensure: If, based on the risk profile, the regulator finds that significant risks have been identified, but it is not clear how the applicant plans to address and mitigate those risks, the regulator can impose probationary requirements on the applicant targeted to address those risks or refuse licensure.

Monitoring and Data Collection

Once an entity is licensed, the regulatory relationship moves on to the monitoring and data collection phase. The purpose of monitoring is continual improvement of the regulatory system with respect to the core objective. Monitoring enables the regulator to understand risks in the market and identify trends and to observe, measure, and adjust any regulatory initiatives to drive progress toward the core objective. Monitoring is not the regulator simply checking the box on a list of requirements.

In monitoring, the regulator can use several different tactics. The regulator should develop requirements such that regulated entities periodically and routinely provide data on the three key risks. The regulator should have the flexibility to reduce or eliminate specific reporting requirements if the data consistently show no harm to consumers. The regulator should also conduct unannounced testing or evaluation of a regulated entities' performance through, for example, "secret shopper" audits or expert audits of random samples of services or products.

The regulator should consider imposing an affirmative duty on regulated entities to monitor for and disclose any unforeseen impacts on consumers.

The regulator should also conduct consumer surveys across the market and consider how to engage with courts and other agencies to gather performance data.

The regulator should use the data gathered to issue regular market reports and issue guidance to the public and regulated entities. The regulators in the U.K., the SRA in particular, provide strong examples of the reporting opportunities. The SRA issues regular reports on risk, regulatory activities, regulated population, consumer reports, and equality and diversity.¹²¹ On risk, the SRA issues quarterly and annual reports that span across the market, as well as thematic reports (a report on risks in conveyancing, for example) and reports on key risks, risks in IT security, risks to improving access to legal services, etc.¹²²

Enforcement

Enforcement is necessary where the activities of licensed entities are harming consumers. Ideally, the regulator will take action when evidence of consumer harm exceeds the applicable acceptable harm thresholds outlined in the risk matrix or individualized risk assessment. The regulator should strive to make the enforcement process as transparent, targeted, and responsive as possible.

The regulator should develop a process for enforcement: intake, investigation, and redress. Evidence of consumer harm can come before the regulator through multiple avenues:

1. Regulator finds evidence of consumer harm through the course of its monitoring, auditing, or testing of regulated entities.
2. Regulator finds evidence of consumer harm through its monitoring of the legal services market.
3. Consumer complaints.
4. Referrals from courts or other agencies.
5. Whistleblower reports.
6. Media or other public interest reports.

The regulator should develop a process by which members of the public can approach the regulator with complaints about legal service. The U.K. approach is informative on this issue. The LSA established a separate and independent entity, the Office of Legal Complaints (OLC) and its Legal Ombudsman to address the bulk of consumer complaints against legal service providers. Complaints around poor service are directed to the Ombudsman, which has the authority to identify issues and trends and refer those to the frontline regulators like the SRA.¹²³ The frontline regulators like the SRA accept complaints that directly implicate significant

¹²¹ See SOLICITORS REGULATION AUTHORITY, *Research and reports* (July 2019), <https://www.sra.org.uk/sra/how-we-work/reports.page> (last visited Aug. 13, 2019).

¹²² See SOLICITORS REGULATION AUTHORITY, *Risk publications*, <https://www.sra.org.uk/risk/risk-resources.page> (last visited Aug. 13, 2019).

¹²³ See SOLICITORS REGULATION AUTHORITY, *Providing information and intelligence to the SRA* (Jan. 20, 2015) <https://www.sra.org.uk/consumers/problems/report-solicitor/providing-information.page> (last visited Aug. 13, 2019). The Ombudsman requires the consumer to complain to the service provider directly before accessing the

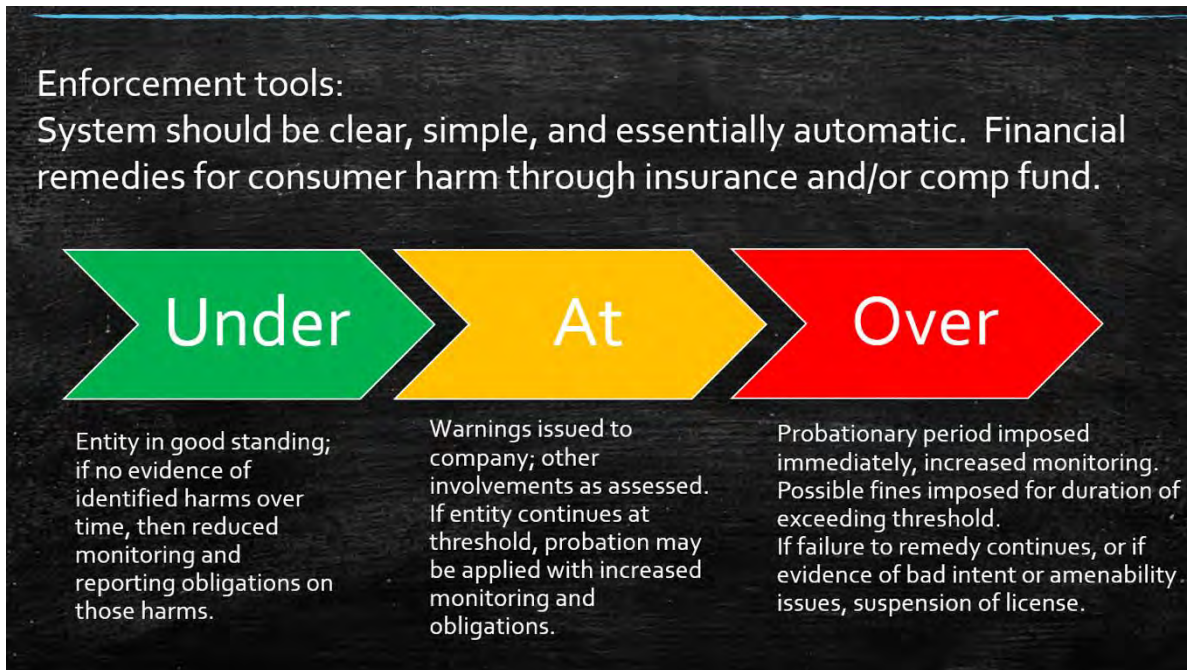
consumer risk (financial wrongdoing, dishonesty, and discrimination for example). The SRA does not, however, advocate individual complaints against service providers. Rather, the SRA will accept the information and either (1) keep the information for future use if necessary (“no engagement at present”), (2) use the information to supervise a firm more closely, or (3) use the information in a formal investigation.¹²⁴ Thus, the structure for complaints enables the frontline regulator to retain its focus on risk at the firm and market level rather than dispensing resources on investigating and managing every individual consumer complaint.

The regulator should consider establishing a Legal Ombudsperson role or office to focus on consumer questions or complaints about poor legal service (issues such as poor communication, inefficient service, trouble following client direction, etc.). This role could be contained within the regulator, but requires proper structural independence and authority to address complaints, require remedial action, and issue clear guidelines on what kinds of information should be referred to the enforcement authority of the regulator.

If the regulator makes a finding of consumer harm that exceeds the applicable threshold, then penalties are triggered. The penalty system should be clear, simple, and driven by the core objective. The regulator should strive to address harm in the market without unnecessarily interfering with the market.

office. See SOLICITORS REGULATION AUTHORITY, *Reporting an individual or firm*, <https://www.sra.org.uk/consumers/problems/report-solicitor.page> (last visited Aug. 13, 2019); see also LEGAL OMBUDSMAN, *Helping the public*, <https://www.legalombudsman.org.uk/helping-the-public/> (last visited Aug. 13, 2019). The Ombudsman has the power to require the legal services provider to take remedial actions such as return or reduce fees, pay compensation, apologize, and do additional work. See LEGAL OMBUDSMAN, *Helping the Public*, <https://www.legalombudsman.org.uk/helping-the-public/#what-problems-we-resolve> (last visited Aug. 13, 2019).

¹²⁴ See SOLICITORS REGULATION AUTHORITY, *Providing information and intelligence to the SRA* (Jan. 20, 2015), <https://www.sra.org.uk/consumers/problems/report-solicitor/providing-information.page> (last visited Aug. 13, 2019).



There should be a process to appeal enforcement decisions, both within the regulator and to the Supreme Court.

The regulator should make regular reports on enforcement data and actions to the Court.

Other Regulatory Duties

The regulator may have other duties that advance the core objective. These would obviously include its reporting duties to both the Court and the public. Reports would detail the overall state of the market, risks across the market, prioritized risk areas, and specific market sectors (by consumer, by area of law, etc.). The regulator may also have the authority to develop initiatives, including public information and education campaigns.

Regulatory Sandbox

This section presents an overview of regulatory sandboxes generally and insights into how our proposed regulatory sandbox could operate.

The regulatory sandbox is a policy structure that creates a controlled environment in which new consumer-centered innovations, which may be illegal under current regulations, can be piloted and evaluated. The goal is to allow regulators and aspiring innovators to develop new offerings that could benefit the public, validate them with the public, and understand how current regulations might need to be selectively or permanently relaxed to permit these and other innovations. Financial regulators have used regulatory sandboxes over the past decade to

encourage more public-oriented technology innovations that otherwise might have been inhibited or illegal under standard regulations.¹²⁵ In the legal domain, the U.K.'s SRA has also created a structure—the Innovation Space—that introduces a system of waivers of regulatory roles for organizations to pilot ideas that might benefit the public.¹²⁶

The regulatory sandbox structure has been used most extensively in the financial services sector. This is an area with extensive and detailed regulations and a significant amount of technological development and innovation. While there are significant differences between financial services and legal services, there are insights to be drawn from regulatory sandbox operation in that sector. Below are some general characteristics of sandboxes:

1. **Testing out what innovations are possible.** The regulatory sandbox can allow the regulator to selectively loosen current rules to see how much and what kinds of new innovation might be possible in their sector.¹²⁷ Regulators and the industry see that new types of technology developments, with the rise of artificial intelligence, digital and mobile services, blockchain, and other technologies, may bring new benefit to the public. Guarantees of non-enforcement in the sandbox can allow companies to raise more capital for experimental new offerings that may not otherwise be funded because of regulatory uncertainty about how the rules would apply to these new models. The regulators can use the sandbox to understand how much innovation potential there is in the ecosystem, beyond mere speculation that emerging tech has promise in their market if regulations were changed.
2. **Tailored evaluation plans focused on risk.** The sandbox model puts the burden on companies to define how their services should be measured in regard to benefits, harms, and risks. They must propose not only what innovation is possible, but also how it can be assessed.
3. **Controlled experimentation.** The sandbox allows for regulators to run controlled tests as to what changes to regulation might be possible, both in terms of what rules apply and how regulation is carried out. They can install safeguards to protect the experiments from spilling over into the general market, and they can terminate individual experiments or the entire sandbox if the evidence indicates that unacceptable harms are emerging.

¹²⁵ See *supra* n.55.

¹²⁶ SOLICITORS REGULATION AUTHORITY, *Enabling innovation: Consultation on a new approach to waivers and developing the SRA Innovation Space* (Apr. 12, 2018), <https://www.sra.org.uk/sra/consultations/enabling-innovation.page> (last visited Aug. 13, 2019).

¹²⁷ The selective loosening or non-enforcement of different rules is less applicable in our proposed sandbox because, as noted, we have a good idea of what rules need to be revised or removed (unauthorized practice of law, corporate practice, and fee sharing rules). What we are less certain of is what risks might come to bear as a result of the loosening or non-enforcement of those rules (see point 2).

4. **New sources of data on what regulation works best.** The sandbox can be a new source of data-driven, evidence-backed policy-making. Because sandbox participants gather and share data about their offerings' performance (at least with the regulators, if not more publicly), the sandbox can help develop standards and metrics around data-driven regulation. It can incentivize more companies to evaluate their offerings through rigorous understanding of benefits and harms to the public, and it can help regulators develop protocols to conduct this kind of data-driven evaluation.

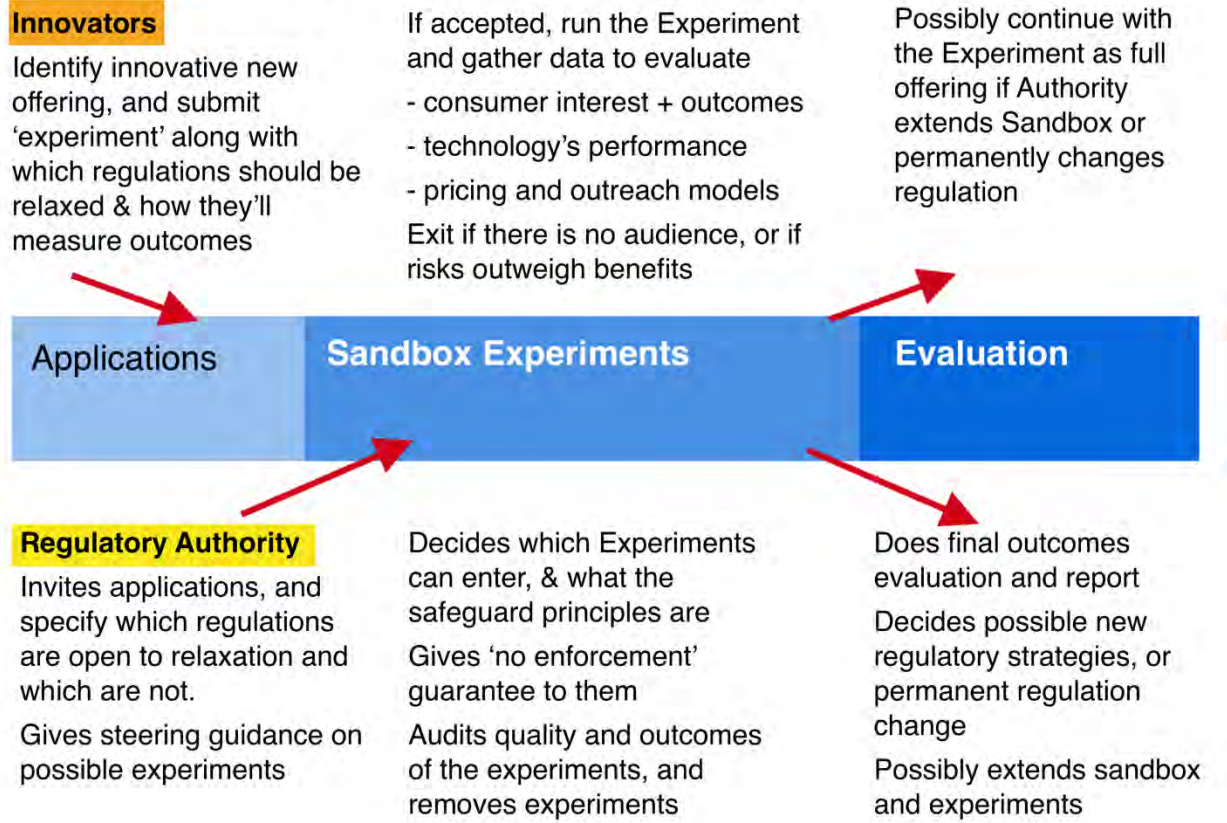
Points 2 and 4 will be key for our regulatory sandbox: identifying and assessing risk and developing data to inform the regulatory approach.

How Does A Regulatory Sandbox Work?

A regulator can create a sandbox to incentivize greater innovation and to gather more data-driven evidence on how offerings and regulations perform in regard to benefits or harms to the public. The essential steps of a regulatory sandbox are as follows:

1. **The regulator issues a call for applications.** This call defines the essential rules of the sandbox: which regulations are open to being relaxed or removed and which cannot be. It also can specify what kinds of innovations will be accepted into the sandbox, the types of data and evaluation metrics that must be prepared, the non-enforcement letters or other certifications that successful applicants will receive, and other safeguards or criteria for possible applicants. Typically, this call is for a "class" of applicants that are all accepted at the same time and run in parallel (though it could be a rolling application instead).
2. **Companies submit applications.** Any type of organization can propose a new offering to be included in a sandbox class. Applicants must detail exactly what the new offering is (e.g., what the technology is, what it intends to accomplish, and how it functions); how they expect it to benefit the public; what risks or harms they expect might arise; how they will deploy and measure this offering; and which rules or regulations need to be relaxed in order for this offering to be allowed.

A Regulatory Sandbox Model



3. **Start of the sandbox.** The regulator reviews the applications and accepts those that have demonstrated an innovative new offering, a strong assessment plan, and a strong potential for public benefit. The regulator invites these approved participants to enter the sandbox and establishes how the data-sharing, auditing, and evaluation will proceed. If the participants agree to these arrangements, they receive a letter of non-enforcement from the regulator that gives them permission to develop and launch the agreed-upon offering, within the confines of the sandbox, without being subject to the identified regulations.
4. **Sandbox runs and rolling evaluation begins.** A typical sandbox period could be six months to two years. The participant companies work on developing their offerings, putting them on the market, and collecting data on their performance. When applicants bring a new offering to the public, they must conspicuously disclose that it is part of the sandbox and refer consumers to the regulator where they can learn more about the offering and give feedback or complaints. The regulator observes the performance of the offering to see if the public uses it, if the intended benefits result, if any of

the expected or unexpected harms result, and what complaints consumers have. The regulator can suspend or cancel the non-enforcement letter at any time if the company is not performing according to the agreement, if its offering does not engage an audience, or if the offering results in harms above what the regulator has deemed acceptable.

5. **Sandbox ends and company and regulator (potentially) continue on.** Once the designated period of the sandbox finishes, the company can continue with its approved offering if it so wishes, with the non-enforcement authorization still intact. The regulator can take stock of the participants, offerings, and data, and it can use this information to shape another round of applications—perhaps changing the terms of the safeguards; the protocols for evaluation of risks, harms, and benefits; or what types of innovation it solicits. The regulator might also use the data from the completed experiments to permanently relax or change the regulations for the entire market. In this way, the sandbox can be a way to experiment with and validate different regulations. The regulator may also formalize the protocols it uses to measure harm and benefit, moving those protocols from the sandbox experiments to all company offerings in the market.

A sandbox cycle ideally will result in a class of consumer-centered innovations that demonstrate how new kinds of technologies and services can offer value to the public. It can inform regulators about what rules and protocols work best to evaluate both sandbox innovations as well as existing offerings in the market. It can also incentivize more companies to enter the market with offerings that can both serve consumers and secure investment for the company. It may also make clear which types of technologies may be harmful to the public, how better to predict and assess what kinds of harms and benefits a given potential offering may result in, and what the public does and does not want.

A Regulatory Sandbox for Legal Services

As of mid-2019, there has not been a regulatory sandbox for legal services. But there have been calls, including in the UK and in Australia, for legal regulators to create sandboxes similar to those used in financial services, to test regulatory reform for innovation and new business structures that promote broader access to justice.¹²⁸

Our team held a workshop in April 2019 to explore the prospect of a legal regulatory sandbox in the U.S. Our goal was to understand whether there might be an appetite from law firms, legal technology companies, legal aid groups, foundations, and other organizations that might be entrants into a legal services regulatory sandbox. If a state was to issue a call for

¹²⁸ Neil Rose, *Law Society calls for “innovation sandbox”*, LEGAL FUTURES (Aug. 22, 2016), <https://www.legalfutures.co.uk/latest-news/law-society-calls-innovation-sandbox> (last visited Aug. 13, 2019).

sandbox applications and the possibility to relax legal professional rules, would there be interest from groups to enter this sandbox, with an innovative offering to test?

We held the workshop as an invite-only follow-up to the Stanford Future Law conference, which is a pre-eminent gathering of those interested in legal innovation. The conference organizers helped us reach out to many attendees who might be possible sandbox entrants, including leading legal technology companies, law firms with innovation groups, venture capital groups that are interested in the legal market, other large financial and professional services companies, legal aid groups, justice technology non-profits, and foundations interested in access to justice. We then supplemented this recruitment with invites to attorneys, entrepreneurs, and funders who might be interested in new models of legal services.

The workshop was a two-hour, hands-on event. We had approximately 30 participants, which we assembled into small teams to work on exploring what ideas participants had for innovation, what current rules and regulations they might ask to have relaxed, and what concrete innovation offerings they might be interested in submitting to a sandbox. This workshop design was meant to have participants:

1. Reflect on whether a sandbox was needed,
2. Identify what kinds of innovation potential it might unlock, and
3. Validate if they would participate in a sandbox if it were to launch, and under what conditions.

Our team documented the work, discussions, and debrief of the sandbox workshop.

Positive response to sandbox and new regulatory approach. The participants were overwhelmingly positive towards the prospect of a sandbox—confirming that controlled tests were needed to encourage innovation in legal services, allow more capital investment in new technology and service models that currently would face regulatory uncertainty, and drive more benefit to the public regarding access to justice. They welcomed a risk-based, empirical approach to regulation of the legal services market. It was not difficult for them to understand the concept, and the financial services sandbox models made it easy to see how analogous models could work in law.

Willingness to enter the sandbox with near-term or long-term innovations. Many of the participants, including start-ups, alternative service providers, and consumer/legal technology companies, said that they would seriously consider entering the sandbox if it was to launch. There were near-term innovation experiments that participants would be ready to apply for within the next year. This could include projects such as chatbots that provide help and referrals to the public or a new technology-based proof-of-service offering to record digital

forms of service. There were also more long-term innovations that would only be ready for application to the sandbox once given more time and investment. Those included automated dispute resolution tools to create contract-based or court-order judgments and community-based arbitrators to resolve disputes with staffing models that include more non-lawyers and judges.

Some of the particular points raised by participants that indicate some of the conditions, safeguards, and concerns that a legal services sandbox may need to address include the following:

1. **Expanding the sandbox from legal professional rules to other rules.** Many people mentioned the possibility for a sandbox to not just suspend professional rules of conduct, but also to possibly change court rules and civil procedure rules in order to allow new services to flourish.
2. **Absolute importance of post-sandbox approval.** The participants all agreed that a crucial condition of the sandbox is that participants could continue with their offering, provided risks of harm were demonstrably within appropriate levels, after the sandbox class formally concluded. They would not invest in a new innovation if they were given a non-enforcement guarantee that would expire at the end of the sandbox. They were fine with the possibility that the guarantee might be rescinded if their offering did not perform as intended or if it harmed the public.
3. **Concern over access to evaluation data.** Participants were very concerned about who would be able to access the data that they would gather and share with the regulator about the performance and effects of their innovative offerings. Many asserted that the data should not, by default, be “public data” or subject to total transparency. They said that the prospect of having their data about acquisition cost, pricing, staffing, sales, profit and other performance analytics being shared with others would deter them from entering the sandbox. This is closely-guarded competitive information, and even sharing it with a regulator would be considered a possible threat to business strategies. They would be more comfortable sharing outcome data—such as data about number of users and outcomes of users—particularly if other competitors must share these data with the regulator as well.
4. **Concern over failed testing at the sandbox stage.** One concern of possible sandbox entrants was that a failed offering may receive more public scrutiny if it occurs as part of the sandbox than if the company stayed in the regular marketplace and had the same product failure. They expressed concern that the data about this failure would be publicly available and the story of that failure might turn out to be a liability for the company. They could instead

develop the offering in the current regulatory scheme, not expose the innovation explicitly to the regulator, and then choose how much attention to draw to their offering.

5. **More states involved, more entrants.** Several participants mentioned that they would be more likely to devote resources to entering the sandbox if there were multiple states involved in it. This multistate involvement could be explicit in the form of states as members of the sandbox, or states could be “watchers” of the sandbox with potential to also extend non-enforcement guarantees or open their markets to successful sandbox experiments. Such involvement would encourage more entrants, particularly if states with larger legal markets were to be involved. That said, participants agreed that being vetted and legitimated by a regulator in one state would be worthwhile, in the expectation that it could positively influence their relationship with other states’ regulators.

A focus on access. A final cluster of points that emerged from the workshop and subsequent conversations with interested parties was about the need to prioritize access to justice and equity in the sandbox design. Many reflected, after the workshop, that the sandbox most likely will lead to innovations, especially initially, that serve the middle and upper classes, who can afford unbundled legal service offerings. They questioned whether the sandbox could be designed to incentivize benefits to extend to people with less money to spend on services. Some specific ideas included:

1. **Obligation to distribute innovations to low-income communities.** As more offerings succeed in the sandbox, there might be obligations for the companies to give free licenses, software, or other access to people who cannot afford them.
2. **Matchmaking between technologists, legal aid, and social service groups.** Could a regulator, or associated group, help encourage more access-oriented entrants by bringing together experts with new technologies and business models with professionals who work closely with low-income communities? In this way, the regulator could help legal aid lawyers and social service providers better understand how they might harness emerging technologies and do “innovation” (when most of them do not have the resources to do this on their own). The regulator might also offer incentives and training to possible entrants who are focused on low-income consumers.
3. **Particular encouragements in the application call.** Participants also recommended that the regulator might specifically call for access-oriented innovations when it announces the sandbox. The regulator could identify promising uses of data, AI, staffing, and business models that the literature and experts have already identified for promoting access to justice.



Office of Legal Services Innovation
An Office of the Utah Supreme Court

INNOVATION OFFICE ACTIVITY REPORT

EXECUTIVE SUMMARY

DECEMBER 2022

JANUARY 19, 2023

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OVERALL METRICS

Total Applications Received	95
Applicants Recommended to Court for Authorization	63
Applicants Denied Recommendation from Innovation Office	2
Applicants Denied Authorization by Court	0
Applicants Tabled (referral fees)	10
Inactive or Withdrawn Applicants Before Recommendation	13
Currently Under Office Review	10
Recommended to Court for Authorization Pending Decision	7
Authorized Entities	47 (plus 5 entities withdrawn and 1 terminated after authorization; 53 total)
Entities Reporting Data (this month)	20
Entities Recommended to Exit the Sandbox	0
Key Risks and Trends	The Office received 1 complaint for sandbox qualified legal services this month



EXECUTIVE SUMMARY

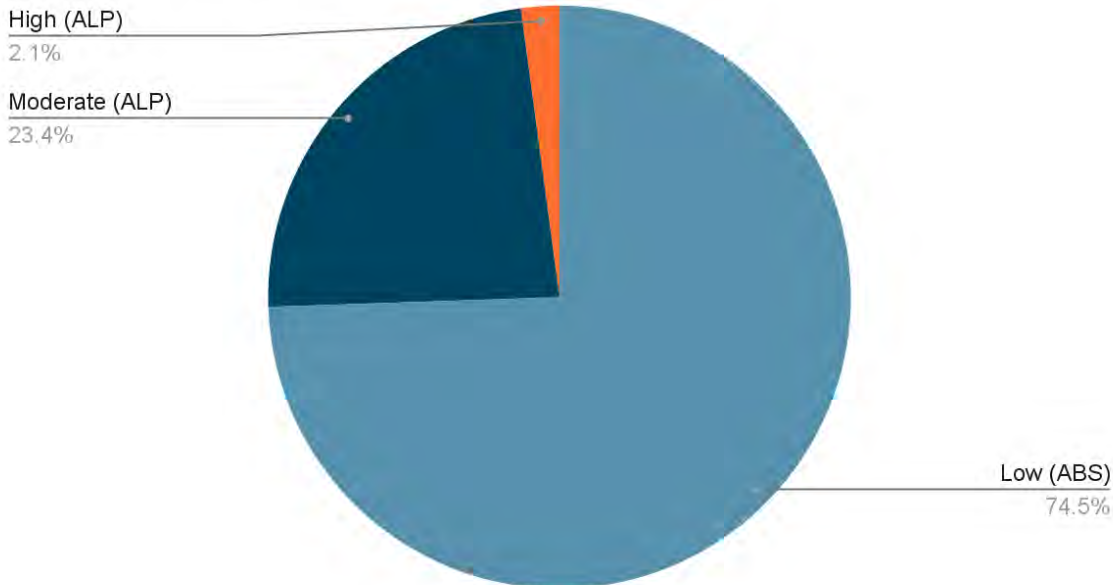
This report summarizes activities and negative risk assessment (i.e., harms) of entities approved by the Utah Supreme Court to implement legal services within the Utah Sandbox and monitored by the Office of Legal Services Innovation. This report covers the period of October 2020 through December 2022.

SANDBOX ACTIVITY (OCTOBER 2020 - DECEMBER 2022)

Active Entities Authorized to Offer Sandbox Legal Services

- 49 active entities approved to offer services

Entities Authorized



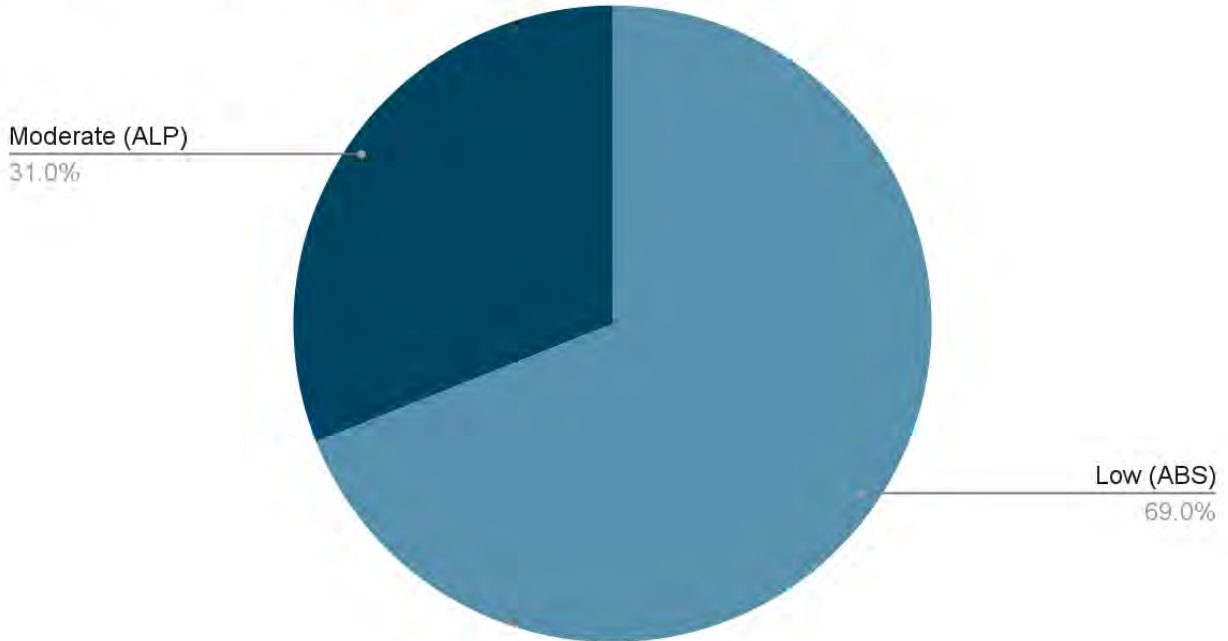
- o **Low Innovation (Alternative Business Structures)=37** (AGS Law, Angel Advocates, Believe First, Bike Legal, Blue Ridge Law Group, Boundless Immigration, D4U Immigration, Darrow AI, Davis and Sanchez, Esquire Law, Fair Credit LLC [formerly Credit Cop], Firmly, GovAssist Legal, Hello Divorce, Herbert-Greenwald Law, HW Human Capital, Immigration Office Solutions, LawPal, Legal Atoms, Lindenberg Law Group, Mina Legal Services, Motion Law LLC, Mountain West Legal Protective, My Immigration, Off the Record, Olsen & Partners Law, PD Digital Logistics Design, R&R Legal Services PLLC, Rocket Lawyer, Rocky Mountain Justice, Savvi Technologies, Standout Legal, Trajan Estate, Trajector Legal [formerly Legal Claims, Inc.], Truinta, WayLit, Xira)
- o **Moderate Innovation (Alternative Legal Providers)=11** (1Law, DSD Solutions, Estate Guru, Holy Cross Ministries, Jordanelle Blocks, LawGeex, Law on Call, Pearson & Butler, Rasa Public Benefit Corporation [formerly Sudbury Consulting], Timpanogos Legal Center, Zaf Legal [Nuttall, Brown & Coutts])
- o **High Innovation (Alternative Legal Providers)=1** (AAA Fair Credit)



Authorized Entities Reporting Data through December 2022

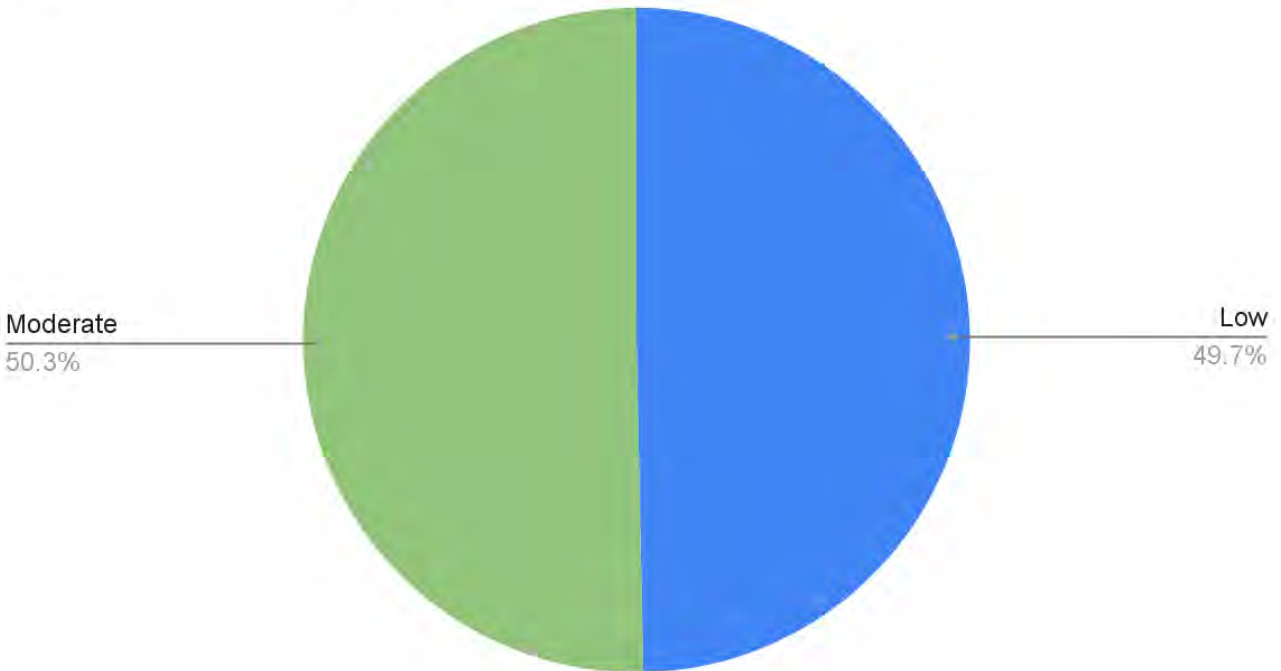
- 31 entities reporting data to date; 20 reporting this period
 - 20 low innovation entities (alternative business structures); 9 moderate innovation entities (alternative legal providers)

Entities Reporting Data to Date



Proportion of Services by Entity Innovation and Legal Categories Addressed through December 2022

Legal Services by Entity Risk

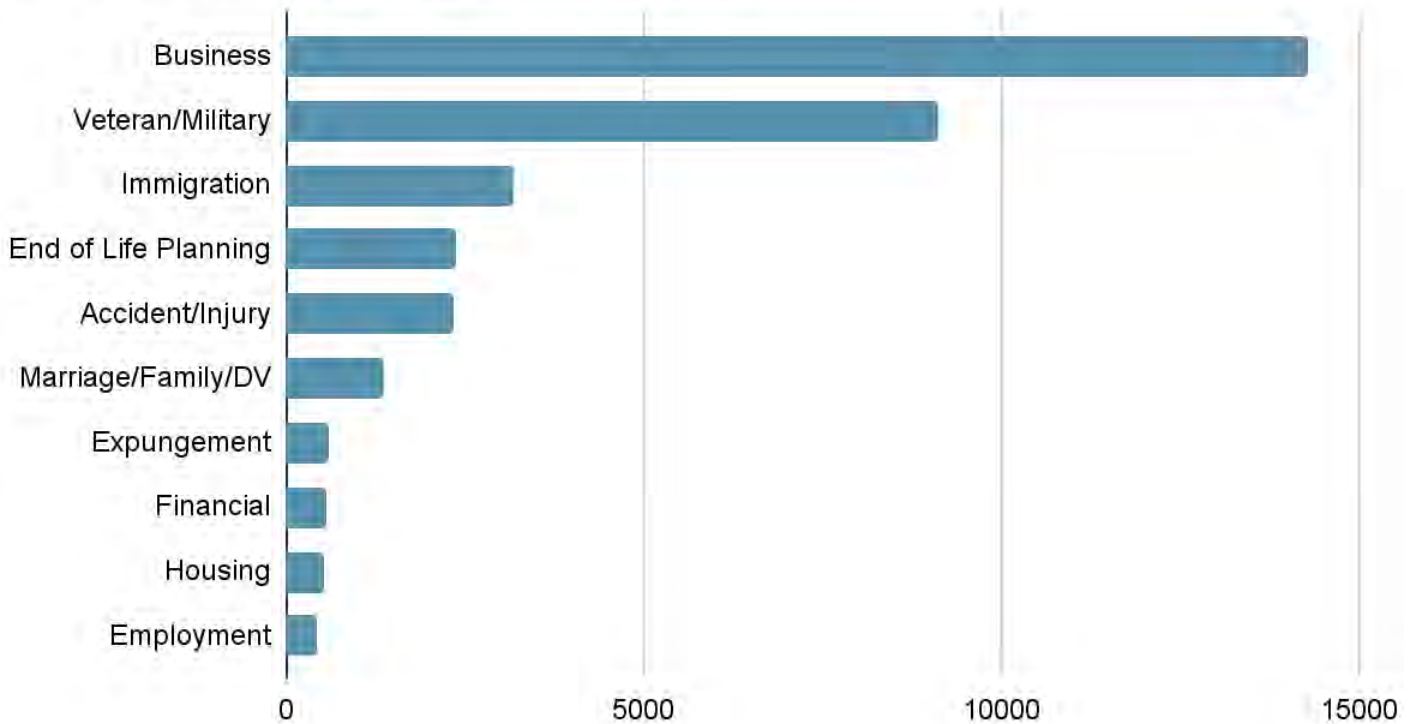


- 37,764 legal services sought from approximately 24,000 unduplicated consumers
 - Low (authorized as an alternative business structure)=18,759 legal services sought; Moderate (authorized as an alternative legal provider)=19,005 legal services sought
 - 32,827 (86.9%) legal services have been delivered by a lawyer (or lawyer employee) or software for form or document completion only with lawyer involvement
 - 4,937 (13.1%) legal services have been delivered by non-lawyers (software or person) with lawyer involvement
- *Legal Categories Addressed by Service*
 - The rank of legal category addressed has been:
 - 1) Business [41.7%; e.g., intellectual property, contracts/warranties, and entity incorporation];
 - 2) Military/Veterans Benefits [24.2%];
 - 3) Immigration [8.8%];
 - 4) End of Life Planning [6.5%];



- 5) Accident/Injury [6.3%];
- 6) Marriage/Family [2.7%];
- 7) Financial [e.g., individual bankruptcy and collections practices; 1.6%];
- o Seven legal categories accounted for 91.9% of legal services. The remaining 13 possible legal categories accounted for 8.1%.
- o The top three categories accounted for 74.6% of legal services.

Total Services by Legal Areas (Top 10)

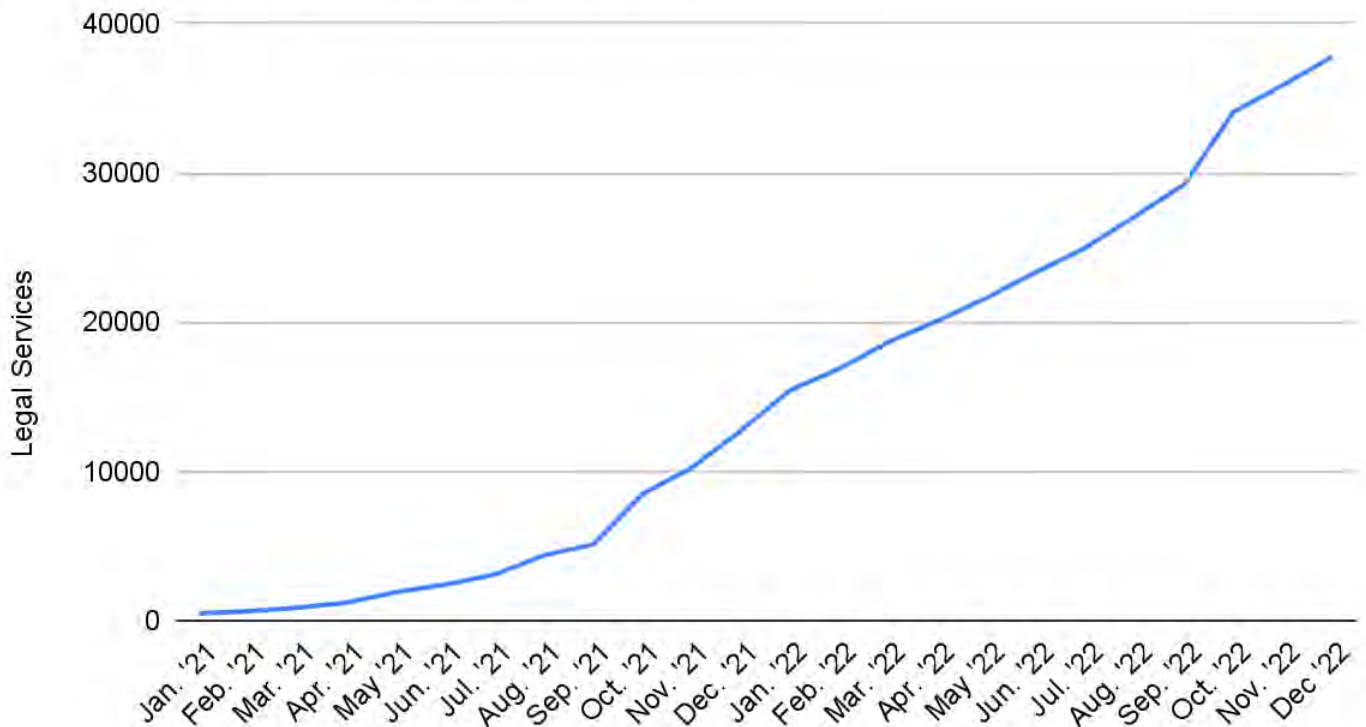


Note that housing rental and housing ownership (real estate) legal matters were collapsed to create the category of Housing and that Marriage & Family and Domestic Violence were collapsed into a single category.



Growth of Services Across Time

Cumulative Legal Services by Month



Complaints and Audits

- To date, entities have reported fourteen complaints to the Office, approximately 1 complaint per 2,905 services delivered. The first complaint was reported in the April 2021 report and was linked to the harm of an inappropriate/inaccurate legal result. The second complaint was reported in the May 2021 report but was not linked to any of the three harms. The third, fourth, and fifth complaints were linked to exercising legal rights and were reported during June, September, October 2021 respectively. Two complaints were reported during December 2021 but neither was harm-related. During April 2022, two complaints were received by the Office; one complaint was harm-related and classified as a harm to a legal result, and the other complaint was found to not be associated with a rights-, results-, or payment-harm. Two complaints were made during June 2022, with one not being harm-related and the other related to a payment harm. One complaint, not harm-related, was made during July of 2022. Another sandbox complaint, not



consumer harm-related, linked to entity disclosures was during November 2022. One complaint was made during December 2022 related to the purchase of an unnecessary legal service. The ratio of harm-related complaints to services was approximately 1 complaint per 5,395 services. To date, entity response to harm-related complaints has been adequate and acceptable as related to harm mitigation and prevention.

Consumer Complaint Assessment: All Reporting Entities to Date

Complaint Harm Category	# Consumer Harm-Related Complaints	% Services with a Harm-Related Consumer Complaint
Consumer achieves an inaccurate or inappropriate legal result.	2	<0.01%
Consumer fails to exercise legal rights through ignorance or bad advice.	3	<0.01%
Consumer purchases an unnecessary or inappropriate legal service.	2	<0.01%

- o Audit materials have been collected from three moderate risk entities, with three reviewed by the Office. Independent lawyer audit panelists reviewed randomly selected representative legal services of the three entities. Three entities’ audit reports were completed and distributed to the Legal Services Innovation Committee (formerly Executive Committee) of the Office of Legal Services Innovation and the Utah Supreme Court for review. Based on audit findings, there was no evidence of material or substantial harm to consumers, and services were found to be at least satisfactory by the Office, its Committee, and independent lawyer auditors. The three entities were authorized to continue to offer services within the sandbox.



TABLE 1: AUTHORIZED ENTITIES

Entity Name	Risk Level	Service Models	Service Categories
04 - Lawpal	Low	Lawyers employed / managed by nonlawyers	End of Life Planning
			Consumer Financial Issues
		50+% non lawyer ownership	Housing (Rental)
		Software provider /w lawyer - doc completion	Marriage and Family
05 - Rocket Lawyer	Low	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
			Discrimination
			Domestic Violence
			Education
		Employment	
		50+% non lawyer ownership	End of Life Planning
			Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
			Marriage and Family
Military			
Public Benefits			



			Real Estate
07 - R & R Legal Services, PLLC	Low	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Domestic Violence
			End of Life Planning
		50+% non lawyer ownership	Consumer Financial Issues
			Healthcare
			Marriage and Family
			Public Benefits
10 - Blue Bee Bankruptcy	Low	Lawyers employed / managed by nonlawyers	Education
		<50% non lawyer ownership	Consumer Financial Issues
14 - FOCL Law	Low	Lawyers employed / managed by nonlawyers	Marriage and Family
		50+% non lawyer ownership	
		Software provider /w lawyer - doc completion	
15 - AGS Law	Low	<50% non lawyer ownership	Business
			End of Life Planning
			Real Estate
19 - Firmly, LLC	Low	<50% non lawyer ownership	Business
23 - Off the Record	Low	50+% non lawyer ownership	Traffic Citations
		Intermediary Platform	
32 - Tanner LLC (Withdrawn from Sandbox March 2021)	Low ¹	Lawyers employed / managed by nonlawyers	Business
		50+% non lawyer ownership	
33 - Xira Connect	Low	50+% non lawyer ownership	Accident / Injury
			Adult Care
			Business



			Criminal Expungement	
			Discrimination	
			Domestic Violence	
		Fee Sharing		Education
				Employment
				End of Life Planning
				Consumer Financial Issues
				Healthcare
				Housing (Rental)
				Immigration
		Intermediary Platform		Marriage and Family
				Military
				Native American / Tribal
				Public Benefits
				Real Estate
Traffic Citations				
37 - Robert DeBry (Withdrawn from Sandbox May 2021)	Low ¹	Lawyers employed / managed by nonlawyers	Accident / Injury	
		50+% non lawyer ownership		
38 - Davis and Sanchez	Low	Lawyers employed / managed by nonlawyers	Accident / Injury	
		50+% non lawyer ownership	Education	
39 - Legal Claims Benefits (Trajector Legal)	Low	Lawyers employed / managed by nonlawyers	Accident / Injury	
			Education	
		50+% non lawyer ownership	Healthcare	
			Military	



			Public Benefits
41 - Mountain West Legal Protective	Low	Lawyers employed / managed by nonlawyers	Housing - Rental
		50+% non lawyer ownership	Real Estate
44 - Hello Divorce	Low	Lawyers employed / managed by nonlawyers	Marriage and Family
		<50% non lawyer ownership	
48 - Legal Atoms	Low	50+% non lawyer ownership	Immigration
		Software provider /w lawyer - doc completion	Marriage and Family
		Fee sharing	Domestic Violence
			Housing - Rental
50 - GovAssist Legal	Low	Lawyers employed / managed by nonlawyers	Immigration
		50+% non lawyer ownership	
		Fee sharing	
		Software provider /w lawyer - doc completion	
51 - Rocky Mountain Justice	Low	<50% non lawyer ownership	Accident / Injury
52 - My Immigration	Low	Lawyers employed / managed by nonlawyers	Immigration
		50+% non lawyer ownership	
		Lawyers sharing fees with nonlawyers	
		Software provider /w lawyer - doc completion	
53 - Savvi Technologies, Inc.	Low	Lawyers employed / managed by nonlawyers	Business
		Non lawyer ownership	
		Lawyers sharing fees with nonlawyers	
56 - Blue Ridge Law Group	Low	Lawyers employed / managed by nonlawyers	Accident / Injury
		Non lawyer ownership	
		Lawyers sharing fees with nonlawyers	



57 - Believe First	Low	Lawyers employed / managed by nonlawyers	Adult Care
			Business
			Discrimination
			Domestic Violence
		Non lawyer ownership	Education
			Employment
			End of Life Planning
			Financial
			Healthcare
		Lawyers sharing profits with nonlawyers	Housing (Rental)
			Marriage and Family
			Public Benefits
			Real Estate
			Other
		58 - Herbert Greenwald Law Group	Low
Less than 50% nonlawyer ownership			
Lawyers sharing profits with nonlawyers			
59 - Waylit	Low	Lawyers employed / managed by nonlawyers	Business
		Non lawyer ownership	Employment
		Intermediary platform	
60 - Trajan Estate	Low	Lawyers employed / managed by nonlawyers	End of Life Planning
		Non lawyer ownership	
		Lawyers sharing profits with nonlawyers	Business



61 - PD Digital Logistics Design	Low	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Discrimination
			Domestic_Violence
		Non lawyer ownership	Education
			Employment
			End of Life Planning
			Financial
			Healthcare
			Housing (Rental)
		Intermediary platform	Immigration
			Marriage and Family
			Military
			Native American and Tribal Law
			Public Benefits
			Real Estate
		Traffic Citation	
62 - Fair Credit, LLC (formerly Credit Cop)	Low	Lawyers employed / managed by nonlawyers	Financial
		Non lawyer ownership	
		Lawyers sharing profits with nonlawyers	
63 - Immigration Office Solutions	Low	Lawyer employed / managed by nonlawyers	Immigration
		Nonlawyer ownership	
		Lawyers sharing profits with nonlawyers	



		Software with lawyer involvement- legal document completion	
64 - Boundless Immigration	Low	Lawyer employed / managed by nonlawyers	Immigration
		Nonlawyer ownership	
		Lawyers sharing profits with nonlawyers	
		Software with lawyer involvement- legal document completion	
66 - Bike Legal	Low	Lawyers employed / managed by nonlawyers	Accident / Injury
		Non lawyer ownership	
		Lawyers sharing fees with nonlawyers	
67 - Esquire Law	Low	Lawyer employed / managed by nonlawyers	Accident / Injury
		Nonlawyer ownership	
		Lawyers sharing profits with nonlawyers	
70 - Mina Legal Service	Low	Lawyer employed / managed by nonlawyers	Immigration
		Nonlawyer ownership	
		Lawyers sharing profits with nonlawyers	
71 - D4U Immigration	Low	Lawyer employed / managed by nonlawyers	Immigration
		Nonlawyer ownership	
		Lawyers sharing profits with nonlawyers	
		Software with lawyer involvement - legal document completion	
75 - Lindenberg Law Group	Low	Lawyer employed / managed by nonlawyers	Business
		Nonlawyer ownership	Consumer Financial Issues
		Lawyers sharing profits with nonlawyers	Healthcare
76 - Standout Legal	Low	Lawyer employed / managed by nonlawyers	Business
		Nonlawyer ownership	End of Life Planning
			Housing (Rental)



		Lawyers sharing profits with nonlawyers	Marriage and Family
77 - Olson & Partners	Low	Lawyer employed / managed by nonlawyers	Business
		Nonlawyer ownership	Consumer Financial Issues
		Lawyers sharing profits with nonlawyers	
79 - HW Human Capital	Low	Lawyer employed / managed by nonlawyers	Business
		Nonlawyer ownership	
		Lawyers sharing profits with nonlawyers	Immigration
80 - Truinta	Low	Lawyer employed / managed by nonlawyers	Business
			Employment
		Nonlawyer ownership	Consumer Finance
			Discrimination
		Lawyers sharing profits with nonlawyers	Real Estate
82 - Angel Advocates	Low	Lawyer employed / managed by nonlawyers	Accident/Injury
			Adult Care
			Education
			Employment
		Nonlawyer ownership	End of Life Planning
			Financial Issues
			Healthcare
			Housing - Rental
		Lawyers sharing profits with nonlawyers	Marriage and Family
			Military
Public Benefits			



02 - 1Law	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Adult Care
			Business
			Criminal Expungement
			Criminal (Other)
		50+% non lawyer ownership	Discrimination
			Domestic Violence
			Education
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Consumer Financial Issues
			Healthcare
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Public Benefits
Real Estate			
Traffic Citations			
03 - Law HQ	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
		50+% non lawyer ownership	Business
		Software provider w/ lawyer involvement	Employment
12 - Nuttall Brown	Moderate	Lawyers employed / managed by nonlawyers	Accident Injury
		50+% non lawyer ownership	Business
		Software provider w/ lawyer involvement	Discrimination
		Non-lawyer provider w/ lawyer involvement	Employment
			Marriage and Family



13 - Estate Guru	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% non lawyer ownership	End of Life Planning
		Fee Sharing	Consumer Financial Planning
		Software provider /w lawyer - doc completion	Healthcare
		Software provider w/ lawyer involvement	Real Estate
		Non-lawyer provider w/ lawyer involvement	
27 - Rasa (Sudbury Consulting)	Moderate	Software provider w/ lawyer involvement	Criminal Expungement
		Lawyers sharing fees with nonlawyers	Employment
		Non-lawyer provider w/ lawyer involvement	
28 - Pearson & Butler	Moderate	50+% non lawyer ownership	Accident / Injury
			Adult Care
			Business
			Discrimination
			Education
		Fee Sharing	Employment
			End of Life Planning
			Consumer Financial Issues
			Housing (Rental)
			Immigration
		Non-lawyer provider w/ lawyer involvement	Marriage and Family
			Military
			Native American / Tribal
Public Benefits			



			Real Estate
30 - Law on Call	Moderate	Lawyers employed / managed by nonlawyers	Business
			End of Life Planning
		50+% non lawyer ownership	Consumer Financial Issues
			Housing (Rental)
		Non-lawyer provider w/ lawyer involvement	Real Estate
31 - DSD Solutions	Moderate	Lawyers employed / managed by nonlawyers	Accident / Injury
			Business
			Criminal Expungement
		50+% non lawyer ownership	Domestic Violence
			Employment
			End of Life Planning
		Software provider w/ lawyer involvement	Housing (Rental)
			Immigration
			Marriage and Family
		Non-lawyer provider w/ lawyer involvement	Public Benefits
Real Estate			
Traffic Citations			
36 - Timp. Cert. Advocates	Moderate	Nonlawyer provider w/out lawyer involvement	Domestic Violence
			Marriage and Family
40 - Utah Legal Advocates	Moderate	Nonlawyer provider w/ Lawyer Involvement	Domestic Violence
		Fee Sharing	Marriage and Family
42 - Jordanelle Blocks	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% non lawyer ownership	
		Fee Sharing	Housing - Rental



		Software provider /w lawyer - doc completion	Real Estate
		Software provider w/ lawyer involvement	
		Non-lawyer provider w/ lawyer involvement	
43 - LawGeex	Moderate	Lawyers employed / managed by nonlawyers	Business
		50+% non lawyer ownership	Healthcare
		Software provider w/ lawyer involvement	
45 - Holy Cross Ministries	Moderate	Non-lawyer provider w/ lawyer involvement	Financial Issues
			Immigration
			Health Care
			Public Benefits
47 - AAA Fair Credit	High	Non-lawyer provider w/out lawyer involvement	Financial Issues
			Healthcare
			Public Benefits

¹Robert DeBry and Tanner LLC were authorized at Low-Moderate before withdrawing.

TABLE 2: AUTHORIZED ENTITIES REPORTING STATUSES

Entity Name	Risk Category	Launch Date	First Report Due	Frequency
AGS Law	Low	Oct. 1, 2020	Jan. 5, 2021	Quarterly
Rocket Lawyer	Low	Oct. 1, 2020	Nov. 5, 2020	Quarterly
The Fiduciary Law Firm (R&R Legal)	Low	Jan. 1, 2021	Feb. 5, 2021	Quarterly
FOCL Law	Low	Jan. 1, 2021 (relaunch TBD)	Feb. 5, 2021 (relaunch TBD)	Quarterly
LawPal	Low	Feb. 1, 2021 (relaunch Dec. 15, 2022)	Mar. 5, 2021 (relaunch Jan. 5, 2023)	Quarterly
Davis and Sanchez	Low	Jul. 1, 2021	Aug. 5, 2021	Quarterly
Firmly LLC	Low	Jul. 1, 2021	Oct. 5, 2021	Quarterly
Legal Claims Benefits (Trajector)	Low	Aug. 15, 2021	Sept. 5, 2021	Quarterly
GovAssist Legal	Low	Feb. 1, 2022	Mar. 5, 2022	Quarterly
My Immigration	Low	Mar. 1, 2022	Apr. 5, 2022	Quarterly



Off the Record	Low	Apr. 1, 2022	May 5, 2022	Quarterly
Trajan Estate	Low	Apr. 1, 2022	Jul. 5, 2022	Quarterly
Believe First	Low	May 1, 2022	Aug. 5, 2022	Quarterly
Fair Credit, LLC (Credit Cop)	Low	Jul. 1, 2022	Oct. 5, 2022	Quarterly
Sarvi Technologies, Inc.	Low	Aug. 15, 2022	Nov. 5, 2022	Quarterly
Boundless Immigration	Low	Aug. 15, 2022	Nov. 5, 2022	Quarterly
Bike Legal	Low	Sep. 1, 2022	Dec. 5, 2022	Quarterly
Mountain West Legal Protective	Low	Sep. 1, 2022	Dec. 5, 2022	Quarterly
Herbert-Greenwald	Low	Nov. 1, 2022	Feb. 5, 2023	Quarterly
D4U Immigration	Low	Nov. 1, 2022	Feb. 5, 2023	Quarterly
Esquire Law	Low	Nov. 1, 2022	Feb. 5, 2023	Quarterly
Mina Legal Services	Low	Nov. 1, 2022	Feb. 5, 2023	Quarterly
Hello Divorce	Low	Dec. 1, 2022	Mar. 5, 2023	Quarterly
HW Human Capital	Low	Jan. 1, 2023	Apr. 5, 2023	Quarterly
Rocky Mountain Justice	Low	TBD	TBD	Quarterly
Immigration Office Solutions	Low	TBD	TBD	Quarterly
Blue Ridge Law Group	Low	TBD	TBD	Quarterly
Lindenberg Law Group	Low	TBD	TBD	Quarterly
Olson & Partners	Low	TBD	TBD	Quarterly
Standout Legal	Low	TBD	TBD	Quarterly
Legal Atoms	Low	TBD	TBD	Quarterly
Xira Connect	Low	TBD	TBD	Quarterly
Waylit	Low	TBD	TBD	Quarterly
PD Digital Logistics Design	Low	TBD	TBD	Quarterly
Truinta	Low	TBD	TBD	Quarterly
Angel Advocates	Low	TBD	TBD	Quarterly
1Law	Moderate	Oct. 1, 2020	Nov. 5, 2020	Monthly
Estate Guru	Moderate	Dec. 1, 2020	Jan. 5, 2021	Monthly
Law on Call	Moderate	Apr. 1, 2021	May 5, 2021	Monthly
Pearson & Butler (Elysium Holdings) (Elysium Legal)	Moderate	Apr. 1, 2021 (moderate launch TBD Pearson & Butler;	May 5, 2021 (moderate launch TBD Pearson &	Quarterly (Elysium Holdings)



		moderate launch Elysium Legal Nov. 15, 2022)	Butler; Elysium Legal Dec. 5, 2022)	Monthly (Pearson & Butler moderate and Elysium Legal moderate)
Timp Cert. Legal Advocates	Moderate	Jun. 1, 2021	Jul. 5, 2021	Monthly
Law Geex	Moderate	Nov. 1, 2021	Dec. 5, 2021	Monthly
Nuttal Brown	Moderate	Dec. 1, 2021	Jan. 5, 2022	Monthly
Utah Legal Advocates	Moderate	Mar. 1. 2022	Apr. 5, 2022	Monthly
Rasa (Sudbury Consulting)	Moderate	May 1, 2022	Jun. 5, 2022	Monthly
DSD Solutions	Moderate	TBD	TBD	Monthly
Jordanelle Blocks	Moderate	TBD	TBD	Monthly
Holy Cross Ministries	Moderate	TBD	TBD	Monthly
AAA Fair Credit	High	TBD	TBD	Monthly



DECEMBER 2022 ACTIVITY RISK REPORT - HARM ASSESSMENT

Depending on an entity's assessed risk level (the risk level assigned at authorization), OLSI collects a range of measures from the entity designed to assess the occurrence of three harms to consumers (this can also be understood as "actualized risk"):

- Consumer achieves inaccurate or inappropriate legal results.
- Consumer fails to exercise legal rights through ignorance or bad advice.
- Consumer purchases an unnecessary or inappropriate legal service.

As service activity increases among sandbox participants, the Office will receive more kinds of information. For entities assigned higher risk levels, this will include information about legal outcomes, financial outcomes, and expert audits of a sample of work product. As these data accumulate, harm assessments will be based on a review of all applicable measures.

In these early stages of service provision and reporting, the assessment of consumer harm is based on the prevalence of consumer complaints indicating the occurrence of one or more of the three harms. Social scientific studies grounded in expert peer review of lawyers' work product typically find that lawyers commit errors in one fifth to one quarter of the cases reviewed. Taking this finding as a baseline, the harm assessment classifies receipt of harm-related complaints from more than 25% of consumers as a significant warning of harm (red), which would indicate an immediate need for the entity to work with OLSI to develop and implement quality improvement plans to prevent harms and might also lead the Office to recommend that the Court suspend the entity's operations in the sandbox. Receipt of harm-related complaints from 11-25% of consumers would trigger a watch (yellow) to better understand and prevent potential harms and would likely include the requirement of additional information from entities so classified. Receipt of harm-related complaints from 10% or fewer of an entity's consumers is considered reasonable risk (green) and does not trigger the need for any additional risk assessment.





Task Force on the Delivery of Legal Services

October 4, 2019

Report and Recommendations

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EXECUTIVE SUMMARY

Creation and Charge of Task Force

On November 21, 2018, then Chief Justice Scott Bales issued Administrative Order No. 2018-111, which established the Task Force on Delivery of Legal Services. The administrative order outlined the purpose of the task force as follows:

- a) Restyle, update, and reorganize Rule 31(d) of the Arizona Rules of Supreme Court to simplify and clarify its provisions.
- b) Review the Legal Document Preparers program and related Arizona Code of Judicial Administration requirements and, if warranted, recommend revisions to the existing rules and code sections that would improve access to and quality of legal services and information provided by legal document preparers.
- c) Examine and recommend whether nonlawyers, with specific qualifications, should be allowed to provide limited legal services, including representing individuals in civil proceedings in limited jurisdiction courts, and administrative hearings not otherwise allowed by Rule 31(d), and family court.
- d) Review Supreme Court Rule 42, ER 1.2 related to scope of representation and determine if changes to this and other rules would encourage broader use of limited scope representation by individuals needing legal services.
- e) Recommend whether Supreme Court rules should be modified to allow for co-ownership by lawyers and nonlawyers in entities providing legal services.
- f) In the Chair's discretion, consider and recommend other rule or code changes or pilot projects on the foregoing topics concerning the delivery of legal services.

The administrative order further directed the task force to submit a report and recommendations to the Arizona Judicial Council (AJC) by October 1, 2019. The report that follows consists of the task force's recommendations for the AJC's review and consideration.

The Task Force Process

Members of the task force represented a wide variety of perspectives on the delivery of legal services. From January through September 2019, the task force met monthly, discussing the issues outlined by Administrative Order 2018-111 and its charge. The task force received

presentations on various innovative approaches employed nationally and internationally to deliver legal services. The task force also heard from speakers about the changing legal marketplace and the impact of those changes on the cost of legal services and on the legal profession itself. Information about how local, national, and international community leaders are examining, exploring, and implementing innovative ways of delivering legal services was a regular part of information shared and discussed at monthly meetings.

Due to the number and complexity of topics the task force was charged with addressing and the limited time it had to explore those topics, task force members divided into two workgroups.¹ Workgroups met in breakout sessions during monthly task force meetings as well as in meetings held separately as needed. Workgroups invited subject matter experts, legal practitioners, and other stakeholders to give presentations and to testify on various topics. Each task force meeting included presentations by the workgroups, along with questions from and feedback by all task force members about workgroup efforts. Task force meetings were attended by the public and stakeholders who were encouraged to comment on the recommendations generated by the workgroups. This approach facilitated input from different perspectives, accounted for potential overlap among workgroups, ensured workgroups were not working in isolation, and recognized that members of the public and local stakeholders had a substantial interest in and knowledge about the topics being explored that would facilitate developing meaningful final recommendations.

¹ A workgroup co-led by Don Bivens and Stacy Butler addressed items (a) through (c) and a workgroup led by Judge Maria Elena Cruz addressed items (d) through (f) of the task force's charge.

Abbreviated Recommendations

1. Eliminate Arizona’s Rules of Professional Conduct (ER) 5.4 and 5.7 and amend ERs 1.0 through 5.3 to remove the explicit barrier to lawyers and nonlawyers co-owning businesses that engage in the practice of law while preserving the dual goals of ensuring the professional independence of lawyers and protecting the public. In anticipation of these rule changes, the Supreme Court should immediately convene a group to explore regulation of legal entities in which nonlawyers have a financial interest.
2. Modify ERs 7.1 through 7.5 (the “Advertising Rules”) to incorporate many of the 2018 ABA Advertising Rule amendments and to align the rules with the recommendation to amend ERs 1.0 through 5.3 and eliminate ERs 5.4 and 5.7.
3. Promote education and information on what unbundled legal services are to the bench, bar, and public to encourage expanded understanding and utilization of unbundled legal services.
4. Revise Rule 38(d), Arizona Rules of Supreme Court, to clarify when a law student at an accredited law school or recent law school graduate may practice law under the supervision of a lawyer admitted to practice in Arizona, what legal services the law student or law graduate may provide, and the duties and obligations of the supervising lawyer.
5. Revise Rule 31(d), Arizona Rules of Supreme Court, by re-styling the rule into four separate rules, making the rule easier to navigate and understand.
6. Develop, via a future steering committee, a tier of nonlawyer legal service providers, qualified by education, training, and examination, to provide limited legal services to clients, including representation in court and at administrative proceedings.
7. Initiate, by administrative order, the Licensed Legal Advocate Pilot program developed by the Innovation for Justice Program at the University of Arizona James E. Rogers College

of Law, to expand delivery of legal services to domestic violence survivors through the creation of a new tier of legal service provider.

8. Initiate, by administrative order, the DVLAP Document Preparer Pilot program as proposed by the Arizona Foundation for Legal Services and Education (the “Bar Foundation”) to create exceptions to the requirements of the Legal Document Preparer program and allow domestic violence lay advocates to prepare legal documents for victims of domestic violence receiving services through the Bar Foundation’s Domestic Violence Legal Assistance Program (DVLAP).
9. Make the following changes to improve access to and the quality of legal services provided by certified Legal Document Preparers:
 - a. Amend ACJA § 7-208 to allow LDPs to speak in court when addressed by a judge.
 - b. Amend ACJA § 7-208 to further define permissible and prohibited activities of LDPs.
 - c. The Arizona Supreme Court should pursue a campaign of educating the bench, members of the bar, and the public regarding what a legal document preparer is, what they can do, and what they are prohibited from doing.
 - d. Amend ACJA § 7-208 to remove the restrictions prohibiting legal document preparers from assisting clients who are represented by counsel.
 - e. Recommend increased access to LDP training, especially online, particularly for LDPs in rural areas.
 - f. Amend the ACJA and any other rules governing the investigation of and seeking of legal sanctions for engaging in unauthorized practice of law when the actions in

question involve a person acting in a manner that a legal document preparer would act if certified.

10. Advance and encourage local courts to establish positions and programs where nonlawyers located within the court are available to provide direct person-to-person legal information to self-represented litigants about court processes and available self-help services.

REPORT AND RECOMMENDATIONS

I. Background

The American Bar Association Commission on the Future of Legal Services found that “[d]espite sustained efforts to expand the public access to legal services, significant unmet needs persist” and that “[m]ost people living in poverty, and the majority of moderate-income individuals, do not receive the legal help they need.”² In 2017, the Legal Services Corporation released a report, finding that 86% of civil legal matters reported by low-income Americans in the prior year received no or inadequate legal help.³ Relevant to the task force’s work, the Commission found that as of the last census, 63 million people met the financial qualifications for legal aid, but funding for the Legal Services Corporation is inadequate.⁴ In fact, in some jurisdictions more than 80% of civil litigants are in poverty and unrepresented.⁵ Importantly, one study has shown that “well over 100 million Americans [are] living with civil justice problems many involving what the American Bar Association has termed ‘basic human needs,’” including

² Commission on the Future of Legal Services, *Report on the Future of Legal Services in the United States*, 11-14 (American Bar Association 2016), available at https://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf

³ Legal Services Corporation, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans* (2017), available at <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>; National Center for State Courts, *Nonlawyer Legal Assistant Roles Efficacy, Design, and Implementation*, 1 (2015) (Research on unmet civil legal needs suggest that around 80% of such need does not make it into a court. At the same time, legal aid organizations are able to satisfy less than half of those that request legal help.).

⁴ Commission on the Future of Legal Services, *supra* note 2, at p. 12.

⁵ *Id.*

matters such as housing (evictions and mortgage foreclosure), child custody proceedings, and debt collection.⁶

One reason for the current “justice gap” is that the costs of hiring lawyers has increased since the 1970s, and many individual litigants have been forced to forego using professional legal services and either represent themselves or ignore their legal problems.⁷ Professor William D. Henderson, Indiana University Maurer School of Law, has noted the alarming decline in legal representation for what he calls the “PeopleLaw sector,” observing that law firms have gradually shifted the core of their client base from individuals to entities. Indeed, while total receipts of United States law firms from 2007 to 2012 rose by \$21 billion, receipts from representing individuals declined by almost \$7 billion. Correspondingly, the percentage of revenue generated by representing individuals fell 4.8% during that time period.⁸ And according to a report issued by the National Center for State Courts, 76% of 900,000 civil cases examined from July 1, 2012 through June 30, 2013 involved at least one self-represented party.⁹

Small firm lawyers, who primarily serve the PeopleLaw sector, are struggling to earn a living, which curtails their abilities to represent people unable to pay adequate amounts for legal services.¹⁰ According to the 2017 Clio Legal Trends Report, the average small firm lawyer bills

⁶ *Id.* (quoting Rebecca L. Sandefur, What We Know and Need to Know About the Legal Needs of the Public, 67 S.C. L. Rev. 433, 466 (2016)).

⁷ William Henderson, *The Decline of the People Law Sector*, November 19, 2017, Post 037, available at <https://www.legalevolution.org/2017/11/decline-peoplelaw-sector-037/>.

⁸ *Id.* at i.

⁹ National Center for State Courts, *The Landscape of Civil Litigation in State Courts*, 31-33 (2015), available at <https://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx>.

¹⁰ See Henderson, *supra* note 7 at p. 14-15.

\$260 per hour, performs 2.3 hours billable work a day, bills 1.9 hours of that work, and collects 86% of invoiced fees.¹¹ As a result, the average small firm lawyer earns \$422 per day before paying overhead costs. These lawyers are spending roughly the same amount of time looking for legal work and running their business as they are performing legal work for clients.¹² Professor Henderson suggests that this lagging legal productivity may result in part from ethical rules that restrict ownership of law firms to lawyers because “ethics rules are the primary mechanism for regulating the market for legal services.”¹³ Also, a growing mismatch between the cost of litigation and amounts in controversy has made many cases unattractive to lawyers and clients alike.¹⁴

Courts across the nation strive to give litigants greater access to civil justice. Much of that focus, in the past decade, has been on providing clear information to self-represented litigants about court processes and procedures. But despite these efforts, the justice gap has grown between those who can afford to pay for legal services and those who cannot do so. Clearly, merely assisting litigants to navigate the justice system alone is insufficient to ensure that Arizonans have meaningful access to our courts to resolve legal issues. And although subsidized and free legal

¹¹ Clio, *2017 Legal Trends Report*, 17 (2017), <https://www.clio.com/resources/legal-trends/2017-report/>.

¹² *Id.*

¹³ Henderson, *supra* note 7, at p. 21 (citing Larry E. Ribstein, *Ethical Rules, Agency Costs, and Law Firm Structures*, 84 Va. L. Rev. 1707 (1998) (noting that “[e]thical rules are a form of professional self-regulation enforced by civil liability or professional discipline.”)).

¹⁴ National Center for State Courts, *Civil Justice Initiative: The Landscape of Civil Litigation in State Courts*, 25 (2015), available at <https://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx>.

services, including low bono and pro bono legal services, are a key part to solving this access to justice gap, they are insufficient. “U.S. lawyers would have to increase their pro bono efforts . . . to over nine hundred hours each to provide some measure of assistance to all households with civil legal needs.”¹⁵

Considering the large market for legal services left unserved by lawyers, technology-based and artificial intelligence platforms have stepped in to serve clients. Online entities assist customers to form businesses, register trademarks, and draft wills and other legal forms.

Arizona has long explored new ways of delivering legal services. Since 2003, the Arizona Supreme Court has authorized the certification of Legal Document Preparers (“LDPs”), and the State Bar of Arizona recently implemented a web-based “Find A Lawyer” program, connecting those with legal needs to lawyers willing to do the work pro bono or at an affordable cost.¹⁶ Arizona courts have also worked to expand and clarify ways in which court staff can provide legal information to self-represented parties.¹⁷ Arizona, like other states, has also recently turned to technology to help bridge the justice gap. Examples include implementing a virtual resource center through the award-winning webpage AZCourtHelp.org with legal information sheets and legal information videos, pilot online dispute resolution programs, and the design of an online program (AZPoint.org) to streamline drafting, filing, serving, and transmitting orders of protection.

¹⁵ Commission on the Future of Legal Services, *supra* note 2, at p. 14 (citing Gillian K. Hadfield, *Innovating Access: Changing the Way Courts Regulate Legal Markets*, *Daedalus* 5 (2014)).

¹⁶ <https://azbar.legalserviceslink.com/>

¹⁷ *See, e.g.*, the Arizona Commission on Access to Justice’s Question and Response Handbook available in print for court employees and accessible online through AZCourtHelp.org available at <https://www.azcourthelp.org/faq>.

It is against this backdrop and Arizona’s many years of efforts to advance access to justice that the task force was established and carried out its work. The task force developed 10 recommendations in relation to the six topics it was charged with analyzing. The following pages summarize those recommendations and the impetus and rationale behind them.

II. Recommendations.

Recommendation 1: Eliminate Arizona’s ERs 5.4 and 5.7 and amend ERs 1.0 through 5.3 to remove the explicit barrier to lawyers and nonlawyers co-owning businesses that engage in the practice of law while preserving the dual goals of ensuring the professional independence of lawyers and protecting the public.

A. Review of National Efforts and Recommendation Development.

Ethical rules have been called out as contributing to the justice gap as demonstrated by Professor Henderson’s *Legal Marketplace Landscape Report*.¹⁸ Henderson’s watershed report and the work of the Association of Professional Responsibility Lawyers (APRL) make clear that Arizona’s ethical rules should be amended given that lawyers are increasingly providing services in a manner other than through traditional legal partnerships or professional corporations. E.R. 5.4, which generally prohibits lawyers from sharing fees with nonlawyers and prohibits nonlawyers from having any financial interest in law firms, has been identified as a barrier to innovation in the delivery of legal services.

Arizona is not alone in considering significant and innovative changes to the ethical rules that restrict ownership of any business that engages in the practice of law to lawyers alone. In June 2019 the Board of Trustees of the State Bar of California voted to seek public comment on broad concepts for changing California’s ethical rules that would allow limited alternative business

¹⁸ Henderson, *supra* note 7, at p. 21; Oregon State Bar Futures Task Force, *Future: The Future of Legal Services in Oregon, Executive Summary*, 4 (2017), available at http://www.osbar.org/_docs/resources/taskforces/futures/futurestf_summary.pdf (citing Commission on the Future of Legal Services, *supra* note 2, at p. 16).

structures.¹⁹ These concepts include loosening rules on passive investment and allowing nonlawyers to partner with lawyers in the formation of businesses that provide legal services. Utah is similarly considering a two-year pilot “sandbox” program that would allow the formation of alternative business structures and regulate those businesses through an independent regulatory body overseen by the Utah Supreme Court. In addition, Washington D.C. has allowed limited alternative business structures for several decades²⁰ and the American Bar Association (“ABA”) Commission on the Future of Legal Services has also considered proposals to eliminate model ethical rule 5.4.²¹

Task force members not only heard from Professor Henderson but spoke with representatives from the Washington D.C. Bar about the effect of D.C.’s 5.4 rule changes, heard from ethics experts locally, and attended a summit hosted by the Institute for the Advancement of the American Legal System (“IAALS”), that focused on regulatory changes related to the practice of law. The task force received information about past and present efforts of national organizations like the ABA and APRL to consider and propose rule changes that would allow for the creation of alternative legal business structures. To assist it, the workgroup assigned to examine whether to permit nonlawyer ownership of firms invited two Arizona ethics lawyers to join in forming proposals.²² A sentiment that resounded within the workgroup was that lawyers have the ethical

¹⁹ See State Bar of California Task Force on Access Through Innovation of Legal Services Report: *Request to Circulate Tentative Recommendations for Public Comment*, July 11, 2019, available at <http://board.calbar.ca.gov/docs/agendaItem/Public/agendaitem1000024450.pdf>.

²⁰ Rule 5.4, D.C. Rules of Professional Conduct.

²¹ Commission on the Future of Legal Services, *supra* note 2, at p. 66.

²² Patricia A. Sallen, a legal ethics consultant and lawyer based in Phoenix, Arizona, whose work has included serving as Director of Special Services and Ethics with the Arizona State Bar,

obligation to assure legal services are available to the public, and that if the rules of professional conduct stand in the way of making those services available, then the rules should be changed, albeit in a way that continues to protect the public.

Before deciding to recommend eliminating ER 5.4, the task force considered and rejected two other proposals offered by the workgroup. First, similar to Washington D.C.'s approach, the task force considered amending Rule 5.4 to allow the formation of alternative business structures.²³ The goal of this proposal was to open business possibilities and allow passive investment in legal services businesses. Important aspects of this proposal included disclosing to the public and clients that the businesses involved nonlawyer partners or investors, registering with the State Bar, and reinforcing the ethical rules that address lawyer independence and conflicts of interest. Major hurdles faced by the workgroup in attempting to merely amend ER 5.4 and other ethical rules addressing the independence of lawyers and protection of the public included how to regulate nonlawyers, the impossibility of identifying all possible businesses arrangements that might be formed and considering the effect of such rule changes on multi-jurisdiction law practices.

Second, the task force explored recommending a pilot “sandbox” program in which ER 5.4 would be waived for entities that applied for and were granted permission to operate as multi-discipline legal service providers. This proposal was rooted in the idea that entrepreneurial lawyers and nonlawyers would pilot a range of different business forms, which would permit the Supreme

working as ethics counsel for the Arizona State Bar, membership on the Arizona Supreme Court Attorney Regulation Advisory Committee, and teaching and writing about ethics-related topics nationally. Lynda L. Shely, is a Scottsdale, Arizona, attorney who provides ethics advice and representation to lawyers and law firms in Arizona and the District of Columbia, presents nationally on ethics-related topics, served as Director of Ethics for the State Bar of Arizona, has been called as an ethics expert witness, is a member of the Association of Professional Responsibility Lawyers (APRL), and is active in ABA committees.

²³ Commission on the Future of Legal Services, *supra* note 2, at p. 42.

Court to determine how ER 5.4 should be amended and eliminate the guesswork involved in the first proposal. Hurdles to this proposal included identifying who would decide applications for waivers of the ethical rules and whether the limited duration of a pilot project would deter business formation because of the risk that the businesses would have to close if the pilot program did not result in permanent rule changes.

The task force ultimately concluded that no compelling reason exists for maintaining ER 5.4 because its twin goals of protecting a lawyer's independent professional judgment and protecting the public are reflected in other ethical rules which can be strengthened. The task force therefore voted to file a rule petition to eliminate ERs 5.4 and 5.7 and modify ERs 1.0 through 5.3 to ensure lawyer independence and public protection. Considering these changes, the task force also recommends eliminating ER 5.7.

After significant discussion, the task force relatedly recommends that the Supreme Court convene a group to explore entity regulation for firms in which nonlawyers have an ownership interest. Currently, Arizona's rules of professional responsibility apply only to lawyers. But entity regulation is not a unique concept. The United Kingdom regulates legal entities, and the Utah Work Group on Regulatory Reform recently made a proposal regarding the issue. Utah proposes developing a new regulatory body for legal services. As the Utah Supreme Court moves forward with revising the rules of practice, it will simultaneously pursue creation of a new regulator, operating under the supervision and direction of the Supreme Court, for the provision of legal services. Utah anticipates some form of an independent, non-profit regulator with delegated regulatory authority over some or all legal services.²⁴

²⁴ The Utah Work Group on Regulatory Reform, *Narrowing the Access-to-Justice Gap by Reimagining Regulation*, 15, 21 (2019) available at <https://www.utahbar.org/wp-content/uploads/2019/08/FINAL-Task-Force-Report.pdf>

Entity regulation should be explored as an additional tool to ensure lawyer independence, client confidentiality, and consumer protection. Given the limited time afforded the task force for its work, it did not explore in detail the advisability of legal entity regulation or what such regulation would entail. Task force members considered, however, whether entity regulation should, at least, (1) require a lawyer with a financial interest or managerial authority in a legal entity to be responsible for nonlawyer owners to the same extent as if the nonlawyers were lawyers, (2) require informed written consent from clients acknowledging both a nonlawyer's financial interest or managerial authority in the entity and the entity's commitment to the lawyer's independence of professional judgment, and (3) designate one person in the entity to be responsible for the nonlawyers' compliance with any regulations.

The proposed amendments are summarized below and are detailed in Appendix 1 accompanying this report.

B. Summary of Proposed Elimination of ERs 5.4 and 5.7 and Amendments to ERs 1.0 through 5.3.

The proposed amendments to Arizona's ERs 1.0 through 5.3 would remove the requirement restricting the ownership of any business that engages in the practice of law exclusively to lawyers. This recommendation is centered in the elimination of ER 5.4 and re-defining the term "firm" in ER 1.0(c). Proposed changes to the ethical rules also ensure that the concepts of a lawyer's independent professional judgment and protection of the public are emphasized in the remaining ethical rules. Several proposed amendments eliminate comments to the rules, incorporating any substantive comments into the rules themselves, deleting comments that are duplicative or unnecessary, and amending remaining comments to be more concise and instructive. All proposed rule changes are designed to ensure that the ethical rules governing conflicts, obligations to the client, professional independence of lawyers, and maintaining the

overarching goal of protecting the public that have traditionally been the core values of the rules of professional conduct remain, regardless whether services are provided by a business that involves a partnership between lawyers and nonlawyers, involve passive investment in a purely legal services business, or provides both legal and nonlegal services.

ER 5.4 Professional Independence of a Lawyer

ER 5.4, which prohibits sharing fees with nonlawyers and forming partnerships with nonlawyers if any part of the partnership's activities include the practice of law, is "directed mainly against entrepreneurial relationships with nonlawyers" and aimed at "protecting a lawyer's independence in exercising professional judgment on the client's behalf free from control by nonlawyers."²⁵ The ABA Model Rule 5.4 and its predecessor rules as far back as the 1928 Canons of Professional Ethics, "originated in legislation aimed at forbidding lawyers from being employed by corporations to provide services to members of the public."²⁶ The prohibition was not rooted in protecting the public but in economic protectionism. There was "no evidence that the corporations then supplying lawyers to clients were harming the public, and the transparent motivation behind the legislation was to protect lawyers' businesses."²⁷ In evaluating the need to continue ER 5.4, the task force considered whether the rule serves a modern purpose and concluded it no longer serves any purpose, and in fact may impede the legal profession's ability to innovate to fill the access-to-civil-justice gap.

ER 5.4's negative effect was evident during the great recession, when many lawyers expressed interest in partnering with nonlawyers to be a "one-stop shop" for consumers who

²⁵ ABA Formal Ethics Opinion 01-423 (2001).

²⁶ Bruce A. Green, *Lawyers Professional Independence: Overrated or Undervalued?* 46 Akron L. Rev. 599, 618 (2013).

²⁷ *Id.*

wanted to refinance home loans, stop foreclosures, or participate in short sales. Typically, lawyers endeavored to create partnerships with mortgage brokers and real estate agents to help consumers. But ER 5.4's bar to partnering with a nonlawyer to provide legal services prohibited lawyers from forming these relationships. And yet creating single entities to offer all those services may have served consumer-clients' best interests.

The legal profession cannot continue to pretend that lawyers operate in a vacuum, surrounded and aided only by other lawyers or that lawyers practice law in a hierarchy in which only lawyers should be owners. Nonlawyers are instrumental in helping lawyers deliver legal services, and they bring valuable skills to the table.

Eliminating ER 5.4 would allow, for example:

- A nonlawyer to have an ownership interest in a partnership in which a lawyer provides legal services to others outside the entity;
- A nonlawyer partner in a firm to provide nonlegal services to clients of the entity;
- A nonlawyer to serve as a firm's chief financial officer or chief technology officer; and
- A lawyer to pay nonlawyer personnel a percentage of fees earned by the law firm on a particular case.

Eliminating ER 5.4 will not remove protection afforded a lawyer's professional independence and the public. ER 1.8(f), for example, already directs that third-party payers such as insurance companies cannot interfere with a lawyer's independent professional judgment or the client-lawyer relationship.

ER 1.0 Terminology

The proposed amendments include a new definition of "firm" to account for ownership interests in legal businesses by nonlawyers. The amendments include broadening the definition of "screened" to clarify that reasonably adequate procedures to screen both lawyers and nonlawyers

with ownership interests must be undertaken, and the amended definition provides direction on what constitutes “reasonably adequate procedures.”

In addition, proposed amendments to ER 1.0 incorporate concepts from existing comments to the rule and other rules that the task force determined were important enough to be part of the rule’s text. Amendments also define previously undefined phrases in rules that are necessary to address the new concept of nonlawyers having an ownership interest in firms and those nonlawyers providing nonlegal services to firm clients.

ER 1.5 Fees

The proposed amendments to ER 1.5 are rooted in ensuring that the language of the rule reflects the change to the definition of “firm” in ER 1.0(c) and reflects the elimination of ER 5.4’s prohibition of a business providing legal services to be owned by lawyers and nonlawyers alike. The proposed rule also incorporates language from current comments to clearly provide that the rule applies to firms dividing a single billing to a client and firms jointly working on a matter. The rule further requires that division of responsibility must be reasonable.

ER 1.6 Confidentiality

The amendment to ER 1.6 requires that a lawyer make reasonable efforts to prevent inadvertent or unauthorized disclosure of confidential information about a client, even if the services the firm provides to the client are purely nonlegal. The task force recognized that by eliminating ER 5.4 and allowing lawyers and nonlawyers to partner together to form businesses that might provide both legal and nonlegal services, it remains imperative to protect clients and the confidentiality of representations. Therefore, the amendment to ER 1.6 preserves that protection and clarifies that regardless whether a client is receiving legal services from a lawyer or receiving nonlegal services from a nonlawyer, the traditional protections of the client’s information apply to all aspects of the business.

ER 1.7 Conflict of Interest: Current Clients

There are no proposed amendments to ER 1.7. However, the concept of personal-interest conflicts addressed in comment 10 to the rule were imported into the new definition in ER 1.0(o), and amendments to ERs 1.8, 1.10, and 5.3 address other conflict-related issues. This permits elimination of comment 10 while adding these essential concepts into the text of the ethical rules.

ER 1.8 Conflict of Interest: Current Clients: Specific Rules

An amendment to this rule adds subsection (m), which states that when lawyers refer clients for nonlegal services provided either by the lawyer or nonlawyers in the firm or refer clients to a separate entity in which the lawyer has a financial interest, they must comply with ERs 1.7 and 1.8(a). This addition takes content from comment 3 and moves it into the rule's text. In addition, comments 1, 2, and 3 are deleted because relevant parts of comments 1 and 3 are made part of a new definition of "business transaction" in ER 1.0(n) and comment 2 merely restates ER 1.8(a) and is therefore redundant. In addition, the personal-interest conflicts issue addressed in comments to ER 1.7 are included in a new provision to ER 1.8.

ER 1.10 Imputation of Conflicts of Interest: General Rule

ER 1.10(a) is amended to address nonlawyers. With the elimination of ER 5.4, nonlawyers will be able to play significant roles in firms, including having ownership interests. Therefore, the rules should explicitly address imputation of their conflicts. Amendments to the comments include deleting comments 1 through 4. Comment 1, which discusses a "firm," is no longer needed in light of the expanded definition of "firm" in ER 1.0(c). Comments 2 and 3 summarize the concepts of imputation, with one important exception that addresses conflicts if a lawyer owns all or part of an opposing party. That exception was expanded to include nonlawyers and was added to the rule's text as subsection (f), which provides that a conflict is imputed to the entire firm if a lawyer or nonlawyer owns all or part of an opposing party. Comment 4 contains important concepts the task

force determined should be part of the rule itself. New subsection (g) therefore allows disqualified nonlawyers to be screened from matters without imputing the conflict to the firm, unless the nonlawyer is an owner, shareholder, partner, officer or director of the firm. Similarly, new subsection (h) allows lawyers to be screened if they are disqualified because of events or conduct that occurred before they became licensed lawyers, unless the lawyer is an owner, shareholder, partner, officer, or director of the firm.

ER 1.17 Sale of Law Practice or Firm

Current subsections (a) and (b) are removed considering the elimination of ER 5.4, which, in turn, rendered many comments to the rule unnecessary. Several new subsections were added to move important information from remaining comments into the rule's text. Subsection (a)(1) now requires the seller to disclose the purchaser's identity. Subsection (c) states that the purchaser cannot increase fees to clients to finance the sale, and the purchaser must honor existing arrangements between the seller and clients regarding fees and scope of work. New subsection (d) requires the seller to give notice to clients before allowing a purchaser to access detailed client information. New subsection (e) requires the seller to ensure that a purchaser is qualified and new subsection (f) advises that if courts must approve substitution, the matter cannot be included in the sale until obtaining that approval. Finally, new subsection (g) makes the rule inapplicable to transfers of legal representation unrelated to a sale of the firm. No comments are necessary for the proposed rule.

ER 5.1 Responsibilities of Lawyers Who Have Ownership Interests or are Managers or Supervisors

Amendments to this rule were made in part because a lawyer may hold an ownership interest in a firm in a variety of ways. The rule is no longer limited to a "partner" and instead a broader reference to "ownership interests" was added to the title because of the change in the definition of "firm" in ER 1.0(c) and the elimination of ER 5.4. As with several other ERs

discussed here, the task force determined that comments to this rule addressed important concepts that should be part of the rule. The definition of “internal policies and procedures” was moved from the comment to subsection (b). Subsection (c) now states that whether a lawyer has supervisory duties over lawyers may vary depending on the circumstances. And, subsection (d) now provides guidance on what constitutes reasonable remedial action. No comments are necessary for the proposed rule.

ER 5.3 Responsibilities Regarding Nonlawyers

The task force determined that the rule should refer to both nonlawyers in the firm and nonlawyer assistants, who can be inside or outside the firm, and therefore a change to the title was made to identify the scope of the rule. As with ER 5.1(a), ER 5.3(a) now instructs that lawyers and firms must ensure lawyers and nonlawyers alike undertake reasonable measures to conform to the Rules of Professional Conduct. The remaining amendments move important information from the comments to the rule itself. A definition of “reasonable measures” was added to subsection (b), while direction on what constitutes a direct supervisor’s “reasonable efforts” was added in subsection (c)(1). New subsection (c)(3) requires that lawyers give directions appropriate under the circumstances to nonlawyers outside the firm and guidance on allocating responsibility for monitoring an external nonlawyer when the client directs that the lawyer select the particular nonlawyer was added to new subsection (c)(4). Finally, new subsection (d) requires that each firm designate one lawyer who is responsible for establishing policies and procedures in the firm to assure that all nonlawyers comply with the lawyers’ ethical obligations. The task force suggests that the State Bar may then require that the lawyer identify on the annual dues statement which lawyer in the firm is responsible under ER 5.3(d), similar to the requirement that each lawyer identify the lawyer responsible for the firm trust account procedures. This would provide a level

of entity accountability to assure that a specific attorney must establish appropriate nonlawyer ethics procedures.

ER 5.7 Responsibilities Regarding Law Related Services

In evaluating whether to recommend eliminating ER 5.4, the task force considered the need to maintain ER 5.7. Under the existing rule, and depending on the circumstances, a lawyer may be obligated to provide the recipient of law-related services the full panoply of protections enjoyed by the lawyer-client relationship.

Considering the recommendation to eliminate ER 5.4, and thus allow lawyers to partner with nonlawyers, ER 5.7 seems unnecessary and restrictive of innovation. The general conflict-of-interest and confidentiality rules, as well as the rules protecting the professional independence of lawyers, as amended, should suffice to protect clients.

Recommendation 2: Modify Arizona’s ERs 7.1 through 7.5 to incorporate many 2018 ABA Advertising Rule amendments and to align the rules with the recommendation to eliminate ERs 5.4 and 5.7 and amend ERs 1.0 through 5.3.

A. ABA Model Rule Changes and National Trends.

In 1977, the United States Supreme Court decided *Bates v. State Bar of Arizona*,²⁸ and in 1985 Arizona adopted the ABA Model Rules. Current ERs 7.1 through 7.5 (the “Advertising Rules”), which govern lawyer communications about legal services, have not substantively changed since their adoption in 1985, despite compelling reasons to make changes.²⁹ Technological advances in the delivery of legal services as well as cross-border marketing of legal services through the internet, television, radio, and even print advertising have changed the ways

²⁸ *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977).

²⁹ Portions of this summary are derived from the Standing Committee on Ethics and Professional Responsibility’s 2018 Report and Resolution 101 for amendment of the ABA Model Rules on Professional Conduct on lawyer advertising.

consumers learn about available legal services. These changes, as well as the mobility of clients and lawyers, require more uniformity in the rules that regulate lawyer advertising among United States jurisdictions. Therefore, the task force recommends bringing the Advertising Rules into conformity with recent changes made by the ABA in 2018 and aligning the rules with current realities of lawyer advertising and law practice.

The task force's recommended amendments to the Advertising Rules accommodate three trends calling for simplicity and uniformity in the regulation of lawyer advertising. First, lawyers increasingly practice across state and international borders, and clients often need services in multiple jurisdictions. Second, technologies that were not prevalent in 1985 to search for professional services today are ubiquitous.³⁰ Third, trends in First Amendment and antitrust law suggest that burdensome and unnecessary restrictions on the dissemination of accurate information about legal services may be unlawful.³¹

³⁰ See Association of Professional Responsibility Lawyers 2015 Report of the Regulation of Lawyer Advertising Committee (2015) [hereinafter APRL 2015 Report], https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aprl_june_22_2015%20report.authcheckdam.pdf at 18-19 (“According to a Pew Research Center 2014 Social Media Update, for the 81% of American Adults who use the Internet: 52% of online adults now use two or more social media sites; 71% are on Facebook; 70% engage in daily use; 56% of all online adults 65 and older use Facebook; 23% use Twitter; 26% use Instagram; 49% engage in daily use; 53% of online young adults (18-29) use Instagram; and 28% use LinkedIn.”).

³¹ For nearly 20 years, the Federal Trade Commission (FTC) has actively opposed lawyer regulation where the FTC believed it would, for example, restrict consumer access to factually accurate information regarding the availability of lawyer services. The FTC has reminded regulators in Alabama, Arizona, Florida, Indiana, Louisiana, New Jersey, New Mexico, New York, Ohio, Tennessee, and Texas that overly broad advertising restrictions may reduce competition, violate federal antitrust laws, and impermissibly restrict truthful information about legal services. For developments in First Amendment law on lawyer advertising, see APRL June 2015 Report, *supra* note 30, at 7-18.

Empirical data from a survey sent to bar regulators by APRL regarding the enforcement of current advertising rules shows that complaints about lawyer advertising are rare; the vast majority of advertising complaints are filed by other lawyers and not consumers, and most complaints are handled informally, even when there is a provable advertising rule violation.³² APRL's survey data is consistent with charges received by the State Bar of Arizona regarding lawyer advertising. Based in part on this data, in August 2018 the ABA House of Delegates adopted model rule amendments while maintaining the primary regulatory standard for advertising – communications must be truthful and not misleading.³³ The State Bar of Arizona expressed support for these amendments through the vetting process. Many jurisdictions currently are considering adoption of the 2018 ABA Model Rule amendments – and some jurisdictions, such as Virginia, Washington, and Oregon already have updated their Rules with variations on the recommendations.

B. Summary of Proposed Amendments to ERs 7.1 through 7.5.

The proposed amendments to Arizona's ERs 7.1 through 7.5 incorporate many of the 2018 ABA Model Rule amendments and fulfill the task force's charge to identify issues and improvements in the delivery of legal services. As evidenced by Recommendation 1 above, the task force recommends eliminating or amending ethical rules that impede lawyers' abilities to provide cost-effective legal services.

The proposed amendments to the Advertising Rules would:

- retain the rules' primary regulatory mandate of refraining from making false and misleading communications;

³² ABA Report and Resolution 101 on Lawyer Advertising, August, 2018: https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/final_dar_resolution_and_report_advertising_report_as_amended_by_rules_and_calendar_for_submission_004.pdf

³³ *Id.*

- set forth the requirements for who may identify themselves as a “certified specialist” in an area of law;
- maintain reasonable restrictions on direct solicitation of specific potential clients; and
- eliminate obsolete and anticompetitive provisions that unreasonably restrict the dissemination of truthful advertising.

The most significant proposed amendment, which goes beyond the 2018 ABA Model Rule amendments, would eliminate current ER 7.2(b)’s prohibition against giving *anyone* anything of “value” for recommending a lawyer or referring a potential client to a lawyer. Anecdotally, it has been observed that this provision is violated daily because, taken literally, this provision prohibits taking an existing client golfing to say thank you for a referral or giving a firm paralegal a gift card or sending flowers for referring a family member to the firm. Similarly, there are many ethics opinions issued both in Arizona³⁴ and around the United States that provide convoluted attempts to distinguish between what is permissible “group advertising” versus what is an impermissible “referral service.” Not only do these technical interpretations serve no productive regulatory purpose, but the unnecessary complexity in the regulations stifles lawyers’ abilities to embrace more efficient online marketing platforms for fear the website or service may be deemed a for-profit referral service.

Rule 7.2(b)’s prohibition against “giving anything of value” exists although there is no quantifiable data evidencing that *for-profit* referral services or even paying for referrals confuses or harms consumers. Consumers do not expect online marketing platforms to be nonprofit operations – which are the only referral services permissible under the current regulatory

³⁴ See State Bar of Ariz. Ops.05-08 (2005), 06-06 (2006); 10-01 (2010), and 11-02 (2011).

framework. Note that Florida, one of the most restrictive lawyer advertising jurisdictions in the country, already permits for-profit referral services.

The proposed changes to the Advertising Rules are set forth in Appendix 1. The following summarizes those changes.

ER 7.1 Communications Concerning a Lawyer's Services

The amended rule retains the existing prohibition against “false and misleading” communications about a lawyer’s services. Most bar regulators in the United States have expressed the view that this provision is the rule primarily relied on to regulate lawyer advertising. The current requirements for identifying a lawyer as a “certified specialist” were moved from current ER 7.4 into new ER 7.1(b) and the proposed amendment updates the language from restricting use of the term “specialist” to restricting only the use of the phrase “certified specialist,” consistent with the ABA Model Rule. This change avoids constitutional challenges to the overly restrictive prohibition in current ER 7.4, which limits use of the term “specialist.” The proposed changes would also bring Arizona’s rule in line with the ABA Model Rule language in noting that lawyers may not identify themselves as “*certified* specialists” unless they comply with the requirements set forth in Court rules. The reference in new ER 7.1(b) to new criteria for certified specialist will be contained in Supreme Court Rule 44, and this cross-reference will assist lawyers researching Arizona’s certified specialist advertising requirements. Explanatory comments from current ER 7.4 have been moved to the comments of ER 7.1 to reassure patent attorneys that their specialization is still recognized.

The amendments also move the requirement that all communications must contain the name of a lawyer or law firm and some “contact” information from ER 7.2(c) into new ER 7.1(c). Comments to 7.1 also now include explanatory comments regarding law firm names that were in current ER 7.5. This is consistent with the 2018 Amendments to the ABA Model Rules of

Professional Conduct and clarifies that disbarred lawyers' names and names of lawyers on disability inactive status cannot continue in a firm name.

ER 7.2 (RESERVED)

Current ER 7.2 sets forth specific rules concerning lawyer advertising. The task force recommends deleting that rule and moving the substance of current ER 7.2(c) to new ER 7.1(c). The consumer protection afforded by current ER 7.2 can be provided by less non-competitive provisions. For instance, the rules on conflicts of interest, including ERs 1.7, 1.8, and 1.10, protect clients/consumers because they restrict a lawyer's (and firm's) representation of a client if the lawyer's own interests could "materially limit" the lawyer's independent professional judgment in representing the client. Thus, a lawyer cannot be "forced" to represent a client simply because they were referred by someone who the lawyer pays as a referral source. The conflict of interest rules control who and how a lawyer may represent a client, and such representations must be free of any conflict that could materially limit the lawyer's objectivity. And disclosures revealing that a lawyer will pay referral fees sufficiently informs consumers about the referral system. Such disclosures may be required to comply with ER 7.1's "false and misleading" standard to assure that adequate information is conveyed to website visitors or referral sources about the fact that the site is not a nonprofit operation.

ER 7.3 Solicitation of Clients

Consistent with the 2018 Amendments to the ABA Model Rules, the title of this rule was modified, and a definition of "solicitation" was added. This rule governs direct marketing to individuals with specific needs for legal services, as opposed to general advertising on billboards, business cards, print advertisements, television commercials, websites, and the like. The proposed amendments are narrowly tailored to protect consumers who need legal services in particular matters from overreaching by lawyers. The amendments would preclude, for example, solicitation

letters sent to homeowners in a community where there are known construction defects, car accident victims, members of a neighborhood that has been affected by an environmental hazard, and individuals charged with crimes. Solicitation would *not* include sending a letter to everyone in a certain zip code simply to introduce a law firm to a general community that does not have a specific legal need (such as an estate planning firm sending letters to everyone in Paradise Valley or a family law attorney sending announcement postcards to all businesses in her business complex, announcing the opening of her office). Solicitation also would exempt class action court or rule-required notifications.

ER 7.3 retains the prohibition against in-person (face to face or door-to-door) and real-time electronic (such as telephone calls or Facetime) solicitation, unless the prospective client falls within certain categories of individuals not likely to be overwhelmed by a lawyer's advocacy/solicitation skills, such as other lawyers, a former client, or a family member or friend of the lawyer. And even for these categories of prospective clients, a lawyer cannot solicit them (or anyone) if they have made known that they do not want to be solicited or the communication involves coercion, harassment, or duress. At the same time, an amendment to ER 7.3 adds an exception to the prohibition against in-person solicitation for communications directly with business people who regularly hire lawyers for business legal services, consistent with the 2018 Amendments to the ABA Model Rules. The task force notes that this language was vetted extensively through ABA entities and Bar regulators to assure that the language could not be misinterpreted to mean, for instance, that a lawyer could call someone who regularly hires business lawyers to solicit business for criminal defense, bankruptcy, or family law matters. The language in the proposed amendment limits this category of prospective client to only those who regularly

retain counsel for business purposes and therefore are experienced at receiving calls, emails, and meetings with lawyers seeking to represent their companies.

The proposed amendments delete the current Rule’s “ADVERTISING MATERIAL” notation requirement for envelopes (and filing requirement), consistent with the 2018 Amendments to the ABA Model Rules. Several jurisdictions, including, for instance, the District of Columbia, Massachusetts, Maine, Pennsylvania, North Dakota, Oregon, and Washington either have never had a notation requirement or deleted the requirement years ago. None of these jurisdictions indicate any consumer confusion in receiving written communications from lawyers. Nor is there any empirical evidence to indicate that the notation serves a necessary purpose in alerting consumers to the contents of an envelope. Given the changes in technology and methods of direct marketing consumers receive on a regular basis, there is far less likelihood of a consumer being confused about the purpose of a direct mail solicitation letter or email today, than perhaps existed in 1985 when the notation requirement was adopted.

ER 7.4 (RESERVED)

Current ER 7.4 concerns a lawyers’ abilities to communicate their fields of practice. As noted previously, the requirements for identifying a lawyer as a “certified specialist” was moved to new ER 7.1(b). Comments to ER 7.4 regarding patent attorneys were moved to ER 7.1. The remainder of ER 7.4 has been deleted as duplicative of proposed ER 7.1.

ER 7.5 (RESERVED)

Current ER 7.5 concerns firm names and letterheads. The ABA deleted ER 7.5 as unnecessary, given that ER 7.5 simply described information in a firm name that might be false or misleading. The task force recommends deleting ER 7.5 because it is not needed to regulate law firm names. ER 7.1 is sufficient and the more commonly used regulation. As previously explained, the task force recommends moving ER 7.5’s comments to ER 7.1.

Recommendation 3: Promote education and information on what unbundled legal services are to the bench, bar, and public to encourage expanded understanding and utilization of unbundled legal services.

When lawyers provide limited scope representation also known as “unbundled” legal services, clients hire them to perform a specific task or represent them for only a limited process or issue of the legal matter instead of the entire matter. There is no standard unbundled process because lawyers perform many different tasks and clients have different needs. Arizona has allowed lawyers to engage in limited scope representation since 2003.³⁵ However, the practice appears to be used predominately by lawyers who work in family law. One explanation for the lack of lawyers engaging in limited scope representation is a concern that once the limited representation ends between the client and the lawyer, the court will continue to require the lawyer to represent the client beyond the limited scope agreement.

The task force reviewed articles and best practices concerning unbundled legal services. Unbundled legal services have existed in the American legal system for some time as many legal engagements can be broken into discrete tasks. However, it is imperative that courts explicitly support this model of providing legal services to ensure that the bench, bar, and public fully understand what this type of legal service entails and ensure that consumers do not go without representation rather than pay the high cost of a full-service legal engagement.

To remedy these concerns the task force recommends:

A. The Supreme Court should explicitly support the delivery of unbundled legal services through a campaign of education for the bench and court staff in Arizona.

The task force recommends that the Supreme Court incorporate information on what unbundled legal services are, how to recognize an entry of limited appearance and notice of termination of appearance, and how to honor those limited engagements in cases. This education

³⁵ ER 1.2(c), Ariz. R. Sup. Ct. 42.

campaign should include educating court clerk offices and staff on unbundled legal services so that staff can ensure once a notice of termination of limited appearance is entered, the attorney is no longer noticed or required to appear in court for matters unrelated to the limited scope of service for which they had appeared. The task force recommends that the Court include information on unbundled legal services in new judge orientation programs and in annual judicial conference and leadership conference programs.

B. The State Bar should explicitly promote and educate the bar about unbundled legal services.

The task force recommends that the State Bar of Arizona encourage listings and promotion of lawyers offering unbundled legal services. The State Bar recently launched a Find-A-Lawyer portal that aids consumers in connecting with lawyers offering needed legal assistance in particular areas of the law. This website also allows consumers to indicate their ability to pay for such services which opens a pathway for lawyers conducting pro bono work to connect to clients in need of services with limited financial means. The task force recommends the State Bar assess the Find-A-Lawyer program to determine ways to allow consumers to identify attorneys who offer unbundled legal services to encourage the public to obtain representation rather than go it alone for the entirety of their matter.

The task force also recommends that the State Bar offer educational opportunities through regular CLE programs, the annual bar conference, and articles in the Bar's e-news and print journals about what unbundled legal series are, best practices for initiating and terminating a limited scope representation, including drafting limited scope fee agreements, and how to assess a matter to determine if unbundled legal services are appropriate.

C. Provide information to the public on the different types of lawyer representation, including limited scope representation, on AZCourtHelp.org and AZCourts.gov.

The task force explored opportunities to educate the public on what unbundled legal services are and how they differ from other types of legal services, particularly full-service legal representation. The Bar Foundation in conjunction with the Supreme Court hosts the AZCourtHelp.org webpage which is a statewide virtual legal resource center. Cathleen Cole, Content Manager for AZCourtHelp.org, developed a draft webpage that describes each type of legal representation that an attorney might provide. Descriptions of the various types of legal services include a summary of what each type of legal representation is and descriptions of what each type of service entails. The page on unbundled legal services includes a Notice of Limited Scope Representation form, a Notice of Completion of Limited Scope Representation form, and an example of a limited scope representation contract.

At the time of this report, the Bar Foundation had launched this webpage. The task force recommends that the Supreme Court continue to collaborate with the State Bar and the Bar Foundation to ensure that relevant and meaningful content remains available on the type of legal services pages to ensure that the public has every opportunity to learn about the types of legal services they might secure to assist them with their legal needs.

In addition, the task force recommends that the Administrative Office of Courts develop similar content on AZCourts.gov. The Court Programs Unit of the AOC also developed webpages located under “Resources” in the Self-Help Center that explain the various types of legal representation. In addition, the AOC is working on developing legal information sheets – essentially pages that answer frequently asked questions – for inclusion on the types of representation page. The task force recommends that the Court continue to support the efforts of

the AOC to provide educational information to the public about the types of legal services, particularly unbundled legal services, through the Court's website.

D. Issue an administrative order drawing attention to limited scope representation and adopting uniform notices.

The task force recommends that the Supreme Court issue an administrative order that notifies the Judiciary that ER 1.2 explicitly allows limited scope representation (unbundled legal services) by attorneys in Arizona if the appearances are reasonable under the circumstances. Low-income individuals and increasing numbers of unrepresented litigants cannot afford the costs of full-service legal representation. Although self-represented litigants may be armed with online court forms and self-help materials, without advice and counsel from an attorney, many come to court uninformed, unprepared, or simply overwhelmed.

The task force also recommends that the Supreme Court, by administrative order, adopt two form notices for all practice areas:

- A form Notice of Limited Scope Representation that a lawyer would file upon appearing and which notifies the court that the filing attorney is entering the case for a specific scope of representation (by date, time period, activity, or subject matter).
- A Notice of Completion of Limited Scope Representation that notifies the court when the attorney's appearance terminates. Through education, judicial officers should learn that such a withdrawal or termination of appearance does not require leave of court (1) if the notice of limited appearance specifically states the scope of the appearance by date or time period; or (2) upon the attorney filing a Notice of Completion, which must be served on each of the parties, including the attorney's client.

Finally the task force urges the Supreme Court to inform the bench through the administrative order that (1) service on an attorney who has entered a limited appearance is

required only for matters within the scope of the representation as stated in the notice, (2) any such service must also be made on the party, and (3) service on the attorney for matters outside the scope of the limited appearance does not extend the scope of the attorney's representation. These efforts will ensure that the bench, opposing parties or counsel, and court staff are aware of when an attorney appearing for a limited purpose should be served with pleadings or noticed for court appearances.

A proposed administrative order and forms can be found in Appendix 2 to this report.

Recommendation 4: Revise Rule 38(d), Arizona Rules of Supreme Court, to clarify when a law student at an accredited law school or a recent law graduate may practice law under the supervision of a lawyer admitted to practice in Arizona, what legal services the law student or law graduate may provide, and the duties and obligations of the supervising lawyer.

This recommendation was brought to the task force by members of the legal community. In Arizona, law students can practice law under the supervision of a licensed attorney in accordance with Arizona Supreme Court Rule 38(d). This limited student law practice is restricted to students who are either supervised by an attorney in a public or private legal office or by a clinical law professor in conjunction with a law school clinical program. Although Rule 38(d) currently allows recent law graduates to engage in a limited practice of law until the first offering of the Arizona bar examination,³⁶ the rule was drafted in a way that downplayed or masked this opportunity for recent law graduates. Current Rule 38(d) is unduly complicated and unclear in large part and fails to include certain program essentials. Thus, the proposed amendments revise and reorganize the rule for clarity and substantive completeness. As revised, the proposed rule

³⁶ Certification of a certified limited practice student shall commence on the date indicated on a notice of certification and shall remain in effect . . . [until] the certified student fails to take or pass the first general bar examination for which the student is eligible. Ariz. R. S. Ct. 38(d)(5)(F)(iv).

sets out the program requirements and practice restrictions for both law students and recent law graduates in a clear, organized, consistent, and complete manner.

The proposed amendments clarify that recent law graduates may be certified to engage in the limited practice of law under the supervision of an attorney. The proposed amendments also more clearly state that limited practice does not need to be tied to a clinical law program. At least 16 states allow recent law graduates to engage in the limited practice of law post-graduation and pre-bar admission. These state programs share common features:

- All programs have specified durations. For example, some programs authorize practice only during the period in which the graduate has applied to take the first bar examination after his or her graduation and is awaiting the results. Other programs include similar restrictions and incorporate a tiered expiration date for the authorization to practice, such as no later than 12 or 18 months after the graduate graduated from law school.
- Most of these programs authorize graduates to practice law to the same extent law students are authorized to practice law under programs like existing Rule 38(d)(5). Thus, graduates are permitted to meet with clients, go to court, try cases, argue motions, and the like. Most of the states authorize graduates to handle civil and criminal cases, although some restrict the criminal cases to misdemeanors or less-serious felonies.
- Several programs authorize graduates to practice for certain type of employers, such as legal-aid clinics, public defenders, prosecutor's offices, or city, county, and state offices or agencies.
- Many programs impose supervisory requirements that are similar to the supervisory requirements imposed under existing Rule 38(d).

- A few programs require the dean of the graduate's law school, or the graduate's proposed supervising attorney, to certify the graduate's good character and competence to the state supreme court or another entity. Other programs simply require the employer to comply with the requirements of the program and do not require the employer to file any other documentation with any court or state agency.

Although these other state programs vary in operational details, they all provide a means by which law students and non-licensed law graduates may practice law, and effectively result in expanding the delivery of legal services, especially by public agencies or public service groups that provide legal services to individuals with limited resources. These programs do this by allowing recent law school graduates in the process of becoming licensed to gain experience by practicing law under the supervision of admitted lawyers for a limited duration. Because this limited exception to licensure is anticipated to benefit the public, the task force's proposed amendments to Rule 38(d) fall squarely within the mandate to consider and evaluate new models for delivering legal services.

Further, the amendments would eliminate, or at least lessen, many of the practical problems experienced by law school graduates given the workload of the individuals involved in the admission and character and fitness process. The amendments permit recent law graduates to practice under the supervision of a lawyer after graduation from an ABA accredited law school if the graduate takes the first Arizona uniform bar examination, or the first uniform bar examination offered in another state for which the graduate is eligible. Certification to practice terminates automatically if the graduate fails the bar examination, if the Committee on Character and Fitness does not recommend to the Supreme Court the graduate's admission to practice, if the graduate is denied admission to practice law by the Supreme Court, or on the expiration of 12 months from

the date of the graduate's graduation from law school unless the Supreme Court extends the 12-month period. If the graduate passes the bar examination, certification terminates 30 days after the graduate has been notified of approval for admission to practice and eligibility to take the oath of admission. Certification to practice for both graduates and law students also terminates on the occurrence of other events such as failure to meet the requirements for certification.

Proposed amended Rule 38(d) is set forth in Appendix 3.

Recommendation 5: Revise Rule 31(d), Arizona Rules of Supreme Court, by re-styling the rule into four separate rules, making the rule easier to navigate and understand.

The task force was charged with re-styling Rule 31(d), Arizona Rules of Supreme Court, which govern the practice of law. Over the years, Rule 31(d) has been expanded incrementally to include thirty-one exceptions, becoming cumbersome and difficult to navigate. Consistent with other restyling efforts, the task force separated current Rule 31 into four separate rules. Thus, proposed Rule 31 incorporates current Rule 31(a), proposed Rule 31.1 incorporates current Rule 31(b), proposed Rule 31.2 incorporates current Rule 31(c), and proposed Rule 31.3 incorporates current Rule 31(d). This restructuring is intended to make the rule easier to navigate and understand. Consistent with the Arizona Supreme Court's restyling conventions, the task force sought to state the rules using the active voice and eliminate ambiguous words (especially "shall") and archaic terms (e.g., herein, thereto, etc.). The rules were also restated in a positive—rather than prohibitory—manner (e.g., "a person may" rather than "a person may not,"; "a person or entity may" rather than "nothing in this rule prohibits").

The following is a summary of the changes recommended by the task force. The changes in restyled Rules 31 through 31.2 are mostly stylistic, with one major exception. Currently, the "authority to practice" in Rule 31(b) and the "unauthorized practice of law" in Rule 31(a)(2)(B) state that one is authorized to practice law only if he or she is an active member of the State Bar

of Arizona. One notable difference is restyled Rule 31.2(a), which specifically acknowledges that Rules 38 and 39 authorize non-Bar members (such as in-house counsel and out-of-state lawyers admitted *pro hac vice*) to practice law in Arizona.

The definition of “legal assistant/paralegal” was removed as that term is not used in current or restyled Rule 31. The definition of “mediator” was not included in the restyled rule. The definition of “unprofessional conduct” in current Rule 31(a)(2)(E) was not included in the restyled rule. The term “unprofessional conduct” is not used in Rule 31. In a rule petition seeking to restyle Rule 31, the task force also proposes an amendment to Supreme Court Rule 41 or 54 to include the definition of “unprofessional conduct” as those rules depend on that definition.

The most extensive changes occur to current Rule 31(d), which the proposed rule denominates as Rule 31.3. Rule 31(d) currently has thirty-one subsections with little reason to their order. To make the rule more useful, subsection (d) was reorganized into ten subsections in proposed Rule 31.3: (1) a “Generally” section; (2) Governmental Activities and Court Forms; (3) Corporations, Limited Liability Companies, Associations, and Other Entities; (4) Administrative Hearings and Agency Proceedings; (5) Tax-Related Activities and Proceedings; (6) Legal Document Preparers; (7) Mediators; (8) Legal Assistants and Out-of-State Attorneys; (9) Fiduciaries; and (10) Other.

The following matters merit specific mention. First, proposed restyled Rule 31.3(c)(i)(1) provides a definition of “legal entity.” Second, subsection (3) collapses the three current provisions regarding the representation of companies and associations in municipal or justice courts. Third, subsection (4) retains the provision authorizing a person to represent entities in superior court in general stream adjudications. Fourth, subsection (5) collapses seven current rules regarding the representation of various types of legal entities in administrative hearings or

administrative proceedings. Fifth, subsection (6) sets forth in a single location a general exception saying that a hearing officer or presiding officer can order an entity to be represented by counsel.

In addition, the task force considered rule petition R-18-0004, which the Supreme Court had continued pending the task force's recommendation. That petition seeks an amendment to the rule that would permit owners of closely held corporations and like entities, or their designees, to represent the entities in litigation. While the task force empathized with the plight of "mom and pop" entities that cannot afford counsel and yet are deprived of the ability to represent the entities in court, the task force does not recommend this proposal. Closely held corporations are not limited to one or two owners, and a myriad of unanticipated consequences could occur if entities are allowed to represent themselves. For example, nothing would prohibit a disbarred attorney from representing the entity. Also, task force members expressed concerns that unless every interest, particularly minority interests, agreed to the nonlawyer representation, the nonlawyer representative might not adequately represent the interests of the business, but rather may only represent majority interests. The task force's proposed restyling of Rule 31(d) addresses the organizational issues raised by the pending rule petition.

Finally, to the extent practicable, the task force endeavored to conform the rules to one another to avoid expressing identical requirements in different ways. With one possible exception, the task force does not recommend substantive changes to Rule 31. The task force clarified language in proposed 31.3(d), which addresses "Tax-Related Activities and Proceedings." Even assuming this clarification effects a substantive change, the task force believes the change is within its charge to simplify and clarify the Rule.

The restyled Rule 31 and a copy of existing Rule 31 are found in Appendix 4.

Recommendation 6: Develop, via a future steering committee, a tier of nonlawyer legal service providers, qualified by education, training, and examination, to provide limited legal services to clients, including representation in court and at administrative proceedings.

The task force recommends that Arizona develop a program to license nonlawyer “limited license legal practitioners,” (“LLLPs”) qualified by education, training, and examination, to provide legal advice and to advocate for clients within a limited scope of practice to be determined by future steering committees. The task force discussed at length the elements that would be required to establish an LLLP program, and we offer recommended next steps and component parts below. But the “in the weeds” details required for different areas of certification and regulation are many, and beyond the collective expertise of this task force. We therefore recommend that the Supreme Court appoint a steering committee (and perhaps subcommittees) to establish reasonable parameters for LLLPs, including (A) different areas and scopes of practice; (B) common ethical rules and discipline, (C) education, examination and licensing requirements, and (D) assessment and evaluation methods for proposed program. The task force highly recommends an early focus on family law as a subject area for LLLPs, as this is where the greatest need lies. However, the task force believes several other subject matter areas deserve serious consideration, including all limited jurisdiction civil practice matters, limited jurisdiction criminal matters that carry no prospect for incarceration, and many matters within administrative law.³⁷ Self-represented litigants encounter these practice areas every day in Arizona court with no access to legal assistance.

Members of a steering committee should include lawyers experienced in the subject area, judges who have presided over cases in the subject area, legal educators from law school and

³⁷ The task force also identified areas of the law where practice should specifically be excluded from the new tier due to their complexity and conflict with federal law. For example, federal law prohibits nonlawyers from giving legal advice in bankruptcy (*see* 11 U.S.C. § 110(e)(2)).

paralegal programs, court administrators, and public representatives. Litigants and potential litigants currently excluded from most legal services should play some role in the steering committee's process. Guiding principles should include access to justice, service to the public, economic sustainability, professional competence and accountability, and respect for our system of justice.

Arizona is not the first state to consider licensing nonlawyers to provide limited legal services. Washington and Utah have established programs to license nonlawyers to provide limited legal services, as has Ontario, Canada, all of which the task force heard from during its work. Other jurisdictions, including California, Colorado, Nevada, New Mexico, New York, and Oregon are also examining the potential for nonlawyers to provide limited legal services.

Evidence exists that licensing nonlawyers to provide limited legal services will not undermine the employment of lawyers. First, the legal needs targeted for LLLPs involve routine, relatively straight-forward, high-volume but low-paying work that lawyers rarely perform, if ever. Second, other recommendations in this report would allow lawyers to team with LLLPs to provide complementary services, thereby increasing business opportunities for lawyers. Moreover, to date no jurisdiction that allows certified nonlawyers to provide limited legal services has reported any diminution in lawyer employment. The task force acknowledges that some lawyers may prove instinctive skeptics on this issue, but the task force can find no empirical evidence that lawyers risk economic harm from certified LLLPs who provide limited legal services to clients with unmet legal needs.

The task force offers the following specific recommendations for consideration and refinement by a steering committee:

A. Areas of Practice and Scope of Practice

The steering committee should familiarize itself with the report and recommendation of the Delivery of Legal Services Task Force, consider the practice areas explored by the task force including hearing from members of the task force who were involved in the analysis of subject matter areas and educational needs, and address questions raised by the task force about areas of practice and scope of practice. Scope decisions include role definition, as well as identifying areas of law and particular tasks suitable for LLLPs to perform.

The task force recommends that the scope of the new tier — unlike the current role of LDPs — include the ability to provide legal advice and to make appearances in court on behalf of clients. The task force recommends that the steering committee consider whether LLLPs should be able to provide pre-litigation education about legal rights and responsibilities (for example, counseling tenants about how to avoid eviction and counseling debtors about avoiding debt collection litigation).

B. Oversight

The task force recommends that the steering committee develop ethical rules and regulation for LLLPs and create a disciplinary process for the unauthorized practice of law and ethical violations. In general, the task force recommends that such rules be approved by the Supreme Court in the same manner that the Court governs rules for attorneys. The task force further recommends that disciplinary matters for LLLPs be overseen by the State Bar of Arizona in the same manner that the State Bar governs attorney discipline.

Oversight is a critical aspect of the program. Making regulatory requirements that are too onerous will make the new tier unattractive and cost-prohibitive to both participants and users.³⁸

³⁸ The stifling effect of over-regulation on expansion of a new tier of service was one caution shared by the State of Washington.

At the same time, the market cannot be the only regulatory control. The steering committee should identify a balance between existing regulatory processes and the scope of practice LLLPs will be engaged in.

C. Education, Examination and Licensing

The steering committee should develop rules, regulations, and administration processes for application and examination to certify LLLPs. The task force recommends, based on requirements for lawyers and other legal paraprofessionals in Arizona, that the steering committee consider regulations in the following areas:

- application and licensing;
- examination; and
- development of curriculum to meet the requirements for obtaining a license.

Questions the task force did not have time or expertise to resolve include whether a minimum number of academic credits in legal ethics be required; whether only ABA-accredited legal training program be accepted; and whether equivalent credentials from other states or nations might satisfy the education requirements in whole or in part. The task force considered whether training should require an experiential learning component. If so, the task force recommends that any experiential learning requirement be integrated into a broader academic program, as opposed to a separate stand-alone endeavor. This recommendation comes after considering the barrier that high experiential learning requirements have posed to the existing Washington State Limited License Legal Technician program, and after considering what other states have shared with the task force about barriers that experiential learning requirements can pose for people in rural areas who apply for certification. Finally, the task force recommends that the steering committee might explore a separate path to certification for existing LDPs and paralegals, who may have had a head start on education and on-the-job experience.

D. Assessment and Evaluation of the Program

The task force recommends that the steering committee develop methods for measuring the appropriateness, effectiveness and sustainability of the LLLP program. Program goals should be to increase access to justice and to protect consumers of legal services. Appropriateness might require that the authorized tasks for LLLPs directly impact access to the courts and unmet legal needs. Appropriateness might also include whether the education requirements and regulations enable LLLPs to perform tasks competently.

Effectiveness might be measured by competence and usage. If self-represented litigants do not engage the services of LLLPs, of course the program fails. But other measures of effectiveness might include reduced burden on courts from self-represented litigants, improvements in procedural justice, improvements in litigant understanding, and improved litigant outcomes such as reduced costs for limited legal services and increased satisfaction ultimate legal outcomes.

Finally, the program should be assessed for sustainability, which would include economic viability for the public, for the court system, and for LLLPs.

Recommendation 7: Initiate, by administrative order, the Licensed Legal Advocate Pilot program developed by the Innovation for Justice Program at the University of Arizona James E. Rogers College of Law, to expand delivery of legal services to domestic violence survivors through the creation of a new tier of legal service provider.

In spring 2019, the Innovation for Justice Program at the University of Arizona James E. Rogers College of Law (i4J) brought graduate students, undergraduate students and over 50 members of the community together in i4J's Innovating Legal Services course to explore a challenge framed as: "should Arizona create a new tier of civil legal professional, and what could that mean for survivors of domestic abuse?" That challenge was selected to provide a community-engaged "sandbox" that would supplement the task force's exploration of whether nonlawyers, with specific qualifications, should be allowed to provide limited legal services. i4J partnered with

Emerge! Center Against Domestic Abuse and collaborated with community participants including judges, attorneys, lay legal advocates, social services providers, government representatives, domestic violence survivors, social scientists, interested community members, and other stakeholders.

The results of i4J's Innovating Legal Services course are presented in a report titled [*Report to the Arizona Supreme Court Task Force on Delivery of Legal Services: Designing a New Tier of Legal Professional for Survivors of Domestic Violence*](#) and a video summarizing that report.³⁹ Course co-instructors Stacy Butler and Jeffrey Willis shared the course's report and [video presentation](#) at a task force meeting.⁴⁰ The report demonstrates that domestic violence service providers like Emerge! serve thousands of domestic abuse survivors a year. Lay legal advocates employed by agencies like Emerge! provide information and explain processes within the legal system, but currently cannot provide legal advice.

The Innovating Legal Services course developed a proposal for a pilot program that would train lay legal advocates to become Licensed Legal Advocates (LLAs), able to provide legal advice to domestic violence survivors as they navigate Arizona's civil legal system. The proposed pilot removes the barrier imposed by unauthorized practice of law restrictions, giving the LLAs the ability to handle specifically-identified legal needs of participants at Emerge! and enhancing those participants' access to justice. The Innovating Legal Services course report identified above details the scope of service LLAs would be allowed to provide, as well as the training and education requirements LLAs would be required to complete to become an LLA. The report

³⁹ The full report and video are available under the "projects" tab of the i4J webpage, <https://law.arizona.edu/i4J>.

⁴⁰ Retired Pima County Superior Court Judge Karen Adam also served as a co-instructor in the course.

further details licensing and regulation requirements, bench, bar, and public education about LLAs, and an evaluation process for the pilot.

The task force recommends that the Supreme Court issue an administrative order establishing the Licensed Legal Advocate Pilot program, developed by the Innovation for Justice Program at the University of Arizona James E. Rogers College of Law, to expand delivery of legal services to domestic violence survivors through the creation of a new tier of legal services provider.

A draft administrative order can be found in Appendix 5 of this report.

Recommendation 8: Initiate, by administrative order, the DVLAP Legal Document Preparer Pilot program as proposed by the Arizona Bar Foundation.

The task force recommends that the proposal offered by the Bar Foundation on behalf of the Domestic Violence Legal Assistance Project (“DVLAP”) to create a DVLAP Legal Document Preparer Pilot program be adopted. The purpose of the Bar Foundation’s recommendation is to increase access to free assistance in the completion of civil legal forms for domestic violence victims. During the pilot program DVLAP Legal Document Preparers would provide this free assistance to domestic violence victims who are receiving services from DVLAP programs in Arizona. The Bar Foundation created this proposed pilot after service providers within DVLAP identified three issues: a need among domestic violence survivors for assistance with the completion of family law and other common court forms, capacity to leverage the role of lay legal advocates within the civil legal justice system, and challenges with applying the traditional process to become a certified legal document preparer to legal professionals working in a social service capacity.⁴¹ Because of the high demand for legal aid services, access to legal assistance from one

⁴¹ The Bar Foundation gave a presentation to the task force proposing this recommendation and reported that in conversations throughout 2014 and 2015, lay legal advocates and various stakeholders unanimously identified cost and time as the biggest barriers to lay legal advocates using the current process to become certified legal document preparers. Arizona Foundation for

of Arizona's three Legal Services Corporation funded legal aid organizations is often limited to basic advice on how to represent oneself, coupled with document preparation help. Lay legal advocates funded by DVLAP can provide legal information to survivors but cannot complete forms on their behalf. Using the existing LDP program and the infrastructure of the DVLAP program, this recommendation would create a pilot project allowing lay legal advocates employed by DVLAP-supported nonprofit domestic violence service and shelter programs to become DVLAP Legal Document Preparers. Under the proposed pilot, the minimum requirements for certification as an LDP under ACJA § 7-208 would be made less restrictive for DVLAP Legal Document Preparers (DVLAP LDPs") participating in the pilot as follows:

- While LDPs with a high school diploma or GED must have two years of law-related experience,⁴² a DVLAP lay legal advocate with a high school diploma or GED would be eligible to become a DVLAP LDP after one year of supervision by an attorney in a partnering DVLAP legal aid office.
- While LDPs with a four-year college degree must have one year of law-related experience, a DVLAP lay legal advocate with a four-year college degree would be eligible to become a DVLAP LDP after six months of supervision by an attorney in a partnering DVLAP legal aid office.
- DVLAP LDP would pay a lower certification fee.

Legal Services and Education, *Legal Advocate Preparer: Expanding the Role of Lay Legal Advocate*, p. 3 (August 2019), <https://www.azcourts.gov/Portals/74/LSTF/Meetings/08142019/4LegalAdvocatePreparerProposa1081419LSTF.pdf?ver=2019-08-12-091436-423>.

⁴² ACJA § 7-208(3)(b)(6) states that "law related experience" is one or a combination of the following: under the supervision of a licensed attorney, providing services in preparation of legal documents prior to July 1, 2003, under the supervision of a certified legal document preparer after July 1, 2003, or as a court employee.

- DVLAP LDP would be qualified through the LDP certification exam process and a separate exam measuring DVLAP LDP competency in substantive areas of law.

In exchange for this relaxed eligibility requirement, the scope of work in which a DVLAP LDP can engage is more limited than the scope of work authorized for LDPs pursuant to ACJA § 7-208. For example, an LDP can assist a self-represented litigant in identifying and completing legal documents at the litigant's direction, without the supervision of an attorney, for any form "for which the legal document preparer's level of competence will result in the preparation of an accurate document."⁴³ Conversely, an DVLAP LDP would only be authorized to assist a self-represented litigant in identifying and completing civil legal forms related to a domestic violence victim's family law needs (separation/divorce, legal decision making and/or parenting time, child support, guardianship, and modifications of post-decree matters), housing matters (landlord/tenant related to health, safety and eviction matters, foreclosure, and public housing issues), and areas of law related to stability, safety and rights (including obtaining/preserving protective orders, public benefits, victims' rights, and safety planning matters such as securing documents). Unlike LDPs, an DVLAP LDP in this pilot program would have a limited certification to provide document preparation services only for DVLAP clients and would not be allowed to charge for those services.

In another recommendation made elsewhere in this report, the task force has recommended that LDPs be allowed to respond if directly addressed by a judge. DVLAP LDP would similarly be able to attend court with DVLAP clients to the same extent that LDPs can attend court with their clients. Otherwise, DVLAP LDP would be subject to the same restrictions as LDPs, such as not giving legal advice or advocating on behalf of domestic violence victims.

⁴³ ACJA § 7-208(J)(4)(b).

All pilot project participants must be employed by nonprofit organizations approved by the Arizona Bar Foundation and DVLAP, and only domestic violence victims accessing services through DVLAP can receive assistance from DVLAP LDP. The Bar Foundation’s report, shared with the task force, detailed the minimum requirements for becoming a DVLAP LDP and set forth a 24-month pilot project timeline.⁴⁴ The Bar Foundation would administrator the pilot project and verify eligibility for each pilot project participant. All pilot project participants would be orientated to the purpose and goals of the pilot project and addendums to the current DVLAP funding agreements or Memorandums of Understanding would be executed with each party acknowledging the roles and responsibilities of each participant. Throughout the duration of the pilot project, each participant would be required to report quarterly on all activities related to the preparation of documents, number of domestic violence victims served, supervision and training processes, and participate in the evaluation of the pilot project, including implementation of client and stakeholder satisfaction surveys.

Recommendation 9: Make the following changes to improve access to and quality of the legal services provided by certified Legal Document Preparers.

The task force was charged with reviewing the LDP program and related Arizona Code of Judicial Administration (“ACJA”) requirements and, if warranted, making recommendations for revisions to the existing rules and code sections that would improve access to and quality of legal services provided by legal document preparers. Since 2003, Arizona has certified LDPs to prepare legal documents for self-represented litigants. Rule 31, Arizona Rules of Supreme Court, defines

⁴⁴ *Legal Advocate Preparer: Expanding the Role of Lay Legal Advocate, Design of the Legal Advocate Preparer Pilot Project*, p. 8-11 (August 2019), available at <https://www.azcourts.gov/Portals/74/LSTF/Meetings/08142019/4LegalAdvocatePreparerProposa1081419LSTF.pdf?ver=2019-08-12-091436-423>.

the practice of law and provides an exception that defines the scope of legal practice allowed to LDPs.⁴⁵ Section 7-208(A) defines a “legal document preparer” as “an individual or business entity certified pursuant to [ACJA § 7-208] to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter”⁴⁶ LDPs spoke to the task force and testified before a workgroup relating their work experiences and sharing suggestions for improvement in the LDP program. In addition, members of the task force with experience in the LDP program shared their observations and suggestions.

After review, the task force makes the following recommendations:

A. Amend ACJA § 7-208 to allow LDPs to speak in court when addressed by a judge.

The task force learned that some judges will directly address an LDP in court, knowing that the LDP will be assisting the litigant in completing the necessary legal documents required by the court. LDPs of course want to be responsive to a judge, but they are also mindful of potential disciplinary action under current rules that prohibit an LDP from assisting consumers by speaking in court unless “ordered” by the court to do so. The task force recommends a single word change to ACJA § 7-208(J)(5)(b) to clarify that LDPs may assist a consumer in court when “authorized” (as opposed to “ordered”) by the court. This proposed amendment does not give an LDP the right to attend court on behalf of a client or to advocate for a client. But, allowing an LDP to interact with a judge who purposefully opens a dialogue with the LDP in the interests of justice should be permitted. The proposed amendment is as follows:

⁴⁵ ACJA § 7-208.

⁴⁶ ACJA § 7-208(A).

*A legal document preparer shall not attend court with a consumer for the purpose of assisting the consumer in the court proceeding, unless otherwise ~~ordered~~ authorized by the court.*⁴⁷

B. Amend ACJA § 7-208 to further define permissible and prohibited activities of LDPs.

Since 2003, LDPs have assisted self-represented litigants with the completion of legal forms and documents. However, there is some confusion as to the scope of documents LDPs can complete. The task force recognized that LDPs sometimes need to conduct basic legal research to do their jobs competently, such as prepare up-to-date documents that comply with new statutes or court rules. However, LDPs cannot give legal advice. The line between conducting legal research to assist a self-represented litigant in the form of completing a legal document and conducting research for purposes of giving legal advice can be blurred. A perceived lack of clarity in the current rules governing LDPs has led to some confusion, with some LDPs hesitant to conduct any legal research and other LDPs going so far as to draft substantive motions and briefs based on their legal research.

The task force recommends the ACJA § 7-208 be amended to provide clarity. First, § 7-208 should clarify that an LDP may conduct legal research so far as needed to understand general legal principles required to assist a client identify and complete a competent legal form or document. Second, the rule should also clarify that an LDP cannot perform legal research for providing legal options or legal advice to a client. LDP's are limited to completing forms and documents that conform to instructions and decisions communicated by clients. Similarly, an LDP cannot perform legal research for purposes of advocating a legal theory on behalf of a client. Specifically, LDPs cannot engage in legal analysis, i.e., conducting legal research and then

⁴⁷ ACJA § 7-208(J)(5)(b).

applying that research to the facts of the client’s case to advocate for an outcome. This means LDPs cannot draft substantive legal motions,⁴⁸ supporting memoranda, or appellate briefs to be filed in any court. These types of legal activities are beyond the certification and the limited scope of practice allowed to LDPs. However, LDPs can produce motions in family court cases using the “motions form.” The task force envisions that the recommended LLLP program might well file substantive motions and advocate on behalf of clients within the scope of the LLLPs particular certification(s).

The task force urges the Supreme Court to direct the Certified Legal Document Preparers Board and the Certification and Licensing Division to work together to draft a petition to amend ACJA § 7-208 in accordance with this recommendation. The task force also recommends that the amendment reference specific examples of court filings that LDPs can and cannot prepare.

C. The Arizona Supreme Court should pursue a campaign of educating the bench and members of the bar on what a legal document preparer is, what they can do, and what they are prohibited from doing.

The task force recommends that the Supreme Court produce information sheets (referred to as Legal Info Sheets) that can be available in paper and electronically for self-help centers in courts, and the court websites, AZCourtHelp.org, and Azcourts.gov, about LPD services. Presentations should be delivered at the annual judicial conference to educate the bench about LDPs. Moreover, the State Bar should educate its membership about LDPs through presentations at the annual bar convention, articles in e-news and the Arizona Attorney Magazine or other appropriate forums and publications.

⁴⁸ There was some debate within the task force regarding what constitutes a substantive legal motion. As stated below, the task force recommends that the Certified Legal Document Preparers Board and the Certification and Licensing Division develop a definition accompanied by a comment with examples for clarity.

D. Recommend ACJA § 7-208 be amended to remove the restrictions prohibiting legal document preparers from assisting clients who are represented by counsel.

The task force has recommended elsewhere in this report that ER 5.4 be eliminated, removing the barrier for attorneys to partner with nonlawyers, such as LDPs.⁴⁹ Moreover, the task force has recommended elsewhere in this report that the Supreme Court take steps to expand the utilization of limited scope representation. Anecdotally, limited scope representation occurs most often in family law matters, an area in which LDPs often assist clients too. An LDP might well assist in drafting most of the documents required for a divorce, but a lawyer may be needed to advise on discrete legal questions.

This recommendation would allow otherwise self-represented litigants to benefit from the services of both an LDP and an attorney. Amendment to § 7-208 as recommended is not intended to create a relationship between an LDP and attorney akin to that of a paralegal working under the supervision of an attorney. Rather, the amendment will allow both legal services providers to work with a client simultaneously (with transparency and disclosure) where the client continues to direct the work of the LDP consistent with existing rules.

E. Recommend that there be increased access to training, especially online, for LDPs, particularly for LDPs in rural areas.

Many rural communities rely on LDPs due to the small number of attorneys in their area as compared with the number of low-income residents in those communities. The task force recommends that the Supreme Court direct increased access to training and continuing education courses for LDPs concerning core skills and the LDP code of conduct. The task force further recommends that these training and education materials be developed in a way that would allow LDPs to participate online.

⁴⁹ See Recommendation 1 herein.

F. Amend the ACJA and any other rules governing the investigation of and seeking of legal sanctions for engaging in unauthorized practice of law when the actions in question involve a person acting in a manner that a legal document preparer would act if certified.

The task force learned through the course of its work that persons have wrongly held themselves out as certified LDPs to the detriment of self-represented litigants. It is difficult to pursue these persons for engaging in the unauthorized practice of law (“UPL”) in a swift and consistent manner. Typically, a superior court judge orders the persons to cease the UPL on threat of sanctions. The task force recommends that UPL matters be brought before the Presiding Disciplinary Judge (PDJ) rather than a superior court judge. This recommendation is supported by several considerations.

First, the sections of the ACJA governing LDPs and LDP sanctions already provides authority for cease and desist orders against persons not certified but otherwise acting in the manner of a certified LDP.⁵⁰ The current process brings UPL claims before superior court judges who may not be intimately familiar with the certified LDP program, its governing regulations, or the risks to consumers from uncertified persons pretending to be LDPs. Conversely the PDJ’s function centers on regulatory matters, specifically enforcement of ethical rules and regulations surrounding the practice of law by attorneys and the limited practice afforded to LDPs. The PDJ already presides over LDP Board disciplinary sanctions and is therefore familiar with ACJA 7-208 and Arizona Rule of Supreme Court, Rule 31. It would be consistent with Arizona’s existing process regulating the practice of law to have the PDJ preside over UPL matters related to persons who pretend to be, but are not, certified LDPs. The task force also recommends that the Supreme Court identify any rule or statutory changes necessary for assessment of a civil fine against those persons found to be engaging in the kind of UPL discussed here.

⁵⁰ ACJA § 7-201(E)(6).

The task force acknowledges that there are inherent difficulties in enforcing the limited sanctions available to address UPL cases. But, having these matters go through the PDJ would result in consistent application of the rules, sharing of these decisions on the PDJ's website and further increasing the confidence of the bench and bar in the LDP program.

Recommendation 10: Advance and encourage local courts to establish positions or programs where nonlawyers are located within the court to provide direct person-to-person legal information about court processes to self-represented litigants.

Arizona courts have initiated programs to make information about legal processes available to self-represented litigants. Some programs reach self-represented litigants statewide, such as self-help resources like legal information sheets and legal information videos available on AZCourts.gov and AZCourtHelp.org. Few Arizona courts, however, offer programs that provide direct “person to person” assistance to self-represented litigants. Two counties offer such services in Arizona, each different from the other, but both developed based on local resources and other practical considerations. For example, the Superior Court of Santa Cruz County employs a court coordinator who meets with self-represented litigants by appointment to assist them in identifying proper forms and giving them legal information about court processes. The court coordinator discloses to all litigants that she cannot give legal advice, that she may meet with an opposing litigant, and that litigant information is confidential. Conversely, the Maricopa County Superior Court Providing Access to Court Services (“PACS”)/AmeriCorps navigator program uses undergraduate students serving as AmeriCorps Navigators alongside staff in the Court’s Law Library Resource Center (“LLRC”). Self-represented litigants can go to the LLRC to research law, obtain forms and receive assistance in completing them, file documents in the LLRC (versus the clerk’s office), and get assistance with finding a courtroom or other court location. The LLRC also partners with the Arizona State University, Sandra Day O’Connor Legal Center to provide court customers with 15 minutes of free on-site legal advice from volunteer attorneys two days per

week. This program has an office in the Superior Court of Coconino County as well. The remaining Arizona courts do not have programs where a self-represented litigant can get direct person-to-person assistance.

Many Arizona residents live in rural communities, where significant distances separate home and the nearest courthouse. More importantly, rural residents have fewer opportunities to confer with lawyers or LDPs than urban and suburban residents.⁵¹ Arizona's rural areas, like rural areas across the nation, are experiencing population declines and aging attorney populations.⁵² Therefore, the attorney population in rural areas is diminishing while the average age of lawyers in rural areas is increasing, meaning rural residents are increasingly more likely to be self-represented.⁵³ In addition, rural courts are closing, increasing the justice gap in rural communities.⁵⁴

Urban and suburban areas face their own challenges meeting the needs of self-represented litigants. Burgeoning dockets can be slowed as judges attempt to accommodate the lack of legal knowledge possessed by self-represented litigants.

⁵¹ Conference of State Court Administrators *Courts Need to Enhance Access to Justice in Rural America*, p. 1-3 (2018), available at <https://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/Policy-Paper-1-28-2019.ashx>.

⁵² *Id.* at 2.

⁵³ *Id.* at 3.

⁵⁴ Example, in 2018 the Santa Cruz County Board of Supervisors voted to close the court in Sonoita, forcing residents to travel another 30 miles or more, no small distance to rural residents, to Nogales for court services.

The task force’s review of various court coordinator and court navigator programs here and elsewhere⁵⁵ demonstrates that well-trained and appropriately supervised nonlawyers can perform a wide array of tasks to help self-represented litigants understand and manage their cases.

Understanding the need for each jurisdiction to identify and adopt a program that is sustainable, the task force recommends that the Supreme Court pursue means to advance establishment of nonlawyer staff who are located within the court and who provide direct person-to-person court and civil process navigation assistance to self-represented litigants in local courts.

III. Conclusion

The task force undertook the Supreme Court’s assigned tasks with great enthusiasm and worked as diligently as possible within the limited time allotted to make significant recommendations to “move the ball forward” in closing the civil justice gap. Some in the bar and in the public may have grave concerns about some recommendations. Skepticism is healthy and welcomed in debating the merits of our recommendations. When all is said and done, we are hopeful that our system of justice in Arizona is remolded to accommodate the needs of all Arizonans needing legal assistance without sacrificing the high ethical and performance standards necessary to protect the public.

⁵⁵ See report from the Justice Lab at Georgetown Law Center, titled [Nonlawyer Navigators in State Courts: An Emerging Consensus](#).

OPPOSITION STATEMENT⁵⁶

Hon. Peter B. Swann
Chief Judge, Arizona Court of Appeals, Division I

I wholeheartedly embrace the basic mission of the Task Force to make access to legal services more affordable to all. And I concur with recommendation numbers 2-5, 7, 8, and 10 in its report. I write separately, however, because I view recommendation number 1 as posing a serious threat to the long-term health of the justice system, and I view recommendations number 6 and 9 as ineffective proposals that create more risk of public harm than opportunity for good.

The Report begins with a discussion of a problem whose existence cannot be disputed: legal services are too expensive, and most citizens are priced out of the ability to secure meaningful justice through the courts. The Report does not, however, examine the barriers to justice erected by the court system itself: understaffing, which contributes to delay and cost, and bloated, one-size-fits-all procedural rules that are designed for the most complex cases. The recommendations then take an odd turn: rather than examining the reasons that the system is so difficult and expensive to navigate, the Task Force's first recommendation is to cast aside ethical rules in an effort to make the practice of law more profitable. Such a proposal would make Arizona unique in the nation, and a leader in the race to the bottom of legal ethics.

I was honored to serve on the Civil Justice Reform Committee and the Restyling Task Forces for the Civil and Family Rules. In my opinion, the rules that came from those efforts are among the most cogent sets of procedural rules in effect in any jurisdiction. But the existing rules

⁵⁶ The task force discussed many of Judge Swann's concerns (some are newly raised in his opposition statement) and ultimately rejected them. The task force modestly supported having court-employed navigators but lacked sufficient time to formulate a recommendation. (See Recommendation 10.) Finally, because the minority position was received after the last task force meeting, the task force was unable to discuss it and address specific points.

should ensure the effective litigation of *all* cases, and in this regard they fail. Though the current rules do an excellent job of implementing the “Cadillac” system of trial by jury and cutting-edge discovery techniques, they are completely ineffective at offering a simple path to dispute resolution for self-represented litigants, and they offer no streamlined procedures for small cases.⁵⁷ The complexity of the system – indeed the very need for legal services in many cases – is a problem of our own making. I respectfully submit that the Task Force should have directed its attention to *systemic* reforms, and not to finding ways to direct even more resources to an already-too-resource-hungry system. If the court system is too complex for the average citizen, then we must create a simpler and more efficient system – not new industries that will continue to consume the public’s money.

Bad legal advice is never a bargain. And nothing in the Report suggests that allowing nonlawyers to own law firms or otherwise practice law will increase the *quality* of legal services. Yet the recommendations from which I dissent here are designed to enhance the role of nonlawyers in the delivery of legal services at every level. The argument seems to be that “something is better than nothing,” and because traditional legal representation is often unaffordable, a corps of new service providers is the answer. This argument ignores the underlying reality that our system is ill-designed to assist the very people it tries to help.

⁵⁷ For reasons addressed at length by the Civil Justice Reform Committee, Arizona’s system of compulsory arbitration has proven ineffective at ensuring access to justice. The Task Force nonetheless declined to devote time to alternative procedures that would better enable self-represented litigants to handle their own matters without the cost of a lawyer, LDP or LLLP.

Recommendation 1:

Recommendation number one is to eliminate the ethical rules prohibiting nonlawyer ownership of law practices. To be clear, this recommendation would allow anyone, including disbarred lawyers, large corporations, and venture capitalists to have full equity stakes in law firms while escaping any duties to the clients. No other state has adopted such a proposal.⁵⁸ And while I take pride in Arizona’s spirit of innovation, this proposal is neither innovative nor responsible. The proposal would surely open vistas of new sources of wealth for lawyers, but it would not benefit the public.

The Task Force’s discussions of this proposal often questioned why the current rules against nonlawyer equity, which have existed in every state for at least decades, exist at all. The Report proclaims “Ethical rules have been called out as contributing to the justice gap as demonstrated by [the Henderson Report].” Indeed, the Report relies exclusively on the Henderson Report for this proposition. The fact that a professor has “called out” ethical rules is, to my mind, no more persuasive than the fact that a substantial part of the population has “called out” lawyers as greedy crooks. Both beliefs are no doubt sincere – I submit that neither is correct.

There is no empirical proof that ethical rules have created the problems with the delivery of legal services. I find this perspective troubling, and therefore highlight a few of the reasons for the existing rule.

The relationship between attorney and client is the most sacred of fiduciary relationships. The duties of loyalty and confidentiality that are present in every representation are foundational to a functioning justice system. Proponents of the recommendation will point out that they are

⁵⁸ Washington, D.C. and Utah have made modest efforts at exploring alternate business structures, but the Task Force recommendation takes an absolutist approach, and expressly rejects the approaches of these jurisdictions.

proposing no changes to the rules governing loyalty and confidentiality. But this is at most theoretically half-correct. As a matter of law, practice, and human nature, the fiduciary duties owed to partners and other investors are quite real. And the interest of an investor may well be in conflict with that of a client.

Investors owe no duty of loyalty to the clients of the lawyers in whom they invest. The lawyers in such relationships would retain the full duty of undivided loyalty to the client, yet assume fiduciary duties to conduct the representations to maximize profit for the nonlawyer partner. It does not take great imagination to understand that undivided loyalty would be a practical impossibility in such a relationship.

Because the recommendation does not include a proposal for entity regulation (opting instead to leave the question for future study), a nonlawyer investor with interests directly adverse to the client would generally not impute that conflict to the lawyer. Under the proposed revisions to ER1.10, nonlawyer conflicts would be imputed only in the rare circumstance when the nonlawyer owns the opposing party. Lawyers would then be free to represent clients despite conflicts of interest that would rightly disqualify a law firm operating under the current rules. Though it might be comforting to suppose that no lawyer would take advantage of such a situation, it is not realistic.

Much of the need for legal services exists in Arizona's smaller communities. The recommendation contains no limits on the types of entities that could be formed, or on their size. Under the proposal, an entity could effectively buy up a majority of the practices in these communities, consuming brick-and-mortar law firms and leaving residents of those communities with no real choice but to be represented by a lawyer beholden to the entity. Under the proposal, both sides of a dispute could even be represented by lawyers beholden to the *same* entity.

The risks of such conflicts are not theoretical. Under the current rules, *all* individuals with an ownership stake in a law firm must be lawyers. All such individuals owe the *same* duty of loyalty to the client. The proposal would shatter that unified duty, and require that clients entrust their rights, their lives, and their secrets to a lawyer who has an affirmative duty (not merely a desire) to maximize profit – even at the expense of the client.

A glimpse of this phenomenon can be seen in the use of captive law firms by insurance companies. Insurance defense counsel already experience an evolved form of control over representation through aggressive cost restraints. And while few insurance defense counsel would candidly deny those restrictions sometimes interfere with their ability to provide the best service to their clients, they are nonetheless able to serve ethically when there is significant alignment of interests between the insurer and the insured. In these cases, the insurer bears the financial risk of any enforced lack of diligence. Imagine, however, that there was *no* alignment of interests between the insurer and insured, and the insurer did *not* bear the risk of shoddy legal work. What incentive would the insurer then have except to drive quality down?

The latter, nearly unimaginable, scenario is exactly what the recommendation entails. Any entity could substitute itself for the insurer in the above example, control local markets, drive costs (and quality) down, and control fees. But apart from the rare legal malpractice judgment, the nonlawyer would bear no practical risk if the results of its business practices were an increase in unjust or unfavorable results. And the risk of a malpractice judgment could neatly be reduced by requiring clients to sign retainer agreements with comprehensive arbitration clauses.

I fail to see how the public would be benefitted by a system that allows law firm owners to run the business aspect of the practice without regard to the interests of clients or serious conflicts,

and without meaningful economic risk or ethical regulation. The goal of the Supreme Court should be to promote access to justice, not merely access to for-profit services.

The Court should consider the harm that will befall the public perception of a justice system that strips away ethical constraints on lawyers in favor of corporate profits. Public confidence in lawyers is already low. Yet public confidence in the courts remains high, and that confidence is the basis of the legitimacy of the justice system itself. If the Arizona Supreme Court is perceived as placing a thumb on the scale in favor of lawyers and investors, it is difficult to see how that public confidence will be enhanced. “Trickle down economics” might be the subject of fair debate, but “trickle down justice” is not. There is simply no likelihood that nonlawyers will enhance the quality of justice in Arizona, and I urge the Court not to place Arizona on the track to be the first jurisdiction to be seduced by such an argument.

Recommendation 6:

Arizona ranks 51st in lawyers per capita in the United States, including the District of Columbia and Puerto Rico.⁵⁹ And with so few lawyers, Arizona is still home to one of the largest trial courts in the nation. This is important, because it undercuts the relevance of the national economic data underlying the speculations advanced in the “watershed” Henderson paper on which the Report places such heavy reliance. Because the relative supply and demand for legal services in Arizona is far out of line with much of the country, the relevance of Professor Henderson’s economic models is questionable. But if one thing is clear, it is that Arizonans are not clamoring for more lawyers. Nor is there a public thirst for practitioners who never attended law school and charge a “mere” \$100 per hour. What the public rightfully wants is a system of

⁵⁹ For raw lawyer-population data, see ABA National Lawyer Population Survey, 2019, https://www.americanbar.org/content/dam/aba/administrative/market_research/national-lawyer-population-by-state-2019.pdf

justice that is itself more scalable and responsive to its diverse needs – a system it can navigate for free.

A theme in the Task Force deliberations was a sense that because services like LegalZoom exist, the Court should embrace them and create a new industry of nonlawyers to offer similar services. By the same reasoning, the existence of WebMD should prompt the state to allow anyone to take a few courses, pass a test, and prescribe medication. Both arguments are fallacious, and any expansion of legal services provided by nonlawyers should instead be justified by a firm conviction that the services will benefit the public without significant risk. Recommendation number 6 does not satisfy that test.

Indeed, experienced practitioners understand that services such as LegalZoom actually create massive risk for clients. While basic forms can be useful tools, it is dangerous in the extreme to assume that they constitute adequate legal services. Rarely are an individual's legal needs so "standard" that a simple form will ensure the efficient or effective protection of legal rights. And the use of such devices without adequate advice concerning the implications of various courses of action can transform a simple problem into ruinous litigation. I fail to grasp how a corps of individuals with minimal legal training and experience can expect to protect their clients' interests.

The Task Force's response to my question, of course, is that many legal problems are fairly simple and do not require the full resources of a lawyer. To be sure, services are often effectively rendered today by a paralegal operating under the supervision of a lawyer. But that supervision is critical: in our complex justice system, every move entails great risk of unintended consequences and it is naive to assume that a nonlawyer will be effective in providing the advice needed to guard against such risks. A simple problem poorly managed can become a complex problem, and the Task Force's tacit assumption that "simple" matters can safely be left to forms is simply wrong.

My objections to recommendation number 6 is not simply a kneejerk defense of a guild. I recognize that nonlawyers can and do serve critical roles in assuring access to justice. To that end, I regret that the Task Force did not include in its recommendations my proposal to create a system of court navigators who could provide meaningful information to litigants at the courthouse. I regret that it did not propose the creation of alternative procedural tracks for self-represented litigants in smaller disputes. And yet I agree with its support for targeted *nonprofit* programs aimed at providing services in specific case types. Programs carefully developed by each of Arizona's two law schools and the Arizona Bar Foundation reflect the type of careful planning and targeted services that are likely to provide services to those in crisis who could not otherwise afford them. By contrast, the sweeping recommendations of the Task Force to create a new class of practitioner, the LLLP, have been the product of a few days of discussion, and the details are left to a future steering committee.

By acknowledging that a steering committee would be needed to do the real work of defining the LLLP tier, the Task Force highlights the extreme difficulty of turning a "new tier" into a successful program. The Task Force worked for nine months, yet its recommendation provides only the most skeletal description of the proposed LLLP program. Put simply, the concept is not fully baked. In view of the large number of issues (both known and unknown) that remain unaddressed, I suggest that the Court either reject the recommendation outright or request further detailed study before deciding to create such a tier. It would be unwise to decide to create the LLLP program until its precise contours can be described and debated.

Recommendation 9:

I agree with most of the components of Recommendation number 9. I disagree, however, with subpart (a), which would authorize LDPs to speak in court. Though the Task Force acknowledges that LDPs are engaged in the practice of law (a prerequisite to the Court's regulation of LDPs), it speaks with two inconsistent voices. On the one hand, it seeks to expand the role of LDPs by letting them address a court. On the other hand, it sets LDPs up for failure by prescribing unworkable limitations on their ability to do legal research. I find both proposals untenable.

Legal research is a First Amendment right. Any person is free to conduct legal research, and I cannot see how the Court can lawfully prohibit such research. But even if a prohibition were constitutionally possible, where is the public good in such a proposal? The Court has already created the LDP tier of practitioners, and any notion that they do not provide legal advice is folly. Legal advice is inherent in any aspect of the practice of law, and a LDP cannot properly fill out a form or prepare an original document without creating legal consequences.

It is essential, if we are to have such a tier in Arizona, that LDPs be empowered to provide the best service possible to clients. An uninformed LDP is an ineffective or even dangerous LDP, and I submit that LDPs should face no restrictions on research activities. If we cannot trust LDPs to conduct legal research, then we should not allow them to practice law in any form. But I have no reason to believe that LDPs would not be able to conduct legal research appropriately as long as the services they offer do not exceed the scope authorized by the code. I would therefore delete the restriction.

APPENDIX

APPENDIX 1: Proposed Amended ERs (Clean and Redline)⁶⁰

ER 1.0 Terminology (Clean)

(a) – (b) No Change.

(c) "Firm" or "law firm" denotes a lawyer or lawyers in any affiliation, or any entity that provides legal services for which it employs lawyers. Whether two or more lawyers constitute a firm can depend on the specific facts.

(d) – (f) No Change.

(g) – (i) [Formerly (h) – (j)] No Change.

(j) "Screened" denotes the isolation of a lawyer or nonlawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer or nonlawyer is obligated to protect under these Rules or other law.

(1) Reasonably adequate procedures include:

(i) Written notice to all affected firm personnel that a screen is in place and the screened lawyer or nonlawyer must avoid any communication with other firm personnel about the screened matter;

(ii) Adoption of mechanisms to deny access by the screened lawyer or nonlawyer to firm files or other information, including information in electronic form, relating to the screened matter;

(iii) Acknowledgment by the screened lawyer or nonlawyer of the obligation not to communicate with any other firm personnel with respect to the matter and to avoid any contact with any firm files or other information, including information in electronic form, relating to the matter;

(iv) Periodic reminders of the screen to all affected firm personnel.

(v) Additional screening measures that are appropriate for the particular matter will depend on the circumstances.

⁶⁰ This Appendix presents all of the ERs covered by Recommendations 1 and 2. A clean version of each ER is followed immediately by a redline version of that ER.

(2) Screening measures must be implemented as soon as practical after a lawyer, nonlawyer or firm knows or reasonably should know that there is a need for screening.

(k) – (m) [Formerly (l) – (n)] No Change.

(n) “Business transaction,” when used in reference to conflicts of interests:

(1) includes but is not limited to

(i) The sale of goods or services related to the practice of law to existing clients of a firm’s legal practice;

(ii) A lawyer referring a client to nonlegal services performed by others within a firm or a separate entity in which the lawyer or the lawyer’s firm has a financial interest;

(iii) Transactions between a lawyer or a firm and a client in which a lawyer or firm accepts nonmonetary property or an interest in the client’s business as payment of all or part of a fee.

(2) does not include

(i) Ordinary fee arrangements between client and lawyer;

(ii) Standard commercial transactions between a lawyer and a client for products or services that the client generally markets to others and over which the lawyer has no advantage with the client.

(o) “Personal interests,” when used in reference to conflicts of interests, include but are not limited to:

(1) The probity of a lawyer’s own conduct, or the conduct of a nonlawyer in the firm, in a transaction;

(2) Referring clients to a nonlawyer within a firm to provide nonlegal services; or

(3) Referring clients to an enterprise in which a firm lawyer or nonlawyer has an undisclosed or disclosed financial interest.

(p) “Authorized to practice law in this jurisdiction” denotes a firm that employs lawyers or nonlawyers who provide legal services as authorized by Rule 31.

(q) “Nonlawyer” denotes a person not licensed as a lawyer in this jurisdiction or who is licensed in another jurisdiction but is not authorized by these rules to practice Arizona law.

(r) “Nonlawyer assistant” denotes a person, whether an employee or independent contractor, who is not licensed to practice law in this jurisdiction, including but not limited to secretaries, investigators, law student interns, and paraprofessionals. Law enforcement personnel are not considered the nonlawyer assistants of government lawyers.

**Comment [2019 amendments]
Confirmed in Writing**

[1] No Change.

Firm

[2] Similar questions can also arise with respect to lawyers in legal aid, legal services organizations, and other entities that include nonlawyers and provide other services in addition to legal services. Depending upon the structure of the organization, the entire organization or different components of it may constitute a firm or firms for purposes of these Rules. For instance, an organization that provides legal, accounting, and financial planning services to clients is a “firm” for purposes of these Rules for which a lawyer is responsible for assuring that reasonable measures are in place to safeguard client confidences and avoid conflicts of interest by all employees, officers, directors, owners, shareholders, and members of the firm regardless of whether or not the nonlawyers participate in providing legal services. *See Rules 5.1, 5.2 and 5.3.*

Fraud

[3] – [5] No Change, except renumbered from comments [5] – [7].

ER 1.0 Terminology (Redline)

(a) – (b) No Change.

(c) "Firm" or "law firm" denotes a lawyer or lawyers in ~~a law partnership, professional corporation sole proprietorship, or other association; or lawyers employed in a legal services organization or the legal department of a corporation or other organization~~ any affiliation, or any entity that provides legal services for which it employs lawyers. Whether ~~government lawyers should be treated as a firm depends on the particular Rule involved and the specific facts of the situation~~ two or more lawyers constitute a firm can depend on the specific facts.

(d) – (f) No Change.

(g) ~~“Partner” denotes a member of a partnership, a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.~~

(~~h~~ g) No Change other than renumbered.

(~~i~~ h) No Change other than renumbered.

(~~j~~ i) “No Change other than renumbered.

(~~k~~ j) “Screened” denotes the isolation of a lawyer or nonlawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably

adequate under the circumstances to protect information that the isolated lawyer or nonlawyer is obligated to protect under these Rules or other law.

(1) Reasonably adequate procedures include:

- (i) Written notice to all affected firm personnel that a screen is in place and the screened lawyer or nonlawyer must avoid any communication with other firm personnel about the screened matter;
- (ii) Adoption of mechanisms to deny access by the screened lawyer or nonlawyer to firm files or other information, including information in electronic form, relating to the screened matter;
- (iii) Acknowledgment by the screened lawyer or nonlawyer of the obligation not to communicate with any other firm personnel with respect to the matter and to avoid any contact with any firm files or other information, including information in electronic form, relating to the matter
- (iv) Periodic reminders of the screen to all affected firm personnel.
- (v) Additional screening measures that are appropriate for the particular matter will depend on the circumstances.

(2) Screening measures must be implemented as soon as practical after a lawyer, nonlawyer or firm knows or reasonably should know that there is a need for screening.

(~~l~~ k) – (~~n~~ m) No Change, other than renumbered.

(n) “Business transaction,” when used in reference to conflicts of interests:

(1) includes but is not limited to

- (i) The sale of goods or services related to the practice of law to existing clients of a firm’s legal practice;
- (ii) A lawyer referring a client to nonlegal services performed by others within a firm or a separate entity in which the lawyer or the lawyer’s firm has a financial interest;
- (iii) Transactions between a lawyer or a firm and a client in which a lawyer or firm accepts nonmonetary property or an interest in the client’s business as payment of all or part of a fee.

(2) does not include

- (i) Ordinary fee arrangements between client and lawyer;
- (ii) Standard commercial transactions between a lawyer and a client for products or services that the client generally markets to others and over which the lawyer has no advantage with the client.

(o) “Personal interests,” when used in reference to conflicts of interests, include but are not limited to:

(1) The probity of a lawyer’s own conduct, or the conduct of a nonlawyer in the firm, in a transaction;

(2) Referring clients to a nonlawyer within a firm to provide nonlegal services; or

(3) Referring clients to an enterprise in which a firm lawyer or nonlawyer has an undisclosed or disclosed financial interest.

(p) “Authorized to practice law in this jurisdiction” denotes a firm that employs lawyers or nonlawyers who provide legal services as authorized by Rule 31.

(q) “Nonlawyer” denotes a person not licensed as a lawyer in this jurisdiction or who is licensed in another jurisdiction but is not authorized by these rules to practice Arizona law.

(r) “Nonlawyer assistant” denotes a person, whether an employee or independent contractor, who is not licensed to practice law in this jurisdiction, including but not limited to secretaries, investigators, law student interns, and paraprofessionals. Law enforcement personnel are not considered the nonlawyer assistants of government lawyers.

Comment [2003 2019 amendment]

Confirmed Writing

[1] No Change.

Firm

~~[2] Whether two or more lawyers constitute a firm within paragraph (c) can depend on the specific facts. For example, two practitioners who share office space and occasionally consult or assist each other ordinarily would not be regarded as constituting a firm. However, if they present themselves to the public in a way that suggests that they are a firm or conduct themselves as a firm, they should be regarded as a firm for purposes of the Rules. The terms of any formal agreement between associated lawyers are relevant in determining whether they are a firm, as is the fact that they have mutual access to information concerning the clients they serve. Furthermore, it is relevant in doubtful cases to consider the underlying purpose of the Rule that is involved. A group of lawyers could be regarded as a firm for purposes of the Rule that the same lawyer should not represent opposing parties in litigation, while it might not be so regarded for purposes of the Rule that information acquired by one lawyer is attributed to another.~~

~~[3] With respect to the law department of an organization, including the government, there is ordinarily no question that the members of the department constitute a firm within the meaning of the Rules of Professional Conduct. There can be uncertainty, however, as to the identity of the client. For example, it may not be clear whether the law department of a corporation represents a subsidiary or an affiliated corporation, as well as the corporation by which the members of the department are directly employed. A similar question can arise concerning an unincorporated association and its local affiliates.~~

~~[4-2] Similar questions can also arise with respect to lawyers in legal aid, and legal services organizations, and other entities that include nonlawyers and provide other services in~~

addition to legal services. Depending upon the structure of the organization, the entire organization or different components of it may constitute a firm or firms for purposes of these Rules. For instance, an organization that provides legal, accounting, and financial planning services to clients is a “firm” for purposes of these Rules for which a lawyer is responsible for assuring that reasonable measures are in place to safeguard client confidences and avoid conflicts of interest by all employees, officers, directors, owners, shareholders, and members of the firm regardless of whether or not the nonlawyers participate in providing legal services. See Rules 5.1, 5.2, and 5.3.

Fraud

[3 5] – [5 7] No Change, other than renumbered.

Screened

[8] This definition applies to situations where screening of a personally disqualified lawyer is permitted to remove imputation of a conflict of interest under ERs 1.10, 1.11, 1.12 or 1.18.

[9] ~~The purpose of screening is to assure the affected parties that confidential information known by the personally disqualified lawyer remains protected. The personally disqualified lawyer should acknowledge the obligation not to communicate with any of the other lawyers in the firm with respect to the matter. Similarly, other lawyers in the firm who are working on the matter should be informed that the screening is in place and that they may not communicate with the personally disqualified lawyer with respect to the matter. Additional screening measures that are appropriate for the particular matter will depend on the circumstances. To implement, reinforce and remind all affected lawyers of the presence of the screening, it may be appropriate for the firm to undertake such procedures as a written undertaking by the screened lawyer to avoid any communication with other firm personnel and any contact with any firm files or other information, including information in electronic form, relating to the matter, written notice and instructions to all other firm personnel forbidding any communication with the screened lawyer relating to the matter, denial of access by the screened lawyer to firm files or other information, including information in electronic form, relating to the matter, and periodic reminders of the screen to the screened lawyer and all other firm personnel.~~

[10] ~~In order to be effective, screening measures must be implemented as soon as practical after a lawyer or law firm knows or reasonably should know that there is a need for screening.~~

ER 1.5 Fees (Clean)

(a) – (d) No Change.

(e) Two or more firms jointly working on a matter may divide a fee resulting from a single billing to a client if:

(1) the basis for division of the fees and the firms among whom the fees are to be divided are disclosed in writing to the client;

(2) the client consents to the division of fees, in a writing signed by the client;

(3) the total fee is reasonable; and

(4) the division of responsibility among firms is reasonable in light of the client's need that the entire representation be completely and diligently completed.

Comment [2019 amendment]

Reasonableness of Fee and Expenses

[1] No Change.

Basis or Rate of Fee

[2] – [3] No Change.

Terms of Payment

[4] – [5] No Change.

Prohibited Contingent Fees

[6] No Change.

Disclosure of Refund Rights for Certain prepaid Fees

[7] No Change.

Disputes Over Fees

[8] No Change, except renumbered from comment [10].

ER 1.5 Fees (Redline)

(a) – (d) No Change.

~~(e) A division of s fee between lawyers who are not in the same firm may be made only~~
Two or more firms jointly working on a matter may divide a fee resulting from a single billing to a client if:

~~(1) the division is in proportion to the services performed by each lawyer or each lawyer receiving any portion of the fee assumes joint responsibility for the~~

representation; the basis for division of the fees and the firms among whom the fees are to be divided are disclosed in writing to the client;

(2) the client agrees consents to the division of fees, in a writing signed by the client; to the participation of all the lawyers involved and the division of the fees and responsibilities between lawyers; and

(3) the total fee is reasonable; and

(4) the division of responsibility among firms is reasonable in light of the client's need that the entire representation be completely and diligently completed.

Comment [2003 2019 amendment]

Reasonableness of Fee and Expenses

[1] No Change.

Basis or Rate of Fee

[2] – [3] No Change.

Term of Payment

[4] – [5] No Change.

Prohibited Contingent Fees

[6] No Change.

Disclosure of Refund Rights for Certain Prepaid Fees

[7] No Change.

Division of Fee

~~[8] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee by agreement between the participating lawyers, if the division is in proportion to the services performed by each lawyer or all lawyer assume joint responsibility for the representation and the client agrees, in a writing signed by the client, to the arrangement. A lawyer should only refer a matter to a lawyer who the referring lawyer reasonably believes is competent to handle the matter and any division of responsibility among lawyers working jointly on a matter should be reasonable in light of the client's need that the entire representation be completely and diligently completed. See ERs 1.1, 1.3. If the referring lawyer knows that the lawyer to whom the matter was referred has engaged in a violation of these Rules, the referring lawyer should take appropriate steps to protect the interests of the client. Except as permitted by this Rule, referral fees are prohibited by ER 7.2(b).~~

~~[9] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.~~

Dispute Over Fees

[10 8] No Change, other than renumbered.

ER 1.6 Confidentiality (Clean)

(a) – (d) No change.

(e) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client, even if the firm provides the client with only nonlegal services.

2003 Comment [amended 2019]

[1] This Rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client, including representation by the firm for only nonlegal services. See ER 1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, ER 1.9(c)(2) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client and ERs 1.8(b) and 1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

[2] - [4] No Change.

Authorized Disclosure

[5] Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or, to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose to each other, and nonlawyers in the firm, information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

[6] No Change.

Disclosure Adverse to Client

[7] – [20] No Change

Withdrawal

[21] No Change.

Acting Competently to Preserve Confidentiality

[22] Paragraph (e) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision including individuals who are providing nonlegal services through the firm. Lawyers shall establish reasonable safeguards within firms to assure that all information learned from or about a firm client shall remain confidential even if the only services provided to the client are nonlegal services. See ERs 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (e) if the lawyer has made

reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this ER or may give informed consent to forgo security measures that would otherwise be required by this ER. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these ERs. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see ER 5.3, Comments [3]–[4].

[23] No Change.

Former Client

[24] No Change.

ER 1.6 Confidentiality (Redline)

(a) – (d) No change.

(e) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client, even if the firm provides the client with only nonlegal services.

2003 Comment [amended ~~2009~~ 2019]

[1] This Rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client, including representation by the firm for only nonlegal services. See ER 1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, ER 1.9(c)(2) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client and ERs 1.8(b) and 1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

[2] - [4] No Change.

Authorized Disclosure

[5] Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or, to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose to each other, and nonlawyers in the firm,

information relating to a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

[6] No Change.

Disclosure Adverse to Client

[7] – [20] No Change

Withdrawal

[21] No Change.

Acting Competently to Preserve Confidentiality

[22] Paragraph (e) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision including individuals who are providing nonlegal services through the firm. Lawyers shall establish reasonable safeguards within firms to assure that all information learned from or about a firm client shall remain confidential even if the only services provided to the client are nonlegal services. See ERs 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (e) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer's efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer's ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this ER or may give informed consent to forgo security measures that would otherwise be required by this ER. Whether a lawyer may be required to take additional steps to safeguard a client's information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these ERs. For a lawyer's duties when sharing information with nonlawyers outside the lawyer's own firm, see ER 5.3, Comments [3]–[4].

[23] No Change.

Former Client

[24] No Change.

ER 1.7 Conflict of Interest: Current Clients (Clean)

No change to the black letter rule.

Comment [2019 amendment]

[1] – [9] No Change.

[10] – [33] No change except renumbered from [11] – [34]

ER 1.7 Conflict of Interest: Current Clients (Redline)

No change to the black letter rule.

Comment [~~2003~~ 2019 amendment]

[1] – [9] No Change.

Personal Interest Conflicts

~~[10] The lawyer's own interests should not be permitted to have an adverse effect on representation of a client. For example, if the probity of the lawyer's own conduct in a transaction is in serious question, it may be difficult or impossible for the lawyer to give a client detached advice. Similarly, a lawyer may not allow related business interest to affect representation, for example, by referring clients to an enterprise in which the lawyer has an undisclosed financial interest. See ER 1.8 for specific Rules pertaining to a number of personal interest conflicts, including business transactions with clients. See also ER 1.10 (personal interest conflicts under ER 1.7 ordinarily are not imputed to other lawyers in a law firm).~~

~~[11 10] – [12 11]~~ No Change other than renumbered.

~~[13 12] – [34 33]~~ No change other than renumbered.

ER 1.8 Conflict of Interest: Current Clients: Specific Rules (Clean)

(a) – (l) No Change.

(m) A lawyer or firm must comply with ER 1.7 if the client expects the lawyer or firm to represent the client in a business transaction or when the lawyer's or firm's financial interest otherwise poses a significant risk that the representation of the client will be materially limited by the lawyer's or firm's financial interest in the transaction.

Comment [2019 amendment]

[1] The risk to a client is greatest when the client expects the lawyers to represent the client in the transaction itself or when the lawyer's financial interest otherwise poses a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's financial interest in the transaction. Here the lawyer's role requires that that lawyer must comply, not only with requirements of paragraph (a), but also with requirements of ER 1.7. Under that Rule, the lawyer must disclose the risks associated with the lawyers dual role as both legal adviser and participant in the transaction, including when lawyers refer clients for nonlegal services provided in the firm by either the lawyer or nonlawyer in the form or refer clients through a separate entity in which the lawyer has a financial interest, such as the risk that the lawyer will structure the transaction or give legal advice in a way that favors the lawyer's interests at the expense of the client. Moreover, the lawyer must obtain the client's informed consent. In some cases, the lawyer's interest may be such that ER 1.7 will preclude the lawyer from seeking the client's consent to the transaction.

[2] – [19] No Change, excepted renumbered from comments [4] to [21].

ER 1.8 Conflict of Interest: Current Clients: Specific Rules (Redline)

(a) – (l) No Change.

(m) A lawyer or firm must comply with ER 1.7 if the client expects the lawyer or firm to represent the client in a business transaction or when the lawyer's or firm's financial interest otherwise poses a significant risk that the representation of the client will be materially limited by the lawyer's or firm's financial interest in the transaction.

Comment [2003 2019 amendment]

Business Transactions Between Client and Lawyer

~~[1] A lawyer's legal skill and training, together with the relationship of trust and confidence between lawyers and client, create the possibility of overreaching when the lawyer participates in a business, property or financial transaction with a client, for example a loan or sales transaction or a lawyer investment on behalf of a client. The requirements of paragraph (a) must be met even when the transaction is not closely related to the subject matter of the representation, as when a lawyer drafting a will for a client learns that the client needs money for unrelated expenses and offers to make a loan to the client. The Rule applies to lawyers engaged in the sale of goods or services related to the practice of law, for example, the sale of title insurance or investment services to existing clients of the~~

lawyer's legal practice. See ER 5.7. It also applies to lawyers purchasing property from estates they represent. It does not apply to ordinary fee arrangements between client and lawyer, which are governed by ER 1.5, although its requirements must be met when the lawyer accepts an interest in the client's business or other nonmonetary property as payment of all or part of a fee. In addition, the Rule does not apply to standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others, for example, banking or brokerage services, medical services, products manufactured or distributed by the client, and utilities services. IN such transactions, the lawyer has no advantage in dealing with the client, and the restrictions in paragraph (a) are unnecessary and impracticable.

[2] Paragraph (a)(1) requires that the transaction itself be fair to the client and that its essential terms be communicated to the client in writing, in a manner that can be reasonably understood. Paragraph (a)(2) requires that the client also be advised, in writing, of the desirability of seeking advice of independent legal counsel. It also requires that the client be given a reasonable opportunity to obtain such advice. Paragraph (a)(3) requires that the lawyer obtain the client's informed consent, in a writing signed by the client, both to the essential terms of the transaction and to the lawyer's role. When necessary, the lawyer should discuss both the materials risks of the proposed transaction, including any risk presented by the lawyer's involvement, and the existence of reasonably available alternatives and should explain why the advice of independent legal counsel is desirable. See ER 1.0(e) (definition of informed consent).

[3 1] The risk to a client is greatest when the client expects the lawyers to represent the client in the transaction itself or when the lawyer's financial interest otherwise poses a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's financial interest in the transaction. Here the lawyer's role requires that the lawyer must comply, not only with requirements of paragraph (a), but also with requirements of ER 1.7. Under that Rule, the lawyer must disclose the risks associated with the lawyers dual role as both legal adviser and participant in the transaction, including when lawyers refer clients for nonlegal services provided in the firm by either the lawyer or nonlawyer in the firm or refer clients through a separate entity in which the lawyer has a financial interest, such as the risk that the lawyer will structure the transaction or give legal advice in a way that favors the lawyer's interests at the expense of the client. Moreover, the lawyer must obtain the client's informed consent. In some cases, the lawyer's interest may be such that ER 1.7 will preclude the lawyer from seeking the client's consent to the transaction.

[4 2] – [24 19] No Change, other than renumbered.

ER 1.10 Imputation of Conflicts of Interest: General Rule (Clean)

(a) While lawyers and nonlawyers are associated in a firm, none of them shall knowingly represent a client on legal or nonlegal matters when any one of them practicing alone would be prohibited from doing so by ERs 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer or nonlawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers and nonlawyers in the firm.

(b) – (e) [No change.]

(f) If a lawyer or nonlawyer in a firm owns all or part of an opposing party, the personal disqualification of the lawyer or nonlawyer is imputed to all others in the firm.

(g) If a nonlawyer is personally disqualified, the nonlawyer may be screened and the nonlawyer's personal disqualification is not imputed to the rest of the firm unless the nonlawyer is an owner, shareholder, partner, officer or director of the firm.

(h) If a lawyer is personally disqualified from representing a client due to events or conduct in which the person engaged before the person became licensed as a lawyer, the lawyer may be screened, and the lawyer's personal disqualification is not imputed to the rest of the firm unless the lawyer is an owner, shareholder, partner, officer or director of the firm.

Comment [2019 amendment]

[1] – [7] No change, except renumbered from current [5] – [11].

ER 1.10 Imputation of Conflicts of Interest: General Rule (Redline)

(a) While lawyers and nonlawyers are associated in a firm, none of them shall knowingly represent a client on legal or nonlegal matters when any one of them practicing alone would be prohibited from doing so by ERs 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer or nonlawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers and nonlawyers in the firm.

(b) – (e) No change.

(f) If a lawyer or nonlawyer in a firm owns all or part of an opposing party, the personal disqualification of the lawyer or nonlawyer is imputed to all others in the firm.

(g) If a nonlawyer is personally disqualified pursuant to paragraph (a), the nonlawyer may be screened and the nonlawyer's personal disqualification is not imputed to the rest of the firm unless the nonlawyer is an owner, shareholder, partner, officer or director of the firm.

(h) If a lawyer is personally disqualified from representing a client due to events or conduct in which the person engaged before the person became licensed as a lawyer, the lawyer

may be screened, and the lawyer's personal disqualification is not imputed to the rest of the firm unless the lawyer is an owner, shareholder, partner, officer or director of the firm.

Comment [2003 and 2016 2019 amendment]

Definition of Firm

~~[1] For purposes of the Rules of Professional Conduct, the term 'firm' denotes lawyers in a law partnership, professional corporation, sole proprietorship or other association; or lawyers employed in a legal services organization of the legal department of a corporation or other organization. See ER 1.0(c). Whether two or more lawyers constitute a firm within this definition can depend on the specific facts. See ER 1.0 Comments [2]—[4].~~

Principles of Imputed Disqualification

~~[2] The rule of imputed disqualification stated in paragraph (a) gives effect to the principle of loyalty to the client as it applies to lawyers who practice in a law firm. Such situations can be considered from the premise that a firm of lawyers is essentially one lawyer for purposes of the rules governing loyalty to the client, or from the premise that each lawyer is vicariously bound by the obligation of loyalty owed by each lawyer with whom the lawyer is associated. Paragraph (a) operates only among the lawyers currently associated in a firm. When a lawyer moves from one firm to another, the situation is governed by ERs 1.9(b) and 1.10(b).~~

~~[3] The rule in paragraph (a) does not prohibit representation where neither questions of client loyalty nor protection of confidential information are presented. Where one lawyer a firm could not effectively represent a given client because of strong political beliefs, for example, but that lawyer will do no work on the case and the personal beliefs of the lawyer will not materially limit the representation by others in the firm, the firm should not be disqualified. On the other hand, for example, if an opposing party in a case were owned by a lawyer in the law firm, and others in the firm are reasonably likely to be materially limited in pursuing the matter because of loyalty to that lawyer, the personal disqualification of the lawyer would be imputed to all others in the firm. A disqualification arising under ER 1.8(l) from a family or cohabitating relationship is persona and ordinarily is not imputed to other lawyers with whom the lawyers are associated.~~

~~[4] The rule in paragraph (a) also does not prohibit representation by others in the law firm where the person prohibited from involvement in a matter is a nonlawyer, such as a paralegal or legal secretary. Nor does paragraph (a) prohibit representation if the lawyer is prohibited from acting because of events before the person became a lawyer, for example, work that a person did while a law student. Such persons, however, ordinarily must be screened from any personal participation in the matter to avoid communication to others in the firm of confidential information that both the nonlawyers and firm have a legal duty to protect. See ERs 1.0(k) and 5.3.~~

~~[5 1] – [11 7] No change, other than renumbered.~~

ER 1.17 Sale of Law Practice or Firm (Clean)

(a) A firm may sell or purchase a law practice, or a practice area of a firm, including good will, if the seller gives written notice to each of the seller's clients regarding:

- (1) the proposed sale, including the identity of the purchaser;
- (2) the client's right to retain other counsel or to take possession of the file; and
- (3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of receipt of the notice.

(b) If a client cannot be given notice, the representation of that client may be transferred to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of a file.

(c) A sale may not be financed by increases in fees charged the clients of the practice. Existing arrangements between the seller and the client as to fees and the scope of the work must be honored by the purchaser.

(d) Before providing a purchaser access to detailed information relating to the representation, including client files, the seller must provide the written notice to a client as described above.

(e) Lawyers participating in the sale of a law practice or a practice area must exercise competence in identifying a purchaser qualified to assume the practice and the purchaser's obligation to undertake the representation competently; avoid disqualifying conflicts, and secure the client's informed consent for those conflicts that can be agreed to and the obligation to protect information relating to the representation.

(f) If approval of the substitution of the purchasing lawyer for a selling firm is required by the rules of any tribunal in which a matter is pending, such approval must be obtained before the matter can be included in the sale.

(g) This Rule does not apply to the transfers of legal representation between lawyers when such transfers are unrelated to the sale of a practice or an area of practice.

[Note: All Comments to existing ER 1.17 were deleted.]

ER 1.17 Sale of Law Practice or Firm (Redline)

(a) A lawyer or a law firm may sell or purchase a law practice, or an area of law practice a practice area of a firm, including good will, if the following conditions are satisfied seller gives written notice to each of the seller's clients regarding:

~~(a) The seller ceases to engage the private practice of law, or in the area of practice that has been sold, in the geographic area(s) in which the practice has been conducted;~~

~~(b) The entire practice, or the entire area of practice, is sold to one or more lawyers or law firms;~~

~~(c) The seller gives written notice to each of the seller's clients regarding;~~

~~(1) the proposed sale, including the identity of the purchaser;~~

~~(2) the client's right to retain other counsel or to take possession of the file; and~~

~~(3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of receipt of the notice.~~

~~(b) If a client cannot be given notice, the representation of that client may be transferred to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of a file.~~

~~(d) The fees charged clients shall not be increased by reason of the sale.~~

~~(c) A sale may not be financed by increases in fees charged the clients of the practice. Existing arrangements between the seller and the client as to fees and the scope of the work must be honored by the purchaser.~~

~~(d) Before providing a purchaser access to detailed information relating to the representation, including client files, the seller must provide the written notice to a client as described above.~~

~~(e) Lawyers participating in the sale of a law practice or a practice area must exercise competence in identifying a purchaser qualified to assume the practice and the purchaser's obligation to undertake the representation competently; avoid disqualifying conflicts, and secure the client's informed consent for those conflicts that can be agreed to and the obligation to protect information relating to the representation.~~

~~(f) If approval of the substitution of the purchasing lawyer for a selling firm is required by the rules of any tribunal in which a matter is pending, such approval must be obtained before the matter can be included in the sale.~~

~~(g) This Rule does not apply to the transfers of legal representation between lawyers when such transfers are unrelated to the sale of a practice or an area of practice.~~

Comment [2003 rule]

[All comments to ER 1.17 were deleted]

ER 5.1 Responsibilities of Lawyers Who Have Ownership Interests or are Managers or Supervisors (Clean)

(a) A lawyer who has an ownership interest in a firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a firm, shall make reasonable efforts to ensure that the firm has in effect internal policies and procedures giving reasonable assurance that all lawyers and nonlawyers in the firm conform to these,

(1) Internal policies and procedures include, but are not limited to, those designed to detect and resolve conflicts of interest, maintaining confidentiality, identifying dates by which actions must be taken in pending matters, account for client funds and property and ensure that inexperienced lawyers are properly supervised.

(2) Other measures may be required depending on the firm's structure and the nature of its practice.

(b) A lawyer having supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct. The degree of supervision required is that which is reasonable under the circumstances, taking into account factors such as the experience of the persons who is being supervised and the amount of work involved. Whether a lawyer has supervisory authority may vary given the circumstances.

(c) A lawyer shall be personally responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer has an ownership interest in or has comparable managerial authority in the firm in which the other lawyer practices, or has supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(i) Appropriate remedial action by an owner or managing lawyer depends on the immediacy of that lawyer's involvement and the seriousness of the misconduct.

(ii) A supervisor must intervene to prevent avoidable consequences of misconduct if the supervisor knows that the misconduct occurred.

ER 5.1 Responsibilities of ~~Partners, Managers, and Supervisory Lawyers~~ Lawyers Who Have Ownership Interests or are Managers or Supervisors (Redline)

~~(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possess comparable managerial authority in a firm, shall make reasonable efforts to ensure~~

~~that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.~~

(a) A lawyer who has an ownership interest in a firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a firm, shall make reasonable efforts to ensure that the firm has in effect internal policies and procedures giving reasonable assurance that all lawyers and nonlawyers in the firm conform to these,

(1) Internal policies and procedures include, but are not limited to, those designed to detect and resolve conflicts of interest, maintaining confidentiality, identifying dates by which actions must be taken in pending matters, account for client funds and property and ensure that inexperienced lawyers are properly supervised.

(2) Other measures may be required depending on the firm's structure and the nature of its practice.

(b) A lawyer having ~~direct~~ supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct. The degree of supervision required is that which is reasonable under the circumstances, taking into account factors such as the experience of the person who is being supervised and the amount of work supervised. Whether a lawyer has supervisory authority may vary given the circumstances.

(c) A lawyer shall be personally responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer ~~is a partner~~ has an ownership interest in or has comparable managerial authority in the firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(i) Appropriate remedial action by an owner or managing lawyer depends on the immediacy of that lawyer's involvement and the seriousness of the misconduct.

(ii) A supervisor must intervene to prevent avoidable consequences of misconduct if the supervisor knows that the misconduct occurred.

Comment [2003 amendment]

[Note: All Comments to existing ER 5.1 were deleted.]

ER 5.3. Responsibilities Regarding Nonlawyers (Clean)

(a) A lawyer who in a firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the conduct of nonlawyers, including those who have equity interests in the firm, is compatible with the professional obligations of the lawyer. Reasonable measures include but are not limited to adopting and enforcing policies and procedures designed:

(1) to prevent nonlawyers in a firm from directing, controlling or materially limiting the lawyer's independent professional judgment on behalf of clients or materially influencing which clients a lawyer does or does not represent; and.

(2) to ensure that nonlawyers comport themselves in accordance with the lawyer's ethical obligations, including, but not limited to, avoiding conflicts of interest and maintaining the confidentiality of all firm client information.

(b) A lawyer having supervisory authority over a nonlawyer within or outside a firm shall make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

(1) Reasonable efforts include providing to nonlawyers appropriate instruction and supervision concerning the ethical aspects of their employment or retention, particularly regarding the obligation not to disclose information relating to the representation of the client.

(2) Measures employed in supervising nonlawyers should take into account that they may not have legal training and are not subject to professional discipline.

(3) When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

(4) Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer.

(c) A lawyer shall be responsible for conduct of a nonlawyer that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer has managerial authority in the firm and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(d) When a firm includes nonlawyers who have an equity interest or managerial authority in the form, any lawyer practicing therein shall ensure that a lawyer has been identified as responsible for establishing policies and procedures within the firm to assure nonlawyer compliance with these rules.

[Note: All Comments to existing ER 5.3 were deleted.]

ER 5.3. Responsibilities Regarding Nonlawyers Assistants (Redline)

~~With respect to a nonlawyer employed or retained by or associated with a lawyer:~~

~~(a) a partner, and a lawyer who individually or together with other lawyers possess comparable managerial authority in a law firm shall reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's is compatible with the professional obligations of the lawyer;~~

~~(a) a lawyer having direct supervisory authority over the nonlawyer~~ A lawyer in a firm shall make reasonable efforts to ensure that the person's conduct firm has in effect measures giving reasonable assurance that the conduct of nonlawyers, including those who have equity interests in the firm, is compatible with the professional obligations of the lawyer; ~~and~~ Reasonable measures include, but are not limited to, adopting and enforcing policies and procedures designed:

(1) to prevent nonlawyers in a firm from directing, controlling or materially limiting the lawyer's independent professional judgment on behalf of clients or materially influencing which clients a lawyer does or does not represent; and.

(2) to ensure that nonlawyers comport themselves in accordance with the lawyer's ethical obligations, including, but not limited to, avoiding conflicts of interest and maintaining the confidentiality of all firm client information.

~~(b) A lawyer having supervisory authority over a nonlawyer within or outside a firm shall make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.~~

(1) Reasonable efforts include providing to nonlawyers appropriate instruction and supervision concerning the ethical aspects of their employment or retention, particularly regarding the obligation not to disclose information relating to the representation of the client.

(2) Measures employed in supervising nonlawyers should take into account that they may not have legal training and are not subject to professional discipline.

(3) When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable

assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

(4) Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer ordinarily should agree with the client concerning the allocation of responsibility for monitoring as between the client and the lawyer.

(c) ~~a~~ A lawyer shall be responsible for conduct of ~~such a person~~ a nonlawyer that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer ~~is a partner or has comparable~~ managerial authority in the firm ~~in which the person is employed, or has direct supervisory authority over the person,~~ and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(d) When a firm includes nonlawyers who have an equity interest or managerial authority in the firm, any lawyer practicing therein shall ensure that a lawyer has been identified as responsible for establishing policies and procedures within the firm to assure nonlawyer compliance with these rules.

~~Comment [2003 amendment]~~

[Note: All Comments to existing ER 5.3 were deleted.]

ER 5.4 Professional Independence of a Lawyer (Clean)

[Note: The entirety of this rule was deleted.]

~~ER 5.4 Professional Independence of a Lawyer (Redline)~~

~~(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:~~

~~(1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;~~

~~(2) a lawyer who purchases the practice of a deceased, disabled, or dis appeared lawyer may, pursuant to the provisions of ER 1.17, pay to the estate or to other representative of that lawyer the agreed upon purchase price:~~

~~(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit sharing arrangement; and~~

~~(4) a lawyer may share court awarded legal fees or fees otherwise received and permissible under these rules with a nonprofit organization that employed, retained or recommended employment of the lawyer in the matter.~~

~~(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.~~

~~(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.~~

~~(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for profit, if:~~

~~(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;~~

~~(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or~~

~~(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.~~

~~Comment [2003 amendment]~~

~~[1] The provisions of this Rule express traditional limitations on the sharing of fees. These limitations are to protect the lawyer's professional independence of judgment. Where someone other than the client pays the lawyer's fee or salary, or recommends employment~~

~~of the lawyer, that arrangement does not modify the lawyer's obligation to the client. As stated in paragraph (c), such arrangements should not interfere with the lawyer's professional judgment.~~

~~[2] This Rule also expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another. See also ER 1.8(f) (lawyer may accept compensation from a third party as long as there is no interference with the lawyer's independent professional judgment and the client gives informed consent).~~

ER 5.7 Responsibilities Regarding Law-Related Service (Clean)

[Note: The entirety of this rule was deleted.]

~~ER 5.7. Responsibilities Regarding Law-Related Services (Redline)~~

~~(a) A lawyer may provide, to clients and to others, law-related services, as defined in paragraph (b), either:~~

~~(1) by the lawyer in circumstances that are not distinct from the lawyer's provision of legal services to clients; or~~

~~(2) by a separate entity which is controlled by the lawyer individually or with others.~~

~~Where the law-related services are provided by the lawyer in circumstances that are not distinct from the lawyer's provision of legal services to clients, the lawyer shall be subject to the provisions of the Rules of Professional Conduct in the course of providing such services. In circumstances in which law-related services are provided by a separate entity controlled by the lawyer individually or with others, the lawyer shall not be subject to the Rules of Professional Conduct, in the course of providing such services, only if the lawyer takes reasonable measures to assure that a person obtaining the law-related services knows that the services of the separate entity are not legal services and that the protections of the client-lawyer relationship do not apply.~~

~~(b) The term law-related services denotes services that might reasonably be performed in conjunction with and in substance are related to the provision of legal services, and that are not prohibited as unauthorized practice of law when provided by a nonlawyer.~~

Comment [2003 rule]

~~[1] When a lawyer performs law-related services or controls an organization that does so, there exists the potential for ethical problems. Principal among these is the possibility that the person for whom the law-related services are performed fails to understand that the services may not carry with them the protections normally afforded as part of the client-lawyer relationship. The recipient of the law-related services may expect, for example, that the protection of client confidences, prohibitions against representation of persons with conflict interests, and obligations of a lawyer to maintain professional independence apply to the provision of law-related services when that may not be the case.~~

~~[2] ER 5.7 applies to the provision of law-related services by a lawyer even when the lawyer does not provide any legal services to the person for whom the law-related services are performed. The Rule identifies the circumstances in which all of the Rules of Professional Conduct apply to the provision of law-related services. Even when those circumstances do not exist, however, the conduct of a lawyer involved in the provision of law-related services is subject to those Rules that~~

apply generally to lawyer conduct, regardless of whether the conduct involves the provision of legal services. See, e.g., ER 8.4.

[3] When law-related services are provided by a lawyer under circumstances that are not distinct from the lawyer's provision of legal services to clients, the lawyer in providing the law-related services must adhere to the requirements of the Rules of Professional Conduct as provided in paragraph (a)(1).

[4] Law-related services also may be provided through an entity that is distinct from that through which the lawyer provides legal services. If the lawyer individually or with others has control of such an entity's operations, the Rule requires the lawyer to take reasonable measures to assure that each person using the services of the entity knows that the services provided by the entity are not legal services and that the Rules of Professional Conduct that relate to the client-lawyer relationship do not apply. A lawyer's control of an entity extends to the ability to direct its operation. Whether a lawyer has such control will depend upon the circumstances of the particular case.

[5] When a client-lawyer relationship exists with a person who is referred by a lawyer to a separate law-related service entity controlled by the lawyer, individually or with others, the lawyer must comply with ER 1.8(a).

[6] In taking the reasonable measures referred to in paragraph (a) to assure that a person using law-related services understands the practical effect or significance of the inapplicability of the Rules of Professional Conduct, the lawyer should communicate to the person receiving the law-related services, in a manner sufficient to assure that the person understands the significance of the fact, that the relationship of the person to the business entity will not be a client-lawyer relationship. The communication should be made before entering into an agreement for provision of or providing law-related services, and preferably should be in writing.

[7] The burden is upon the lawyer to show that the lawyer has taken reasonable measures under the circumstances to communicate the desired understanding. For instance, a sophisticated user of law-related services, such as a publicly held corporation, may require a lesser explanation than someone unaccustomed to making distinctions between legal services and law-related services, such as an individual seeking tax advice from a lawyer-accountant or investigative services in connection with a lawsuit.

[8] Regardless of the sophistication of potential recipients of law-related services, a lawyer should take special care to keep separate the provision of law-related and legal services in order to minimize the risk that the recipient will assume that the law-related services are legal services. The risk of such confusion is especially acute when the lawyer renders both types of services with respect to the same matter. Under some circumstances the legal and law-related services may be so closely entwined that they cannot be distinguished from each other, and the requirement of disclosure and consultation imposed by paragraph (a) of the Rule cannot be met. In such a case a

lawyer will be responsible for assuring that both the lawyer's conduct and, to the extent required by ER 5.3, that of nonlawyer employees in the distinct entity which the lawyer controls complies in all respects with the Rules of Professional Conduct.

[9] A broad range of economic and other interests of clients may be served by lawyers engaging in the delivery of law-related services. Examples of law-related services include providing title insurance, financial planning, accounting, trust services, real estate counseling, legislative lobbying, economic analysis, social work, psychological counseling, tax preparation, and patent, medical or environmental consulting.

[10] When a lawyer is obliged to accord the recipients of such services the protections of those Rules that apply to the client-lawyer relationship, the lawyer must take special care to heed the proscriptions of the Rules addressing conflict of interest (ERs 1.7 through 1.11, especially ERs 1.7(a)(2) and 1.8(a), (b) and (f)), and to scrupulously adhere to the requirements of ER 1.6 relating to disclosure of confidential information. The promotion of the law-related services must also in all respects comply with ERs 7.1 through 7.3, dealing with advertising and solicitation. In that regard, lawyers should take special care to identify the obligations that may be imposed as a result of a jurisdiction's decisional law.

[11] When the full protections of all of the Rules of Professional Conduct do not apply to the provision of law-related services, principles of law external to the Rules, for example, the law of principal and agent, govern the legal duties owed to those receiving the services. Those other legal principles may establish a different degree of protection for the recipient with respect to confidentiality of information, conflicts of interest and permissible business relationships with clients. See also ER 8.4.

[12] Variations in language of this Rule from ABA Model Rule 5.7 as adopted in 2002 are not intended to imply a difference in substance.

ER 7.1. Communications Concerning a Lawyer's Services (Clean)

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services.

(a) A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

(b) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless the lawyer complies with Arizona Supreme Court Rule 44 requirements.

(c) Any communication made pursuant to this Rule shall include the name and contact information for at least one lawyer or law firm responsible for its content.

[1] Misleading truthful statements are prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation. A truthful statement also is misleading if presented in a way that creates a substantial likelihood that a reasonable person would believe the lawyer's communication requires that person to take further action when, in fact, no action is required.

[2] A communication that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case. Similarly, an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other lawyers may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison can be substantiated. The inclusion of a clear and conspicuous disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead the public.

[3] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. ER 8.4(c). See also ER 8.4(e) for the prohibition against stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

Firm Names

[4] Firm names, letterhead and professional designations are communications concerning a lawyer's services. A firm may be designated by the names of all or some of its current members, by the names of deceased members where there has been a succession in the firm's identity or by a trade name if it is not false or misleading. A firm name cannot include the name of a lawyer who is disbarred or on disability inactive status because to continue to use a disbarred lawyer's name is misleading. A lawyer or law firm may be designated by a distinctive website address, social media username or comparable professional designation that is not misleading. A law firm name

or designation is misleading if it implies a connection with a government agency, with a deceased lawyer who was not a former member of the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or with a public or charitable legal services organization. If a firm uses a trade name that includes a geographical name such as “Springfield Legal Clinic,” an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

[5] A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction. Lawyers may not imply or hold themselves out as practicing together in one firm when they are not a firm, as defined in Rule 1.0(c), because to do so would be false and misleading. It is misleading to use the name of a lawyer holding a public office in the name of a law firm, or in communications on the law firm’s behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

[6] Paragraph (b) of this Rule permits a lawyer to communicate that the lawyer does or does not practice in particular areas of law. A lawyer is generally permitted to state that the lawyer “concentrates in” or is a “specialist,” practices a “specialty,” or “specializes in” particular fields based on the lawyer’s experience, specialized training or education, but such communications are subject to the “false and misleading” standard applied in this Rule to communications concerning a lawyer’s services.

Certified Specialists

[7] The Patent and Trademark Office has a long-established policy of designating lawyers practicing before the Office. The designation of Admiralty practice also has a long historical tradition associated with maritime commerce and the federal courts. A lawyer’s communications about these practice areas are not prohibited by this Rule.

[8] This Rule permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such certification is granted by an organization approved by an appropriate authority of a state, the District of Columbia or a United States Territory or accredited by the American Bar Association or another organization, such as a state supreme court or a state bar association, that has been approved by the authority of the state, the District of Columbia or a United States Territory to accredit organizations that certify lawyers as specialists. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge and proficiency to ensure that a lawyer’s recognition as a specialist is meaningful and reliable. To ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

Required Contact Information

[9] This Rule requires that any communication about a lawyer or law firm’s services include the name of, and contact information for, the lawyer or law firm. Contact information includes a website address, a telephone number, an email address or a physical office location.

ER 7.1 Communications Concerning a Lawyer's Services (Redline)

A lawyer shall not make ~~or knowingly permit to be made on the lawyer's behalf~~ a false or misleading communication about the lawyer or the lawyer's services.

(a) A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

(b) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless the lawyer complies with Arizona Supreme Court Rule 44 requirements.

(c) Any communication made pursuant to this Rule shall include the name and contact information for at least one lawyer or law firm responsible for its content.

Comment [2003 Rule 2019 amendment]

~~[1] This Rule governs all communications about a lawyer's services, including advertising permitted by ER 7.2. Whatever means are used to make known a lawyer's services, statements about them must be truthful. A clear and conspicuous disclaimer or qualifying language may preclude a finding that a statement is false or misleading.~~

[2 ~~1~~] Misleading ~~Truthful~~ statements ~~that are misleading~~ are also prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is ~~also~~ misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation. A truthful statement also is misleading if presented in a way that creates a substantial likelihood that a reasonable person would believe the lawyer's communication requires that person to take further action when, in fact, no action is required.

~~[3 2] Promising or guaranteeing a particular outcome or result is misleading.~~ A communication that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case. Similarly, an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other lawyers may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison can be substantiated. The inclusion of a clear and conspicuous disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead the public.

[4 ~~3~~] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. ER 8.4(c). See also ER 8.4(e) for the prohibition against stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

Firm Names

[4] Firm names, letterhead and professional designations are communications concerning a lawyer's services. A firm may be designated by the names of all or some of its current members, by the names of deceased members where there has been a succession in the firm's identity or by a trade name if it is not false or misleading. A firm name cannot include the name of a lawyer who is disbarred or on disability inactive status because to continue to use a disbarred lawyer's name is misleading. A lawyer or law firm may be designated by a distinctive website address, social media username or comparable professional designation that is not misleading. A law firm name or designation is misleading if it implies a connection with a government agency, with a deceased lawyer who was not a former member of the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or with a public or charitable legal services organization. If a firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

[5] A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction. Lawyers may not imply or hold themselves out as practicing together in one firm when they are not a firm, as defined in Rule 1.0(c), because to do so would be false and misleading. It is misleading to use the name of a lawyer holding a public office in the name of a law firm, or in communications on the law firm's behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm. Whether a communication about a lawyer or legal services is false or misleading is based upon the perception of a reasonable person.

[6] Paragraph (b) of this Rule permits a lawyer to communicate that the lawyer does or does not practice in particular areas of law. A lawyer is generally permitted to state that the lawyer "concentrates in" or is a "specialist," practices a "specialty," or "specializes in" particular fields based on the lawyer's experience, specialized training or education, but such communications are subject to the "false and misleading" standard applied in this Rule to communications concerning a lawyer's services. See comment to ER 5.5(b)(2) regarding advertisements and communications by non-members. A non-member lawyer's failure to inform prospective clients that the lawyer is not licensed to practice law by the Supreme Court of Arizona or has limited his or her practice to federal or tribal legal matters may be misleading.

Certified Specialists

[7] The Patent and Trademark Office has a long-established policy of designating lawyers practicing before the Office. The designation of Admiralty practice also has a long historical tradition associated with maritime commerce and the federal courts. A lawyer's communications about these practice areas are not prohibited by this Rule.

[8] This Rule permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such certification is granted by an organization approved by an appropriate authority of a state, the District of Columbia or a U.S. Territory or accredited by the American Bar Association or another organization, such as a state supreme court or a state bar association, that has been approved by the authority of the state, the District of Columbia or a U.S. Territory to accredit organizations that certify lawyers as specialists. Certification signifies that an objective entity has recognized an

advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge and proficiency to ensure that a lawyer's recognition as a specialist is meaningful and reliable. To ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

Required Contact Information

[9] This Rule requires that any communication about a lawyer or law firm's services include the name of, and contact information for, the lawyer or law firm. Contact information includes a website address, a telephone number, an email address or a physical office location.

ER 7.2 [RESERVED] (Clean)

ER 7.2 [RESERVED] Advertising Communications Concerning a Lawyer's Services: Specific Rules (Redline)

~~(a) Subject to the requirements of ERs 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.~~

~~(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may:~~

~~(1) pay the reasonable costs of advertisements or communications permitted by this Rule;~~

~~(2) pay the usual charges of a legal service plan or a not for profit or qualified lawyer referral service, which may include, in addition to any membership fee, a fee calculated as a percentage of legal fees earned by the lawyer to whom the service or organization has referred a matter, provided that any such percentage fee shall not exceed ten percent, and shall be used only to help defray the reasonable operating expenses of the service or organization and to fund public service activities, including the delivery of pro bono legal services. The fees paid by a client referred by such service shall not exceed the total charges that the client would have paid had no such service been involved. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority; and~~

~~(3) pay for a law practice in accordance with ER 1.17.~~

~~(c) Any communication made pursuant to this Rule shall include the name and contact information for at least one lawyer or law firm responsible for its content.~~

~~(d) Every advertisement (including advertisement by written solicitation) that contains information about the lawyer's fees shall be subject to the following requirements:~~

~~(1) advertisements and written solicitations indicating that the charging of a fee is contingent on outcome or that the fee will be a percentage of the recovery shall disclose (A) that the client will be liable for expenses regardless of outcome unless the repayment of such is contingent upon the outcome of the matter and (B) whether the percentage fee will be computed before expenses are deducted from the recovery;~~

~~(2) range of fees or hourly rates for services may be communicated provided that the client is informed in writing at the commencement of any client lawyer relationship that the total fee within the range which will be charged or the total hours to be devoted will vary depending upon that particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee within the range likely to be charged;~~

~~(3) fixed fees for specific routine legal services, the description of which would not be misunderstood or be deceptive, may be communicated provided that the client is informed~~

~~in writing at the commencement of any client-lawyer relationship that the quoted fee will be available only to clients whose matters fall within the services described and that the client is entitled without obligation to a specific estimate of the fee likely to be charged;~~

~~(4) a lawyer who advertises a specific fee, range of fees or hourly rate for a particular service shall honor the advertised fee, or range of fees, for at least ninety (90) days unless the advertisement specifies a shorter period; provided, for advertisements in the yellow pages of telephone directories or other media not published more frequently than annually, the advertised fee or range of fees shall be honored for no less than one year following publication.~~

~~(e) Advertisements on the electronic media may contain the same information as permitted in advertisements in the print media. If a law firm advertises on electronic media and a person appears purporting to be a lawyer, such person shall in fact be a lawyer employed full time at the advertising law firm. If a law firm advertises a particular legal service on electronic media, and a lawyer appears as the person purporting to render the service, the lawyer appearing shall be the lawyer who will actually perform the service advertised unless the advertisement discloses that the service may be performed by other lawyers in the firm.~~

~~(f) Communications required by paragraphs (e) and (d) shall be clear and conspicuous. To be "clear and conspicuous" a communication must be of such size, color, contrast, location, duration, cadence, and audibility that an ordinary person can readily notice, read, hear, and understand it.~~

Comment [2003 rule]

~~[1] To assist the public in learning about and obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. The interest in expanding public information about legal services ought to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching.~~

~~[2] This ER permits public dissemination of information concerning a lawyer's name or firm name, address, email address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language ability; names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance.~~

~~[3] Questions of effectiveness and taste in advertising are matters of speculation and subjective judgment. Some jurisdictions have had extensive prohibitions against television and other forms of advertising, against advertising going beyond specified facts about a lawyer, or against "undignified" advertising. Television, the Internet, and other forms of electronic communication are now among the most powerful media for getting information to the public, particularly persons~~

~~of low and moderate income; prohibiting television, Internet, and other forms of electronic advertising, therefore, would impede the flow of information about legal services to many sectors of the public. Limiting the information that may be advertised has a similar effect and assumes that the bar can accurately forecast the kind of information that the public would regard as relevant. But see ER 7.3(a) for the prohibition against a solicitation through a real-time electronic exchange initiated by the lawyer.~~

~~[4] Neither this Rule nor ER 7.3 prohibits communications authorized by law, such as notice to members of a class action litigation.~~

~~[5] Except as permitted under paragraphs (b)(1)–(b)(3), lawyers are not permitted to pay others for recommending the lawyer's services or channeling professional work in a manner that violates ER 7.3. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional qualities. Directory listings, group advertisements, and online referral services that list lawyers by practice area do not constitute impermissible "recommendations."~~

~~[3] Paragraph (b)(1), however, allows a lawyer to pay for advertising and communications permitted by this ER, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain name registrations, sponsorship fees, Internet-based advertisements, and group advertising. A lawyer may compensate employees, agents and vendors who are engaged to provide marketing or client development services, such as publicists, public relations personnel, business development staff and website designers. Moreover, a lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator is consistent with ERs 1.5(e) (division of fees) and 5.4 (professional independence of the lawyer), and the lead generator's communications are consistent with ER 7.1 (communications concerning a lawyer's services). To comply with ER 7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. Giving or receiving a de minimis gift that is not a quid pro quo for referring a particular client is permissible. See also ER 5.3 (duties of lawyers and law firms with respect to the conduct of nonlawyers); ER 8.4 (duty to avoid violating the ERs through the actions of another).~~

~~[6] A lawyer may pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. Published and electronic group advertising and directories are not lawyer referral services, but participation in such listings is governed by ERs 7.1 and 7.4. A lawyer referral service, on the other hand, is any organization in which a person or entity receives requests for lawyer services, and allocates such requests to a particular lawyer or lawyers or that holds itself out to the public as a lawyer referral service. Such referral services are understood by the public to be consumer-oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. Consequently, this ER only permits a lawyer to pay the usual charges of a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is one that~~

is approved by an appropriate regulatory authority, such as the State Bar of Arizona, as affording adequate protections for the public.

~~[7] The reasonable operating expenses of a legal service plan or lawyer referral service include payment of the actual expenses of operating, conducting, promoting and developing the service, including expenditures for capital purposes for the service, as determined on a reasonable accounting basis and with provision for reasonable reserves. Public service activities of a legal service plan or lawyer referral service include the following: (a) furnishing or providing funding for legal services to persons and entities financially unable to pay for all or part of such services; (b) developing and implementing programs to educate members of the public with respect to the law, the judicial system, the legal profession, or the need, manner of obtaining, and availability of legal services; and (c) creating and administering programs to improve the administration of justice or aid in relations between the Bar and the public.~~

~~[8] A lawyer who accepts assignments or referrals from a legal service plan or referrals from a lawyer referral service must act reasonably to assure that the activities of the plan or service are compatible with the lawyer's professional obligations. See ER 5.3. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these ERs. Thus, advertising must not be false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan would mislead the public to think that it was a lawyer referral service sponsored by a state agency or bar association. Nor could the lawyer allow in person, telephonic, or real-time contacts that would violate ER 7.3.~~

~~[9] Paragraph (f) requires communications under paragraphs (c) and (d) to be clear and conspicuous. In addition to the requirements of paragraph (f), a statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies, explains, or clarifies other information with which it is presented, it must be presented in proximity to the information it modifies, in a manner that is readily noticeable, readable, and understandable, and it must not be obscured in any manner.~~

ER 7.3. Solicitation of Clients (Clean)

(a) “Solicitation” or “solicit” denotes a communication initiated by or on behalf of a lawyer or firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.

(b) A lawyer shall not solicit professional employment by live person-to-person contact when a significant motive for the lawyer's doing so is the lawyer's or firm's pecuniary gain, unless the contact is with a:

- (1) lawyer;
- (2) person who has a family, close personal, or prior business or professional relationship with the lawyer or firm; or
- (3) person who routinely uses for business purposes the type of legal services offered by the lawyer.

(c) A lawyer shall not solicit professional employment or knowingly permit solicitation on the lawyer's behalf even when not otherwise prohibited by paragraph (b), if:

- (1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or
- (2) the solicitation involves coercion, duress or harassment; or

(d) This Rule does not prohibit communications authorized by law or ordered by a court or other tribunal.

(e) Notwithstanding the prohibitions in this Rule, a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses live person-to-person contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

Comment

[1] A lawyer's communication is not a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to electronic searches.

[2] “Live person-to-person contact” means in-person, face-to-face, live telephone and other real-time visual or auditory person-to-person communications, where the person is subject to a direct personal encounter without time for reflection. Such person-to-person contact does not include chat rooms, text messages, or other written communications that recipients may easily disregard. A potential for overreaching exists when a lawyer seeking pecuniary gain solicits a person known to be in need of legal services. This form of contact subjects a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult fully to evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon an immediate response. The situation is fraught with the possibility of under influence, intimidation, and overreaching.

[3] The potential for overreaching inherent in live person-to-person contact justifies its prohibition, since lawyers have alternative means of conveying necessary information to those who may be in need of legal services. In particular, communications can be mailed or transmitted by email or other electronic means that do not violate other laws. Those forms of communications make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to live person-to-person persuasion that may overwhelm the person's judgment.

[4] The contents of advertisements and communications permitted under ER 7.2 can be permanently recorded so that they cannot be disputed. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications, in violation of ER 7.1. The contents of live person-to-person contact can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

[5] There is far less likelihood that a lawyer would engage in overreaching against a former client or a person with whom the lawyer has a close personal, family, business or professional relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for overreaching when the person contacted is a lawyer or is known to routinely use the type of legal services involved for business purposes. Examples include persons who routinely hire outside counsel to represent the entity; entrepreneurs who regularly engage business, employment law or intellectual property lawyers; small business proprietors who routinely hire lawyers for lease or contract issues; and other people who routinely retain lawyers for business transactions or formations. Paragraph (b) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal-service organizations or bona fide political, social, civic, fraternal, employee or trade organizations whose purposes include providing or recommending legal services to their members or beneficiaries.

[6] A solicitation that contains false or misleading information within the meaning of ER 7.1, that involves coercion, duress or harassment within the meaning of ER 7.3(c)(2), or that involves contact with someone who has made known to the lawyer a desire not to be solicited by the lawyer within the meaning of ER 7.3(c)(1) is prohibited. Live, person-to-person contact of individuals who may be especially vulnerable to coercion or duress ordinarily is not appropriate, including, for example, the elderly, disabled, or those whose first language is not English.

[7] This Rule does not prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer.

[8] Communications authorized by law or ordered by a court or tribunal include a notice to potential members of a class in class action litigation.

ER 7.3 Solicitation of Clients (Clean)

(a) "Solicitation" or "solicit" denotes a communication initiated by or on behalf of a lawyer or firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.

~~(a b)~~ A lawyer shall not solicit professional employment by live person-to-person ~~in person, live telephone or real-time electronic contact~~ ~~solicit professional employment from the person contacted or employ or compensate another to do so~~ when a significant motive for the lawyer's doing so is the lawyer's or firm's pecuniary gain, unless the ~~person contacted~~ contact is with a:

(1) ~~is a lawyer; or~~

(2) person who has a family, close personal, or prior business or professional relationship with the lawyer or firm; or

(3) person who routinely uses for business purposes the type of legal services offered by the lawyer.

~~(b c)~~ A lawyer shall not solicit professional employment or knowingly permit solicitation on the lawyer's behalf ~~from the person contacted by written, recorded or electronic communication or by in person, telephone or real-time electronic contact~~ even when not otherwise prohibited by paragraph ~~(ab)~~, if:

(1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or

(2) the solicitation involves coercion, duress or harassment; or

(3) ~~the solicitation relates to a personal injury or wrongful death and is made within thirty (30) days of such occurrence.~~

(d) This Rule does not prohibit communications authorized by law or ordered by a court or other tribunal.

~~(e) Every written, recorded or electronic communication from a lawyer soliciting professional employment from anyone known or believed likely to be in need of legal services for a particular matter shall include the words "Advertising Material" in twice the font size of the body of the communication on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2).~~

~~(1) At the time of dissemination of such written communication, a written copy shall be forwarded to the State Bar of Arizona at its Phoenix office.~~

~~(2) Written communications mailed to prospective clients shall be sent only by regular U.S. mail, not by registered mail or other forms of restricted delivery.~~

~~(3) If a contract for representation is mailed with the written communication, the contract shall be marked "sample" in red ink and shall contain the words "do not sign" on the client signature line.~~

~~(4) The lawyer initiating the communication shall bear the burden of proof regarding the truthfulness of all facts contained in the communication, and shall, upon request of the State Bar or the recipient of the communication, disclose how the identity and specific legal need of the potential recipient were discovered.~~

~~(d e)~~ Notwithstanding the prohibitions in ~~paragraph (a)~~ this Rule, a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in live person-to-person ~~or telephone~~ contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

2003 Comment [2009 2019 amendment]

[1] ~~A solicitation is a targeted communication initiated by the lawyer that is directed to a specific person and that offers to provide, or can reasonably be understood as offering to provide, legal services. In contrast, a A lawyer's communication typically does is not constitute a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to Internet electronic searches. See ER 8.4 (duty to avoid violating the ERs through the actions of another).~~

[2] “Live person-to-person contact” means in-person, face-to-face, live telephone and other real-time visual or auditory person-to-person communications, where the person is subject to a direct personal encounter without time for reflection. Such person-to-person contact does not include chat rooms, text messages, or other written communications that recipients may easily disregard. There is a A potential for abuse overreaching exists when a lawyer seeking pecuniary gain solicits solicitation a person involves direct in-person, live telephone or real-time electronic contact by a lawyer with someone known to be in need of legal services. This These forms of contact subjects a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult fully to evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon an immediate response being retained immediately. The situation is fraught with the possibility of undue influence, intimidation, and overreaching.

[3] The This potential for abuse overreaching inherent in direct in-person, live person-to-person contact telephone or real-time electronic solicitation justifies its prohibition, particularly since

lawyers have alternative means of conveying necessary information to those who may be in need of legal services. In particular, communications can be mailed or transmitted by email or other electronic means that do not ~~involve real-time contact and do not~~ violate other laws ~~governing solicitations~~. Those forms of communications ~~and solicitations~~ make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to ~~direct in live person-to-person, telephone or real-time electronic~~ persuasion that may overwhelm the person's judgment.

[4] ~~The use of general advertising and written, recorded or electronic communications to transmit information from lawyer to the public, rather than direct in person, live telephone or real-time electronic contact, will help to assure that the information flows cleanly as well as freely. The contents of advertisements and communications permitted under ER 7.2 can be permanently recorded so that they cannot be disputed and may be shared with others who know the lawyer. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications, in violation of ER 7.1. The contents of direct in-live person-to-person, live telephone or real-time electronic contact can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.~~

[5] There is far less likelihood that a lawyer would engage in ~~abusive practices~~ overreaching against a former client or a person with whom the lawyer has a close personal, or family, business or professional relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for ~~abuse~~ overreaching when the person contacted is a lawyer or is known to routinely use the type of legal services involved for business purposes. Examples include persons who routinely hire outside counsel to represent the entity; entrepreneurs who regularly engage business, employment law or intellectual property lawyers; small business proprietors who routinely hire lawyers for lease or contract issues; and other people who routinely retain lawyers for business transactions or formations. ~~Consequently, the general prohibition in ER 7.3(a) and the requirements of ER 7.3(c) are not applicable in those situations. Also, p Paragraph (ab)~~ is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal-service organizations or bona fide political, social, civic, fraternal, employee or trade organizations whose purposes include providing or recommending legal services to ~~its~~ their members or beneficiaries.

[6] ~~But even permitted forms of solicitation can be abused. Thus, any A solicitation which that contains false or misleading information which is false or misleading within the meaning of ER 7.1, which that involves coercion, duress or harassment within the meaning of ER 7.3(b-c)(2), or which that involves contact with someone who has made known to the lawyer a desire not to be solicited by the lawyer within the meaning of ER 7.3(b-c)(1) is prohibited. Moreover, if after sending a letter or other communication to a person as permitted by paragraph (c), the lawyer receives no response, any further effort to communicate with the person may violate the provisions of ER 7.3(b). Live, person-to-person contact of individuals who may be especially vulnerable to coercion or duress ordinarily is not appropriate, including, for example, the elderly, disabled, or those whose first language is not English.~~

[7] This ER Rule ~~is does~~ not ~~intended to~~ prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. ~~Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under ER 7.2.~~

[8] ~~The requirement in ER 7.3(c) that certain communications be marked "Advertising Material" does not apply to communications sent in response to requests of potential clients or their spokespersons or sponsors. General announcements by lawyers, including changes in personnel or office location, do not constitute communications soliciting professional employment from a client known to be in need of legal services within the meaning of this Rule.~~

[9] ~~Lawyers may comply with the requirement of paragraph (c)(1) by submitting (a) a copy of every written, recorded or electronic communication soliciting professional employment from a prospective client known or believed likely to be in need of legal services for a particular matter, or (b) a single copy of any identical communication published or sent to more than one person and a list of the names and mailing or e-mail addresses or fax numbers of the intended recipients and the dates identical solicitations were published or sent. Lawyers may comply with the requirement of paragraph (c)(1) by submitting the required communications and information to the State Bar on a monthly basis.~~

[10] ~~The State Bar may dispose of the submissions received pursuant to paragraph (c)(1) after one year following receipt.~~

[11] ~~Paragraph (d) of this Rule permits a lawyer to participate with an organization which uses personal contact to solicit members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal services through the plan. The organization must not be owned by or directed (whether as manager or otherwise) by any lawyer or law firm that participates in the plan. For example, paragraph (d) would not permit a lawyer to create an organization controlled directly or indirectly by the lawyer and use the organization for the in-person or telephone solicitation of legal employment of the lawyer through memberships in the plan or otherwise. The communication permitted by these organizations also must not be directed to a person known to need legal services in a particular matter, but is to be designed to inform potential plan members generally of another means of affordable legal services. Lawyers who participate in a legal service plan must reasonably assure that the plan sponsors are in compliance with ERs 7.1, 7.2 and 7.3(b). See ER 8.4(a).~~

ER 7.4 [RESERVED] (Clean)

ER 7.4. [RESERVED]— Communication of Fields of Practice (Redline)

~~(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer shall not state or imply that the lawyer is a specialist except as follows:~~

~~(1) a lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "patent attorney" or a substantially similar designation;~~

~~(2) a lawyer engaged in admiralty practice may use the designation "admiralty," "proctor in admiralty" or a substantially similar designation; and (3) a lawyer certified by the Arizona Board of Legal Specialization or by a national entity that has standards for certification substantially the same as those established by the board may state the area or areas of specialization in which the lawyer is certified. Prior to stating that the lawyer is a specialist certified by a national entity, the entity must be recognized by the board as having standards for certification substantially the same as those established by the board. If the national entity has not been recognized by the board, it may make application for recognition by completing an application form provided by the board.~~

~~(b) Communications to the Arizona Board of Legal Specialization and its Advisory Commissions relating to an applicant's qualifications for specialization certification shall be absolutely privileged, and no civil action predicated thereon may be instituted or maintained against any evaluator, staff or witness who communicates with or before the Board or its Advisory Commissions. Members of the Board of Legal Specialization, its Advisory Commission, and others involved in the specialization certification process shall be immune from suit for any conduct in the course of their official duties.~~

Comment

~~[1] This Rule permits a lawyer to indicate areas of practice in communications about the lawyer's services; for example, in a telephone directory or other advertising. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. However, stating that the lawyer is a "specialist" in a particular field is not permitted. These terms have acquired a secondary meaning implying formal recognition as a specialist. Hence, use of these terms may be misleading unless the lawyer is certified or recognized in accordance with procedures in the state where the lawyer is licensed to practice.~~

~~[2] Recognition of specialization in patent matters is a matter of long-established policy of the Patent and Trademark Office. Designation of admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.~~

ER 7.5 [RESERVED] (Clean)

ER 7.5. [RESERVED] Firm Names and Letterheads (Redline)

~~(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates ER 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.~~

~~(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.~~

~~(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.~~

~~(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.~~

COMMENT TO 2003 AND 2012 AMENDMENTS

~~[1] [2012 Amendment] A firm may be designated by the names of all or some of its members, by the names of deceased or retired members where there has been a continuing succession in the firm's identity, or by a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation that complies with ER 7.1.~~

~~[2] [2003 Amendment] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm.~~

~~[3] [2003 Amendment] "Of counsel" designation may be used to state or imply a relationship between lawyers only if the relationship is close, personal, continuous, and regular.~~

APPENDIX 2: Draft Administrative Order and Forms Re: Limited Scope Representation

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
LIMITED SCOPE REPRESENTATION)	Administrative Order
(DELIVERY OF UNBUNDLED LEGAL)	No. 2019 - _____
SERVICES))	
)	
)	
_____)	

Low-income individuals and increasing numbers of unrepresented litigants cannot afford the costs of full-service legal representation. Limited scope representation, or unbundled legal services, describes a legal service delivery method whereby an attorney assists a client with specific elements of the matter, as opposed to handling the case from beginning to end.

Although self-represented litigants may avail themselves of online court forms and self-help materials, without advice and counsel from an attorney, those litigants may come to court uninformed, unprepared, or simply overwhelmed. Others may be unable to afford the cost of legal representation for every aspect of their case. These situations impede access to justice. Limited scope representation provides unrepresented litigants an option for effective representation they may more easily afford.

Unbundling of legal services is authorized and does not violate the Arizona Rules of Professional Conduct as long as the attorney’s representation is reasonable under the circumstances. (Arizona Ethics Rule 1.2 governs limited scope representation).

Approved limited scope representation forms are commonly used in civil and family law matters, (Rule 5.3 of the Rules of Civil Procedure and Rule 9 of the Family Law Rules of Procedure). The delivery of Legal Services Task Force recommended that a general notice of limited scope representation and notice of completion of limited scope representation be developed for any area of law that may not already offer a form. See Appendix A to this Order for Notice of Limited Scope Representation and Notice of Completion of Limited Scope Representation.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED, that to the extent not inconsistent with the Rules of this Court, an attorney may enter a limited appearance when representing a client.

IT IS ORDERED, that in accordance with Rule 1.2 of the Arizona Rules of Professional Conduct, an attorney may enter a limited appearance in a court proceeding including, but not limited to, discovery, motions practice, or hearings.

IT IS ORDERED, that an attorney's appearance may be limited by date, time period, activity, or subject matter, when specifically stated in a Notice of Limited Appearance filed and served prior to or simultaneous with the proceeding(s) for which the attorney appears.

IT IS ORDERED, that the attorney's limited appearance terminates when that attorney files a Notice of Completion of Limited Scope Representation, which must be served on each of the parties, including the limited appearance attorney's own client.

IT IS ORDERED, that (1) service on an attorney who has entered a limited appearance is required only for matters within the scope of the representation as stated in the notice; (2) any such service also must be made on the party; and (3) service on the attorney for matters outside the scope of the limited appearance does not extend the scope of the attorney's representation.

IT IS ORDERED, that this Administrative Order shall take effect on the date of this Order.

Dated this _____ day of _____, 2019.

ROBERT BRUTINEL
Chief Justice

FOR CLERK'S USE ONLY

ARIZONA SUPERIOR COURT
IN _____ COUNTY

IN THE MATTER OF:

CASE NO.: _____

(Plaintiff/Petitioner)

**NOTICE OF
LIMITED SCOPE
REPRESENTATION**

(Defendant/Respondent)

THE CLERK OF THE COURT will please note that I am entering an appearance limited to (select one and specify):

date:
_____.

time period:
_____.

activity:
_____.

subject matter:
_____.

My appearance will terminate upon my filing a Notice of Completion.

My client and I agree that my appearance is limited and does not extend beyond what is specified above without mutual and informed consent and unless a new Notice of Limited Scope Representation is filed.

Notices and documents concerning my limited scope representation must be served on me and my client. All notices and documents regarding matters outside the scope of my representation

must be served only on my client and any other counsel who has entered an appearance on my client's behalf.

I hereby certify that the foregoing information is true and correct to the best of my knowledge and belief and that on the _____ day of _____, 20____, I served a copy of this Notice of Limited Scope Representation on all parties or their counsel and on my client by hand, first-class mail, or electronically by agreement of the parties, court rule or court order.

Signature

Street address

Print name and Bar number

City, state, zip code

Phone number

Email address

Date

FOR CLERK'S USE ONLY

ARIZONA SUPERIOR COURT
IN _____ COUNTY

IN THE MATTER OF:

CASE NO.: _____

(Plaintiff/Petitioner)

(Defendant/Respondent)

**NOTICE OF
COMPLETION OF
LIMITED SCOPE
REPRESENTATION**

THE CLERK OF THE COURT will please note that as of the ____ day of _____,
20 ____, I completed the (select one):

date:

time period:

activity:

subject matter:

specified in my Notice of Limited Scope Representation. The filing of this Notice of Completion terminates my appearance without necessity of leave of court. I informed my client that my appearance was temporary and will terminate upon the filing of this Notice of Completion.

Any subsequent notices or documents pertaining to this case must now be served on my client and any other counsel who has entered an appearance on my client's behalf.

I hereby certify that the foregoing information is true and correct to the best of my knowledge

and belief and that on the _____ day of _____, 20____, I served a copy of this Notice of Completion of Limited Scope Representation on all parties or their counsel and on my client by hand, first-class mail, or electronically by agreement of the parties, court rule or court order.

Signature

Street address

Print name and Bar number

City, state, zip code

Phone number

Email address

Date

APPENDIX 3: Rule 38(d), Arizona Rules of Supreme Court

Proposed Rule 38(d), Arizona Rules of Supreme Court (Clean)

(d) Clinical Law Professors, Law Students, and Law Graduates

1. *Purpose.* This purpose of this rule is to provide law students and recent law school graduates with supervised instruction and training in the practice of law for a limited time, and to facilitate volunteer opportunities for those individuals in pro bono contexts.

2. *Definitions.*

A. “Law school” means a law school either provisionally or fully accredited by the American Bar Association.

B. “Certified limited practice student” is a law student of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. “Certified limited practice graduate” is a law graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice graduate.

D. “Clinical Law Professor” is a faculty member teaching a clinical law program at a law school in Arizona either provisionally or fully accredited by the American Bar Association.

E. “Dean” means the dean, the academic associate dean, or the dean’s designee of the accredited law school where the law student is enrolled or the law graduate was enrolled on graduation.

F. “Period of supervision” means the dates for which the supervising attorney has declared, on the application for certification or recertification, that he or she will be responsible for any work performed by the certified limited practice student or the certified limited practice graduate under his or her supervision.

G. “Supervising attorney” is an active member of the State Bar of Arizona in good standing who has practiced law or taught law in an accredited law school as a full-time occupation for at least two years, and agrees in writing to supervise the certified limited practice student or certified limited practice graduate pursuant to these rules, and is identified as the supervising attorney in the application for certification or recertification. The supervising attorney may designate a deputy, assistant, or other staff attorney to supervise the certified limited practice student or certified limited practice graduate when permitted by these rules.

H. “Volunteer legal services program” means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.

3. *General Provisions.*

A. Limited Bar Membership. To the extent a professor, law student, or law graduate is engaged

in the practice of law under this rule, the professor, law student, or law graduate shall, for the limited purpose of performing professional services authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. Nonapplicability of Attorney Discipline Rules to Terms of the Certification. The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor, certified limited practice student, or certified limited practice graduate pursuant to these rules. Termination of certification shall be without prejudice to the privilege of the professor, law student, or law graduate to apply for admission to practice law if the professor, law student, or law graduate is in other respects qualified for such admission.

C. Effect of Certification on Application for Admission to Bar. The certification of a clinical law professor, law student, or law graduate shall not be considered as an advantage or a disadvantage to the professor, law student, or law graduate in an application for admission to the state bar.

D. Privileged Communications. The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising and designated attorneys, certified limited practice students, and certified limited practice graduates.

4. *Clinical Law Professors.*

A. Activities of Clinical Law Professors. A clinical law professor who is certified pursuant to this rule may appear as a lawyer solely in connection with supervision of students in a clinical law program in a law school in Arizona. A clinical law professor may appear in any court or before any administrative tribunal in this state in the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose behalf the appearance is being made has consented in writing to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. Requirements and Limitations for Clinical Law School Professors. To appear as a lawyer pursuant to these rules, the clinical law professor must:

- i. be admitted by examination to the bar of any state or the District of Columbia;
- ii. neither ask for nor receive any compensation or remuneration of any kind for such services from the person on whose behalf the services are rendered;
- iii. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers; and

iv. submit evidence that the clinical law professor has successfully completed the course on Arizona law described in [Rule 34\(j\)](#).

C. Certification of the Clinical Law Professor. The certification shall be signed by the clinical law professor and the dean of the law school on the form prescribed by the clerk of the Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student. The clinical law professor must ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program.

E. Termination of Certification.

i. The dean at any time, with or without cause or notice or hearing, may terminate a certification of a clinical law professor by filing a notice of the termination with the clerk of the Supreme Court. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

ii. The Court at any time, with or without cause or notice or hearing, may terminate a certification of a clinical law professor by filing notice of the termination with the clerk of this Court. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

5. Law Students

A. Law Student Eligibility for Limited Practice Certification. To be eligible to become a certified limited practice student, an applicant must

i. have successfully completed legal studies amounting to at least two semesters, or the equivalent academic hour credits if the law school or the student is on some basis other than a semester, at an accredited law school;

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law student, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the student has read and is familiar with the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the law school where the student is enrolled as being in good

academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending academic courses in civil procedure, criminal law, evidence, and professional responsibility.

B. Application to become a Certified Limited Practice Student or Extend the Certification Period

i. All applications to become a certified limited practice student or to extend the period of certification must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee. The clerk of the Court shall send a copy of all approved student limited practice certifications to the admissions department of the state bar.

ii. The application for certification or extension must be signed by the applicant, the dean, of the law school in which the applicant is enrolled, and the supervising attorney.

iii. The applicant must attest that he or she meets all of the requirements of this rule; will immediately notify the clerk of the Court if he or she no longer meets the requirements of the rules; and has read and will abide by the Arizona Rules of Professional Conduct and these rules.

iv. The dean of the law school in which the applicant is enrolled must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the Clerk of the Court if the certified limited practice student no longer meets the requirements of these rules.

v. The supervising attorney must specify the period during which he or she will be responsible for supervising the applicant and attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

C. Permitted Activities and Requirements of a Certified Limited Practice Student; Presence of Supervising or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has provided written approval of that appearance. The written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge or presiding officer and the certified limited practice student must advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice student in the following circumstances:

- a. In any civil case in justice, municipal, and magistrate court, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;
 - b. In any civil case in superior court or before any administrative tribunal.
 - c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;
 - d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;
 - e. In any misdemeanor criminal defense case, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and
 - f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.
 - g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.
- ii. Other Client Representation Activities. Under the supervision of the supervising attorney, but outside the supervisor's presence, a certified limited practice student may:
- a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney;
 - b. prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;
 - c. assist indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;
 - d. give legal advice and perform other appropriate legal services, but only with the consent of the supervising attorney or designated attorney.

iii. Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation or request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the student's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Student."

i. A certified limited practice student may use the title "Certified Limited Practice Student" only in connection with activities performed pursuant to these rules.

ii. When a certified limited practice student's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney or designated attorney; and otherwise comply with these rules.

iii. A certified limited practice student shall not hold himself or herself out as an active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. Duties of the Supervising Attorney. The supervising attorney must:

i. supervise and assume professional responsibility for any work performed by the certified limited practice student while under his or her supervision;

ii. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper training of the certified limited practice student and the protection of the client;

iii. read, approve, and sign any pleadings, briefs or other documents prepared by the certified

limited practice student before the filing thereof, and read and approve any document prepared by the certified limited practice student for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney shall still provide general supervision;

iv. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice student during the period of certification, the certified limited practice student must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice student. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

G. Duration and Termination of Certification. Certification of a certified limited practice student shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

i. The certified limited practice student requests termination of the certification in writing or notifies the clerk of the Court that he or she no longer meets the requirements of these rules. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

ii. The supervising attorney notifies the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease before the date specified in the notice of certification. In such event, the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar. The dean may issue a modified certification reflecting the substitution of a new supervising attorney.

iii. The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.

iv. The Court at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.

v. One or more of the requirements for certification no longer exists or the certified limited practice student or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule, or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

6. *Law Graduates*

A. Law Graduate Eligibility for Limited Practice Certificate. To be eligible to become a certified limited practice graduate, an applicant must:

- i. have graduated from an accredited law school;
- ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice graduate from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law graduate, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;
- iii. certify in writing that the law graduate has read and is familiar with the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and
- iv. be certified by the dean of the accredited law school where the law graduate was enrolled on graduation as having graduated in good academic standing and being of good character.

B. Application to Become a Certified Limited Practice Graduate

- i. All applications to become a certified limited practice graduate must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee. The clerk of the Court shall send a copy of all approved graduate limited practice certifications to the admissions department of the state bar.
- ii. The application for certification must be signed by the applicant, the dean of the law school where the applicant was enrolled on graduation, and the supervising attorney.
- iii. The applicant must attest that he or she meets all of the requirements of this rule, will immediately notify the clerk of the Court if he or she no longer meets the requirements of the rules, and has read and will abide by the Arizona Rules of Professional Conduct and these rules.
- iv. The dean of the law school where the applicant was enrolled on graduation must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice graduate no longer meets the requirements of these rules.
- v. The supervising attorney must specify the period during which he or she will be responsible for and will supervise the applicant and attest that he or she has read and will abide by, the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

C. Permitted Activities and Requirements of a Certified Limited Practice Graduate; Presence of Supervising Attorney or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice graduate may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has also provided written approval of that appearance. In each case, the written consent and approval must be filed in the case and be brought to the attention of the judge or the presiding officer. In addition, the certified limited practice graduate must advise the court at the law graduate's first appearance in the case of the certification to appear as a law graduate pursuant to these rules.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice graduate in the following circumstances:

a. In any civil case in justice, municipal, and magistrate court unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

b. In any civil case in superior court or before any administrative tribunal;

c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

e. In any misdemeanor criminal defense case unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.

g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the general supervision of the supervising attorney or designated attorney, but outside his or her presence, a certified limited practice graduate may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice graduate is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney if filed in the superior court, Arizona Court of Appeals, Arizona Supreme Court, or with an administrative tribunal;

b. prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;

c. assist indigent inmates of correctional institutions or other persons who request assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;

d. give legal advice and perform other appropriate legal services, but only after consultation with and consent of the supervising attorney or designated attorney.

iii. Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice graduate may appear as a law graduate volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the certified limited practice graduate's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice graduate has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Graduate."

i. A certified limited practice graduate may use the title "Certified Limited Practice Graduate" only in connection with activities performed pursuant to these rules.

ii. When a certified limited practice graduate's name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the law graduate is a certified limited practice graduate pursuant to these rules, state the name of the supervising attorney, be signed by the supervising attorney or designated attorney if required by these rules, and otherwise comply with these rules.

iii. A certified limited practice graduate shall not hold himself or herself out as an active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice graduate from describing his or

her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. Duties of the Supervising Attorney. The supervising attorney must:

- i. supervise and assume professional responsibility for any work performed by the certified limited practice graduate while under his or her supervision;
- ii. assist and counsel the certified limited practice graduate in the activities authorized by these rules and review such activities with the certified limited practice graduate, all to the extent required for the proper training of the certified limited practice graduate and the protection of the client;
- iii. read and approve all pleadings, briefs, or other documents prepared by the certified limited practice graduate as required by these rules; sign any pleading, brief, or other document if required by these rules, and read and approve any document prepared by the certified limited practice graduate for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney must still provide general supervision;
- iv. assume professional responsibility for all pleadings, briefs, or other documents filed in any court or with an administrative tribunal by the certified limited practice graduate under his or her supervision;
- v. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited graduate has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice graduate during the period of certification, the certified limited practice graduate must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice graduate. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

G. Duration and Termination of Certification. Certification of a certified limited practice graduate shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

- i. The certified limited practice graduate requests termination of the certification in writing or notifies the Clerk of the Court that he or she no longer meets the requirements of these rules. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.
- ii. The supervising attorney notifies the clerk of the Court in writing that his or her supervision

of the certified limited practice graduate will cease before the date specified in the certification. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

iii. The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.

iv. The Court at any time, with or without cause or notice or hearing, files notice of the termination with the clerk of the Court.

v. One or more of the requirements for certification no longer exists or the certified limited practice graduate or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

vi. The law graduate fails to take the first Arizona uniform bar examination, or the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

vii. The law graduate fails to pass the first Arizona uniform bar examination for which the law graduate is eligible or fails to obtain a score equal to or greater than the acceptable score established by the Committee on Examinations on the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

viii. Thirty days after the Court notifies the law graduate that he or she has been approved for admission to practice law and is eligible to take the oath of admission.

ix. The Committee on Character and Fitness does not recommend to the Court that the law graduate be admitted to practice law.

x. The law graduate is denied admission to practice law by the Court.

xi. The law graduate is admitted to practice law.

xii. Expiration of 12 months from the date of the law graduate's graduation from law school unless, before expiration of the 12-month period and for good cause shown by the law graduate, the Court extends the 12-month period.

Rule 38, Arizona Rules of Supreme Court (Redline)

(a) – (c) No Change.

(d) Clinical Law Professors, ~~and Law Students, and Law Graduates~~

1. *Purpose.* ~~This rule is adopted to encourage law schools to provide clinical instruction of varying kinds~~ The purpose of this rule is to provide law students and recent law school graduates with supervised instruction and training in the practice of law for a limited time, and to facilitate volunteer opportunities for those individuals in pro bono contexts.

2. *Definitions.*

A. ~~“Accredited law school”~~ “Law school” means a law school either provisionally or fully ~~approved and~~ accredited by the American Bar Association.

B. “Certified limited practice student” is a law student ~~or a graduate~~ of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice student.

C. “Certified limited practice graduate” is a law graduate of an accredited law school who holds a currently effective Arizona Supreme Court Certification as a certified limited practice graduate.

D. “Clinical Law Professor” is a faculty member teaching a clinical law program at a law school in Arizona either provisionally or fully accredited by the American Bar Association.

~~C.~~ E. “Dean” means the dean, the academic associate dean, or the dean’s designee of the accredited law school where the law student is enrolled or the law graduate was enrolled on graduation.

~~D.~~ “Designated attorney” is, ~~exclusively in the case of government, any deputy, assistant or other staff attorney authorized and selected by a supervising attorney to supervise the certified limited practice student where permitted by these rules.~~

~~E.~~ F. “Period of supervision” means the dates for which the supervising attorney has declared, on the application for certification or recertification, that he or she will be responsible for any work performed by the certified limited practice student or the certified limited practice graduate under his or her supervision.

F. ~~“Personal presence” means the supervising attorney or designated attorney is in the physical presence of the certified limited practice student.~~

G. ~~“Rules” means Rule 38, Rules of Supreme Court.~~

H. G. “Supervising attorney” is an attorney admitted to Arizona full or limited practice who active member of the State Bar of Arizona in good standing who has practiced law or taught

law in an accredited law school as a full-time occupation for at least two years, and agrees in writing to supervise the certified limited practice student or certified limited practice graduate pursuant to these rules, and is identified as the supervising attorney in and whose name appears on the application for certification or recertification. The supervising attorney may designate a deputy, assistant, or other staff attorney to supervise the certified limited practice student or certified limited practice graduate when permitted by these rules.

H. “Volunteer legal services program” means a volunteer legal services program managed by an approved legal services organization in cooperation with an accredited law school. Approved legal service organizations are defined in paragraph (e)(2)(C) of this rule.

3. *General Provisions.*

A. Limited Bar Membership. To the extent a professor, ~~or a law student, or law graduate~~ is engaged in the practice of law under this rule, the professor, ~~or law student, or law graduate~~ shall, for the limited purpose of performing professional services authorized by this rule, be deemed an active member of the state bar (but not required to pay fees). The provisions of this rule shall govern rather than the provisions of other rules relating to admission and discipline.

B. Nonapplicability of Attorney Discipline Rules to Terms of the Certification. The procedures otherwise provided by law or court rule governing the discipline of lawyers shall not be applicable to the termination of the certification of a clinical law professor, ~~or a certified limited practice student, or certified limited practice graduate~~ pursuant to ~~this rule~~ these rules. Termination of certification shall be without prejudice to the privilege of the professor, ~~or the law student, or law graduate~~ to ~~make application~~ apply for admission to practice law if the professor, ~~or the law student, or law graduate~~ is in other respects qualified for such admission.

C. Effect of Certification on Application for Admission to Bar. The certification of a clinical law professor, ~~or a limited practice law student, or law graduate~~ shall ~~in no way not~~ be considered as an advantage or a disadvantage to the professor, ~~or the law student, or law graduate~~ in an application for admission to the state bar.

D. Privileged Communications. The rules of law and of evidence relating to privileged communications between attorney and client shall govern communications made or received by and among professors, supervising and designated attorneys (~~and designated attorneys~~), and certified limited ~~student~~ practice students, and certified limited practice graduates.

4. *Clinical Law Professors.*

A. Activities of Clinical Law Professors. A clinical law professor ~~not a member of the state bar but who is~~ certified pursuant to this rule may appear as a lawyer solely, in connection with supervision of students in a clinical law program ~~approved by the dean and faculty of in a law school in Arizona either provisionally or fully approved and accredited by the American Bar Association~~. A clinical law professor may appear in any court or before any administrative tribunal in this state in the matters enumerated in paragraph (d)(5)(C) of this rule on behalf of any person, if the person on whose behalf the appearance is being made has consented in writing

to that appearance. Such written consent shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal.

B. Requirements and Limitations for Clinical Law School Professors. ~~In order to make an appearance~~ To appear as a lawyer pursuant to ~~this~~ these rules, the clinical law professor must:

~~i. be duly employed as a faculty member of a law school in Arizona either provisionally or fully approved or accredited by the American Bar Association for the purpose, *inter alia*, of instructing and supervising a clinical law program approved by the dean and faculty of such law school;~~

~~ii.~~ i. be admitted by examination to the bar of ~~another~~ any state or the District of Columbia;

~~iii.~~ ii. neither ask for nor receive any compensation or remuneration of any kind for such services from the person on whose behalf the services are rendered;

~~iv.~~ iii. certify in writing that the clinical law professor has read and is familiar with the Arizona Rules of Professional Conduct and the Rules of the Supreme Court of Arizona and statutes of the State of Arizona relating to the conduct of lawyers; and

~~v.~~ iv. submit evidence that the clinical law professor has successfully completed the course on Arizona law described in [Rule 34\(j\)](#).

C. Certification of the Clinical Law Professor. The certification shall be signed by the clinical law professor and the dean of the law school on the form prescribed by the clerk of ~~this~~ the Court and shall be filed with the clerk and the state bar. The certification shall remain in effect until withdrawn.

D. Duty to Ensure Adequate Supervision and Guidance of Certified Limited Practice Student. ~~It shall be the responsibility of t~~The clinical law professor must to ensure that certified limited practice students receive adequate supervision and guidance while participating in the law school's clinical law program. In the case of a certified student who has graduated and participates in the program pending the taking of the bar examination, the clinical law professor shall, on a monthly basis, based on such reporting from the certified limited practice student and the supervising attorney as the law school shall require, confirm that the certified graduate has received and is receiving adequate attorney supervision and guidance.

E. ~~Withdrawal or~~ Termination of Certification.

i. The dean at any time, with or without cause or notice or hearing, may withdraw terminate a certification of a clinical law professor at any time by filing a notice to that effect, with or without stating the cause for the withdrawal, of the termination with the clerk of this Court, who shall forthwith mail copies thereof to the clinical law professor and the State Bar of Arizona the Supreme Court. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

ii. The Court ~~at any time, with or without cause or notice or hearing,~~ may terminate ~~the~~ a certification of a clinical law professor ~~at any time without cause and without notice or hearing~~ by filing notice of the termination with the clerk of this Court ~~and with the state bar~~. The clerk shall mail copies of the notice to the clinical law professor and the state bar.

5. *Practical Training of Law Students*

A. Law Student Eligibility for Limited Practice Certification. To be eligible to become a certified limited practice student, ~~a law student applicant~~ an applicant must

i. have successfully completed legal studies amounting to at least two semesters, or the equivalent academic hour credits if the law school or the student is on some basis other than a semester, at an accredited law school, ~~subject to the time limitation set forth in these rules;~~

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice student from the person on whose behalf the services are rendered, ~~but this shall not;~~ this requirement does not prevent a supervising lawyer, legal aid bureau services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law student, nor shall it or prevent any such lawyer or agency from making such charges for its services as it may otherwise properly require requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the student has read and is familiar with the Arizona Rules of Professional Conduct, ~~and~~ the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the ~~accredited~~ law school where the student is enrolled (~~or was enrolled on graduation~~), ~~or by the dean's designee~~, as being in good academic standing, of good character, and as having either successfully completed or being currently enrolled in and attending academic courses in civil procedure, criminal law, evidence, and professional responsibility.

B. Application ~~for~~ to become a Certified Limited Practice Student or Extend the Certification Period

i. All applications ~~for student~~ to become a certified limited practice certification student or ~~requests to change or add a supervising attorney or to extend the period of certification pursuant to these rules~~ must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated ~~appropriate nonrefundable processing~~ fee. The clerk of the Court shall send a copy of all approved student limited practice certifications to the admissions department of the state bar.

ii. ~~The application for certification shall require the signature of the applicant, the dean, associate dean, or assistant dean of the accredited law school in which the applicant is enrolled,~~

and the signature of the supervising attorney. The application for certification or extension must be signed by the applicant, the dean, of the law school in which the applicant is enrolled, and the supervising attorney.

iii. The applicant ~~shall~~ must attest that he or she meets all of the requirements of ~~the~~ these rules; ~~agrees to and shall will~~ immediately notify the clerk of the Court ~~in the event~~ if he or she no longer meets the requirements of the rules; and ~~that he or she has read, is familiar with~~ and will abide by the Arizona Rules of Professional Conduct ~~of the State of Arizona~~ and these rules.

iv. The dean, ~~associate dean, or assistant dean~~ of the ~~accredited~~ law school in which the applicant is enrolled ~~shall~~ must attest that the applicant meets the requirements of these rules,; ~~that he or she shall immediately notify the clerk of the Court in the event that the certified limited practice student no longer meets the requirements of these rules; and that he or she has no knowledge of facts or information that would indicate that the applicant is not~~ and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the Clerk of the Court if the certified limited practice student no longer meets the requirements of these rules.

v. The supervising attorney ~~shall~~ must specify the period during which he or she will be responsible for ~~and will supervise~~ supervising the applicant and attest that he or she has read, ~~is familiar with,~~ and will abide by the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

C. Permitted Activities and Requirements of a Certified Limited Practice ~~Certification~~ Student; Physical Presence of Supervising or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice student may appear in any court or before any administrative tribunal in this state on behalf of any person ~~if that person on whose behalf the student is appearing~~ who has consented in writing to that appearance ~~and if the supervising attorney has also indicated in writing~~ provided written approval of that appearance. ~~In each case, The written consent and approval shall be filed in the record of the case and shall be brought to the attention of the judge of the court or the presiding officer of the administrative tribunal. In addition,~~ and the certified limited practice student ~~shall orally~~ must advise the court on the occasion of the student's initial appearance in the case of the certification to appear as a law student pursuant to these rules. ~~A certified limited practice student may appear in the following matters:~~

a. Civil Matters. ~~In civil cases in justice, municipal, and magistrate courts, the supervising lawyer (or designated lawyer) is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the supervising lawyer's absence.~~

b. Criminal Matters on Behalf of the State. ~~In any criminal matter on behalf of the state or any political subdivision thereof with the written approval of the supervising attorney (or designated attorney), the supervising attorney (or designated attorney) must be present except when such appearance is in justice, municipal, or magistrate courts.~~

~~e. Felony Criminal Defense Matters. In any felony criminal defense matter in justice, municipal, and magistrate courts, and any criminal matter in superior court, the supervising attorney (or designated attorney) must be personally be present throughout the proceedings and shall be fully responsible for the manner in which they are conducted.~~

~~d. Misdemeanor Criminal Defense Matters. In any misdemeanor criminal defense matter in justice, municipal, or magistrate courts, the supervising attorney (or designated attorney) is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the supervising attorney's absence; however, the supervising attorney shall be present during trial.~~

~~e. Appellate Oral Argument. A certified limited practice student may participate in oral arguments in the Arizona Supreme Court and Court of Appeals, but only in the presence of the supervising attorney (or designated attorney) and with the specific approval of the court for that case.~~

~~Notwithstanding anything hereinabove set forth, the court may at any time and in any proceeding require the supervising attorney (or designated attorney) to be personally present for such period and under such circumstances as the court may direct.~~

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice student in the following circumstances:

a. In any civil case in justice, municipal, and magistrate court, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

b. In any civil case in superior court or before any administrative tribunal.

c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

e. In any misdemeanor criminal defense case, unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.

g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the ~~general~~ supervision of the supervising attorney ~~(or designated attorney)~~, but outside ~~his or her personal~~ the supervisor's presence, a certified limited practice student may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice student is eligible to appear, but such pleadings or documents must be signed by the supervising attorney ~~(or designated attorney)~~;

b. prepare briefs, ~~abstracts~~ motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney ~~(or designated attorney)~~;

c. ~~provide assistance to~~ assist indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. ~~(If there is a lawyer of record in the matter, all such assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney (or designated attorney))~~;

d. ~~render~~ give legal advice and perform other appropriate legal services, but only ~~after prior consultation with and upon the express~~ with the consent of the supervising attorney ~~(or designated attorney)~~.

iii. Other Non-Representation Activities. ~~A certified limited practice student may perform any advisory or non-representational activity which could be performed by a person who is not a member of the state bar, subject to the approval by the supervising attorney (or designated attorney).~~ In connection with a volunteer legal services program and at the invitation or request of a court or tribunal, a certified limited practice student may appear as a law student volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the student's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice student has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title "Certified Limited Practice Student."

~~i. In connection with activities performed pursuant to these rules, a~~ A certified limited practice student may use the title “Certified Limited Practice Student” only ~~and may not use the title in connection with activities not performed pursuant to these rules.~~

ii. When a certified limited practice student’s name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the student is a certified limited practice student pursuant to these rules; state the name of the supervising attorney; be signed by the supervising attorney or designated attorney; and otherwise comply with these rules.

iii. A certified limited practice student ~~may not and shall not in any way~~ hold himself or herself out as ~~a regularly admitted or~~ an active member of the state bar.

iv. Nothing ~~contained~~ in these rules prohibits a certified limited practice student from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. ~~Requirements and~~ Duties of the Supervising Attorney. The supervising attorney ~~shall~~ must:

~~i. be an active member of the state bar under these rules, and before supervising a certified limited practice student shall have practiced law or taught law in an accredited law school as a full-time occupation for at least two years;~~

~~ii. supervise no more than five (5) certified limited practice students concurrently; provided, however, that a supervising attorney who is employed full time to supervise law students as part of an organized law school or government agency training program may supervise up to, but in no case more than fifty (50) certified students;~~

~~iii. i. supervise and~~ assume personal professional responsibility for any work performed by the certified limited practice student while under his or her supervision;

~~iv. ii. assist and counsel the certified limited practice student in the activities authorized by these rules and review such activities with the certified limited practice student, all to the extent required for the proper training of the certified limited practice student and the protection of the client;~~

~~v. iii. read, approve, and sign any pleadings, briefs or other documents prepared by the certified limited practice student before the filing thereof, and read and approve any document prepared by the certified limited practice student for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney shall still provide general supervision;~~

~~vi. provide the level of supervision to the certified limited practice student required by these rules (exclusively in the case of government agencies, a designated attorney may, in the place of the supervising attorney, perform the obligation set forth in this subparagraph, but the Supervising Attorney shall still provide supervision); and~~

~~vii. in the case of a certified student who is participating in a clinical program post-graduation pending the taking of the bar examination, report to the clinical law professor and the dean of the law school, as the law school shall require, on a monthly basis regarding the supervising attorney's supervision and guidance of the certified student.~~

~~vii. iv. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited practice student has or will cease before the date indicated on the certification.~~

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice student during the period of certification, the certified limited practice student must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice student. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

F. G. Duration and Termination of Certification. Certification of a certified limited practice student shall commence begin on the date indicated on specified in the certification and shall remain in effect for the period specified in the notice of certification unless sooner terminated pursuant to by the earliest of the following occurrences:

~~i. Termination by the Student. The certified limited practice student may requests termination of the certification in writing or notify notifies the clerk of the Court that he or she no longer meets the requirements of this rule, and these rules. In such event the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.~~

~~ii. Termination by the Supervising Attorney. The supervising attorney may notify notifies the clerk of the Court in writing that his or her supervision of the certified limited practice student will cease before the date specified in the notice of certification. In such event, the clerk shall send written notice to the student, the student's supervising attorney, the dean, and the state bar, and The dean may issue a modified certification reflecting the substitution of a new supervising attorney, as necessary.~~

~~iii. Termination by the Dean. A certification of student limited practice may be terminated by The dean at any time, with or without cause and without notice or hearing, by filing files notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if one or more of the requirements for the certification no longer exists or the certified limited practice student, supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.~~

~~iv. Failure to take or Pass the Bar Examination. A certification of a student limited practice shall be terminated if the certified student fails to take or pass the first general bar examination~~

for which the student is eligible. The Court at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.

~~v. Termination by the Arizona Supreme Court. A certification of student limited practice may be terminated by the Arizona Supreme Court any time, without cause and without notice or hearing, by filing notice of the termination with the clerk of the Court. A certification of student limited practice shall be terminated if~~ One or more of the requirements for the certification no longer exists or the certified limited practice student, or supervising attorney or designated attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule, or regulation. In the event of termination, the clerk of the Court shall send written notice to the student, the student's supervising attorney, the dean, and the state bar.

6. Law Graduates

A. Law Graduate Eligibility for Limited Practice Certificate. To be eligible to become a certified limited practice graduate, an applicant must:

i. have graduated from an accredited law school;

ii. neither ask for nor receive any compensation or remuneration of any kind for services rendered by the certified limited practice graduate from the person on whose behalf the services are rendered; this requirement does not prevent a supervising lawyer, legal services organization, law school, public defender agency, or the state or any political subdivision thereof from paying compensation to the eligible law graduate, or prevent any such lawyer or agency from requesting compensation or remuneration for legal services as otherwise authorized;

iii. certify in writing that the law graduate has read and is familiar with the Arizona Rules of Professional Conduct, the rules of the Supreme Court of Arizona, and the statutes of the State of Arizona relating to the conduct of attorneys; and

iv. be certified by the dean of the accredited law school where the law graduate was enrolled on graduation as having graduated in good academic standing and being of good character.

B. Application to Become a Certified Limited Practice Graduate

i. All applications to become a certified limited practice graduate must be submitted on a form provided by the clerk of the Court, to the clerk, with all the information requested on the form, together with any designated fee. The clerk of the Court shall send a copy of all approved graduate limited practice certifications to the admissions department of the state bar.

ii. The application for certification must be signed by the applicant, the dean of the law school where the applicant was enrolled on graduation, and the supervising attorney.

iii. The applicant must attest that he or she meets all of the requirements of this rule, will

immediately notify the clerk of the Court if he or she no longer meets the requirements of the rules, and has read and will abide by the Arizona Rules of Professional Conduct and these rules.

iv. The dean of the law school where the applicant was enrolled on graduation must attest that the applicant meets the requirements of these rules, and, to the best of the dean's knowledge, is qualified by ability, training, or character to participate in the activities permitted by these rules. The dean must immediately notify the clerk of the Court if the certified limited practice graduate no longer meets the requirements of these rules.

v. The supervising attorney must specify the period during which he or she will be responsible for and will supervise the applicant and attest that he or she has read and will abide by, the Arizona Rules of Professional Responsibility, these rules, and will assume responsibility under the requirements of these rules.

C. Permitted Activities and Requirements of a Certified Limited Practice Graduate; Presence of Supervising Attorney or Designated Attorney

i. Court and Administrative Tribunal Appearances. A certified limited practice graduate may appear in any court or before any administrative tribunal in this state on behalf of any person who has consented in writing to that appearance if the supervising attorney has also provided written approval of that appearance. In each case, the written consent and approval must be filed in the case and be brought to the attention of the judge or the presiding officer. In addition, the certified limited practice graduate must advise the court at the law graduate's first appearance in the case of the certification to appear as a law graduate pursuant to these rules.

ii. Presence of Supervising Attorney or Designated Attorney. The supervising attorney or designated attorney must appear with the certified limited practice graduate in the following circumstances:

a. In any civil case in justice, municipal, and magistrate court unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney;

b. In any civil case in superior court or before any administrative tribunal;

c. In any criminal case on behalf of the state or any political subdivision of the state if the case is in the superior court or any appellate court;

d. In any felony criminal defense case in justice, municipal, and magistrate court, and in any criminal case in superior court;

e. In any misdemeanor criminal defense case unless the person on whose behalf the appearance is being made consents to the absence of the supervising attorney or designated attorney; however, the supervising attorney or designated attorney must be present during trial; and

f. In oral argument in the Arizona Supreme Court and the Arizona Court of Appeals, but only with the specific approval of the court for that case.

g. Notwithstanding anything in this section, the court may at any time and in any proceeding require the supervising attorney or designated attorney to be present.

ii. Other Client Representation Activities. Under the general supervision of the supervising attorney or designated attorney, but outside his or her presence, a certified limited practice graduate may:

a. prepare pleadings and other documents to be filed in any matter in which the certified limited practice graduate is eligible to appear, but such pleadings or documents must be signed by the supervising attorney or designated attorney if filed in the superior court, Arizona Court of Appeals, Arizona Supreme Court, or with an administrative tribunal;

b. prepare briefs, motions, and other documents to be filed in appellate courts of this state, but such documents must be signed by the supervising attorney or designated attorney;

c. assist indigent inmates of correctional institutions or other persons who request assistance in preparing applications and supporting documents for post-conviction relief, except when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court. If there is a lawyer of record in the matter, all assistance must be supervised by the lawyer of record, and all documents submitted to the court on behalf of such a client must be signed by the lawyer of record and the supervising attorney or designated attorney;

d. give legal advice and perform other appropriate legal services, but only after consultation with and consent of the supervising attorney or designated attorney.

iii. Other Non-Representation Activities. In connection with a volunteer legal services program and at the invitation and request of a court or tribunal, a certified limited practice graduate may appear as a law graduate volunteer to assist the proceeding in any civil matter, provided:

a. the assistance is given to an otherwise unrepresented individual in an uncontested proceeding without entering an appearance as counsel;

b. the certified limited practice graduate's supervising attorney is associated with the particular volunteer legal services program;

c. the certified limited practice graduate has received the written consent and acknowledgment of non-representation by the unrepresented person, which written consent shall be obtained by the volunteer legal services program and brought to the attention of the court.

D. Use of the Title “Certified Limited Practice Graduate.”

i. A certified limited practice graduate may use the title “Certified Limited Practice Graduate” only in connection with activities performed pursuant to these rules.

ii. When a certified limited practice graduate’s name is printed or signature is included on written materials prepared pursuant to these rules, the written material must also state that the law graduate is a certified limited practice graduate pursuant to these rules, state the name of the supervising attorney, be signed by the supervising attorney or designated attorney if required by these rules, and otherwise comply with these rules.

iii. A certified limited practice graduate shall not hold himself or herself out as an active member of the state bar.

iv. Nothing in these rules prohibits a certified limited practice graduate from describing his or her participation in this program on a resume or letter seeking employment as long as the description is not false, deceptive, or misleading.

E. Duties of the Supervising Attorney. The supervising attorney must:

i. supervise and assume professional responsibility for any work performed by the certified limited practice graduate while under his or her supervision;

ii. assist and counsel the certified limited practice graduate in the activities authorized by these rules and review such activities with the certified limited practice graduate, all to the extent required for the proper training of the certified limited practice graduate and the protection of the client;

iii. read and approve all pleadings, briefs, or other documents prepared by the certified limited practice graduate as required by these rules; sign any pleading, brief, or other document if required by these rules, and read and approve any document prepared by the certified limited practice graduate for execution by any person. If a designated attorney performs this duty in place of the supervising attorney, the supervising attorney must still provide general supervision;

iv. assume professional responsibility for all pleadings, briefs, or other documents filed in any court or with an administrative tribunal by the certified limited practice graduate under his or her supervision;

v. promptly notify the clerk of the Court in writing if his or her supervision of the certified limited graduate has or will cease before the date indicated on the certification.

F. Substitution of the Supervising Attorney. If the supervising attorney becomes unable to supervise the certified limited practice graduate during the period of certification, the certified limited practice graduate must designate a substitute supervising attorney by submitting a form provided by the clerk of the Court, to the clerk, together with any designated fee. The substitute

supervising attorney must sign the form and specify the period during which he or she will be responsible for supervising the certified limited practice graduate. The substitute supervising attorney must also attest that he or she has read and will abide by the Arizona Rules of Professional Responsibility and will comply with the requirements of these rules.

G. Duration and Termination of Certification. Certification of a certified limited practice graduate shall begin on the date specified in the certification and shall remain in effect for the period specified in the certification unless sooner terminated by the earliest of the following occurrences:

i. The certified limited practice graduate requests termination of the certification in writing or notifies the Clerk of the Court that he or she no longer meets the requirements of these rules. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

ii. The supervising attorney notifies the clerk of the Court in writing that his or her supervision of the certified limited practice graduate will cease before the date specified in the certification. In such event, the clerk shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

iii. The dean at any time, with or without cause and notice or hearing, files notice of the termination with the clerk of the Court.

iv. The Court at any time, with or without cause or notice or hearing, files notice of the termination with the clerk of the Court.

v. One or more of the requirements for certification no longer exists or the certified limited practice graduate or supervising attorney fails to comply fully with any provision of these rules or any other pertinent statute, rule or regulation. In the event of termination, the clerk of the Court shall send written notice to the law graduate, the law graduate's supervising attorney, the dean, and the state bar.

vi. The law graduate fails to take the first Arizona uniform bar examination, or the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

vii. The law graduate fails to pass the first Arizona uniform bar examination for which the law graduate is eligible or fails to obtain a score equal to or greater than the acceptable score established by the Committee on Examinations on the first uniform bar examination offered in another jurisdiction for which the law graduate is eligible.

viii. Thirty days after the Court notifies the law graduate that he or she has been approved for admission to practice law and is eligible to take the oath of admission.

ix. The Committee on Character and Fitness does not recommend to the Court that the law graduate be admitted to practice law.

x. The law graduate is denied admission to practice law by the Court.

xi. The law graduate is admitted to practice law.

xii. Expiration of 12 months from the date of the law graduate's graduation from law school unless, before expiration of the 12-month period and for good cause shown by the law graduate, the Court extends the 12-month period.

APPENDIX 4: Rule 31, Arizona Rules of Supreme Court

Proposed Restyled Arizona Rule of Supreme Court 31 (Clean).

Rule 31. Supreme Court Jurisdiction

(a) Jurisdiction. The Arizona Supreme Court has jurisdiction over any person or entity engaged in the authorized or unauthorized “practice of law” in Arizona, as that phrase is defined in (b).

(b) Definition. “Practice of law” means providing legal advice or services to or for another by:

- (1) preparing or expressing legal opinions to or for another person or entity;
- (2) representing a person or entity in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration or mediation;
- (3) preparing a document, in any medium, on behalf of a specific person or entity for filing in any court, administrative agency, or tribunal;
- (4) negotiating legal rights or responsibilities on behalf of a specific person or entity; or
- (5) preparing a document, in any medium, intended to affect or secure a specific person’s or entity’s legal rights.

Rule 31.1. Authorized Practice of Law.

(a) Requirement. A person may engage in the practice of law in Arizona, or represent that he or she is authorized to engage in the practice of law in Arizona, only if:

- (1) the person is an active member in good standing of the State Bar of Arizona under Rule 32; or
- (2) the person is specifically authorized to do so under Rules 31.3, 38, or 39.

(b) Lack of Good Standing. A person who is currently suspended or has been disbarred from the State Bar of Arizona, or is currently on disability inactive status, is not a member in good standing of the State Bar of Arizona under Rule 31.1(a)(1).

Rule 31.2. Unauthorized Practice of Law. Except as provided in Rule 31.3, a person or entity who is not authorized to practice law in Arizona under Rule 31.1(a) must not:

- (a)** engage in the practice of law in Arizona; or
- (b)** use the designations “lawyer,” “attorney at law,” “counselor at law,” “law,” “law office,” “J.D.,” “Esq.,” or other equivalent words that are reasonably likely to induce others to believe that the person or entity is authorized to engage in the practice of law in Arizona.

Rule 31.3. Exceptions to Rule 31.2.

(a) Generally. Notwithstanding Rule 31.2, a person or entity may engage in the practice of law in a limited manner as authorized in Rule 31.3(b) through (e), but the person or entity who engages in such an activity is subject to the Arizona Supreme Court’s jurisdiction concerning that

activity. A person who is currently suspended or has been disbarred from the State Bar of Arizona, or is currently on disability inactive status, may not engage any of the activities specified in this Rule 31.3 unless this rule authorizes a specific activity.

(b) Governmental Activities and Court Forms.

(1) ***In Furtherance of Official Duties.*** An elected official or employee of a governmental entity may perform the duties of his or her office and carry out the government entity's regular course of business.

(2) ***Forms.*** The Supreme Court, Court of Appeals, superior court, and limited jurisdiction courts may create and distribute forms for use in Arizona courts.

(c) Legal Entities.

(1) ***Definition.*** "Legal entity" means an organization that has legal standing under Arizona law to sue or be sued in its own right, including a corporation, a limited liability company, a partnership, an association as defined in A.R.S. §§ 33-1202 or 33-1802, or a trust.

(2) ***Documents.*** A legal entity may prepare documents incidental to its regular course of business or other regular activity if they are for the entity's use and are not made available to third parties.

(3) ***Justice and Municipal Courts.*** A person may represent a legal entity in a proceeding before a justice court or municipal court if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the proceeding;

(C) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

(4) ***General Stream Adjudication Proceeding.*** A person may represent a legal entity in superior court in a general stream adjudication proceeding conducted under A.R.S. §§ 45-251 et seq. (including a proceeding before a master appointed under A.R.S. § 45-255) if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the proceeding;

(C) such representation is not the person's primary duty to the entity but is secondary or incidental to other duties related to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the corporation or association (other than receiving reimbursement for costs).

(5) ***Administrative Hearings and Agency Proceedings.*** A person may represent a legal entity in a proceeding before the Office of Administrative Hearings, or before an Arizona administrative agency, commission, or board, if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the particular proceeding;

(C) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

(6) **Exception.** Despite Rule 31.3(c)(3) through (c)(5), a court, the hearing officer, or the officer presiding at the agency or commission proceeding, may order the entity to appear only through counsel if the court or officer determines that the person representing the entity is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

(d) Tax-Related Activities and Proceedings.

(1) A person may prepare a tax return for an entity or another person.

(2) A certified public accountant or other federally authorized tax practitioner (as that term is defined in A.R.S. § 42-2069(D)(1)) may:

(A) render individual and corporate financial and tax advice to clients and prepare tax-related documents for filing with governmental agencies;

(B) represent a taxpayer in a dispute before the State Board of Tax Appeals if the amount at issue is less than \$25,000; and

(C) practice before the Internal Revenue Service or other federal agencies if authorized to do so.

(3) A property tax agent (as that term is defined in A.R.S. § 32-3651), who is registered with the Arizona State Board of Appraisal under A.R.S. § 32-3642, may practice as authorized under A.R.S. § 42-16001.

(4) A person may represent a party in a small claims proceeding in Arizona Tax Court conducted under A.R.S. §§ 12-161 et seq.

(5) In any tax-related proceeding before the Arizona Department of Revenue, the Office of Administrative Hearings relating to the Arizona Department of Revenue, a state or county board of equalization, the Arizona Department of Transportation, the Arizona Department of Economic Security, the Arizona Department of Child Safety, the Arizona Corporation Commission, or any county, city, or town taxing or appeals official, a person may represent a taxpayer if:

(A) the person is:

(i) a certified public accountant,

(ii) a federally authorized tax practitioner (as that term is defined in A.R.S. § 42-2069(D)(1)); or

(iii) in matters in which the amount in dispute, including tax, interest and penalties, is less than \$5,000, the taxpayer's duly appointed representative; or

(B) the taxpayer is a legal entity (including a governmental entity) and:

(i) the person is full-time officer partner, member, manager, or employee of the entity;

- (ii) the entity has specifically authorized the person to represent it in the proceeding;
- (iii) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and
- (v) the person is not receiving separate or additional compensation for such representation (other than receiving reimbursement for costs).

(e) Other.

(1) ***Children with Disabilities.*** In any administrative proceeding under 20 U.S.C. §§ 1415(f) or (k) regarding any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability, a person may represent a party if:

(A) the hearing officer determines that the person has special knowledge or training with respect to the problems of children with disabilities; and

(B) the person is not charging a fee for representing the party (other than receiving reimbursement for costs).

Despite these provisions, the hearing officer may order the party to appear only through counsel or in some other manner if he or she determines that the person representing the party is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

(2) ***Department of Fire, Building and Life Safety.*** In any landlord/tenant dispute before the Arizona Department of Fire, Building and Life Safety, a person may represent a party if:

(A) the party has specifically authorized the person to represent the party in the proceeding; and

(B) the person is not charging a fee for the representing the party (other than receiving reimbursement for costs).

(3) ***Fiduciaries.*** A person licensed as a fiduciary under A.R.S. § 14-5651 may perform services in compliance with Arizona Code of Judicial Administration § 7-202 without acting under the supervision of an attorney authorized under Rule 31.1(a) to engage in the practice of law in Arizona. Despite this provision, a court may suspend the fiduciary's authority to act without an attorney if it determines that lay representation is interfering with the proceeding's orderly progress or imposing undue burdens on other parties.

(4) ***Legal Document Preparers and Limited Licensed Legal Practitioners.*** Certified legal document preparers and limited licensed legal practitioners may perform services in compliance with the Arizona Code of Judicial Administration. This exception is not subject to the restriction in the second sentence of Rule 31.3(a) if a disbarred or suspended attorney has been certified as a legal document preparer or licensed as a limited license legal practitioner as provided in the Arizona Code of Judicial Administration.

(5) ***Mediators.***

(A) A person who is not authorized under Rule 31.1(a) to engage in the practice of law in Arizona may prepare a written agreement settling a dispute or file such an agreement with the appropriate court if:

(i) the person is employed, appointed, or referred by a court or government entity and is serving as a mediator at the direction of the court or a governmental entity; or

(ii) the person is participating without compensation in a nonprofit mediation program, a community-based organization, or a professional association.

(B) Unless specifically authorized in Rule 31.3(e)(5)(A), a mediator who is not authorized under Rule 31.1(a) to engage in the practice of law in Arizona and who prepares or provides legal documents for the parties without attorney supervision must be certified as a legal document preparer in compliance with the Arizona Code of Judicial Administration § 7-208.

(6) *Nonlawyer Assistants and Out-of-State Attorneys.*

(A) A nonlawyer assistant may act under an attorney's supervision in compliance with ER 5.3 of the Arizona Rules of Professional Conduct. This exception is not subject to the restriction in Rule 31.3(a) concerning a person who is currently suspended or has been disbarred from the State Bar of Arizona, or is currently on disability inactive status.

(B) An attorney licensed in another jurisdiction may engage in conduct that is permitted under ER 5.5 of the Arizona Rules of Professional Conduct.

(7) *Personnel Boards.* An employee may designate a person as a representative who is not necessarily an attorney to represent the employee before any board hearing or any quasi-judicial hearing dealing with personnel matters, but no fee may be charged (other than for reimbursement of costs) for any services rendered in connection with such hearing by any such designated representative who is not authorized under Rule 31.1(a) to engage in the practice of law in Arizona.

(8) *State Bar Fee Arbitration.* A person may represent a legal entity in a fee arbitration proceeding conducted by the State Bar of Arizona Fee Arbitration Committee, if:

(A) the person is a full-time officer, partner, member, manager, or employee of the entity;

(B) the entity has specifically authorized the person to represent it in the particular proceeding;

(C) such representation is not the person's primary duty to the entity, but is secondary or incidental to other duties relating to the entity's management or operation; and

(D) the person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

Current Rule 31, Arizona Rules of Supreme Court

Rule 31 Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law

1. *Jurisdiction.* Any person or entity engaged in the practice of law or unauthorized practice of law in this state, as defined by these rules, is subject to this court's jurisdiction.

2. *Definitions.*

A. "Practice of law" means providing legal advice or services to or for another by:

- (1) preparing any document in any medium intended to affect or secure legal rights for a specific person or entity;
- (2) preparing or expressing legal opinions;
- (3) representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation;
- (4) preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity; or
- (5) negotiating legal rights or responsibilities for a specific person or entity.

B. "Unauthorized practice of law" includes but is not limited to:

- (1) engaging in the practice of law by persons or entities not authorized to practice pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 38(a); or
- (2) using the designations "lawyer," "attorney at law," "counselor at law," "law," "law office," "J.D.," "Esq.," or other equivalent words by any person or entity who is not authorized to practice law in this state pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 38(a), the use of which is reasonably likely to induce others to believe that the person or entity is authorized to engage in the practice of law in this state.

C. "Legal assistant/paralegal" means a person qualified by education and training who performs substantive legal work requiring a sufficient knowledge of and expertise in legal concepts and procedures, who is supervised by an active member of the State Bar of Arizona, and for whom an active member of the state bar is responsible, unless otherwise authorized by supreme court rule.

D. "Mediator" means an impartial individual who is appointed by a court or government entity or engaged by disputants through written agreement to mediate a dispute. Serving as a mediator is not the practice of law.

E. "Unprofessional conduct" means substantial or repeated violations of the Oath of Admission

to the Bar or the Lawyer's Creed of Professionalism of the State Bar of Arizona.

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

(c) Restrictions on Disbarred Attorneys' and Members' Right to Practice. No member who is currently suspended or on disability inactive status and no former member who has been disbarred shall practice law in this state or represent in any way that he or she may practice law in this state.

(d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

1. In any proceeding before the Department of Economic Security or Department of Child Safety, including a hearing officer, an Appeal Tribunal or the Appeals Board, an individual party (either claimant or opposing party) may be represented by a duly authorized agent who is not charging a fee for the representation; an employer, including a corporate employer, may represent itself through an officer or employee; or a duly authorized agent who is charging a fee may represent any party, providing that an attorney authorized to practice law in the State of Arizona shall be responsible for and supervise such agent.

2. An employee may designate a representative, not necessarily an attorney, before any board hearing or any quasi-judicial hearing dealing with personnel matters, providing that no fee may be charged for any services rendered in connection with such hearing by any such designated representative not an attorney admitted to practice.

3. An officer of a corporation or a managing member of a limited liability company who is not an active member of the state bar may represent such entity before a justice court or police court provided that: the entity has specifically authorized such officer or managing member to represent it before such courts; such representation is not the officer's or managing member's primary duty to the entity, but secondary or incidental to other duties relating to the management or operation of the entity; and the entity was an original party to or a first assignee of a conditional sales contract, conveyance, transaction or occurrence that gave rise to the cause of action in such court, and the assignment was not made for a collection purpose.

4. A person who is not an active member of the state bar may represent a party in small claims procedures in the Arizona Tax Court, as provided in Title 12, Chapter 1, Article 4 of the Arizona Revised Statutes.

5. In any proceeding in matters under Title 23, Chapter 2, Article 10 of the Arizona Revised Statutes, before any administrative law judge of the Industrial Commission of Arizona or review board of the Arizona Division of Occupational Safety and Health or any successor agency, a corporate employer may be represented by an officer or other duly authorized agent of the corporation who is not charging a fee for the representation.

6. An ambulance service may be represented by a corporate officer or employee who has been specifically authorized by the ambulance service to represent it in an administrative hearing or rehearing before the Arizona Department of Health Services as provided in Title 36, Chapter 21.1, Article 2 of the Arizona Revised Statutes.

7. A person who is not an active member of the state bar may represent a corporation in small claims procedures, so long as such person is a full-time officer or authorized full-time employee of the corporation who is not charging a fee for the representation.

8. In any administrative appeal proceeding of the Department of Health Services, for behavioral health services, pursuant to A.R.S. § 36-3413 (effective July 1, 1995), a party may be represented by a duly authorized agent who is not charging a fee for the representation.

9. An officer or employee of a corporation or unincorporated association who is not an active member of the state bar may represent the corporation or association before the superior court (including proceedings before the master appointed according to A.R.S. § 45-255) in the general stream adjudication proceedings conducted under Arizona Revised Statutes Title 45, Chapter 1, Article 9, provided that: the corporation or association has specifically authorized such officer or employee to represent it in this adjudication; such representation is not the officer's or employee's primary duty to the corporation but secondary or incidental to other duties related to the management or operation of the corporation or association; and the officer or employee is not receiving separate or additional compensation (other than reimbursement for costs) for such representation. Notwithstanding the foregoing provision, the court may require the substitution of counsel whenever it determines that lay representation is interfering with the orderly progress of the litigation or imposing undue burdens on the other litigants. In addition, the court may assess an appropriate sanction against any party or attorney who has engaged in unreasonable, groundless, abusive or obstructionist conduct.

10. An officer or full-time, permanent employee of a corporation who is not an active member of the state bar may represent the corporation before the Arizona Department of Environmental Quality in an administrative proceeding authorized under Arizona Revised Statutes. Title 49, provided that: the corporation has specifically authorized such officer or employee to represent it in the particular administrative hearing; such representation is not the officer's or employee's primary duty to the corporation but secondary or incidental to other duties related to the management or operation of the corporation; the officer or employee is not receiving separate or additional compensation (other than reimbursement for costs) for such representation; and the corporation has been provided with a timely and appropriate written general warning relating to the potential effects of the proceeding on the corporation's and its owners' legal rights.

11. Unless otherwise specifically provided for in this rule, in proceedings before the Office of Administrative Hearings, or in fee arbitration proceedings conducted under the auspices of the State Bar of Arizona Fee Arbitration Committee, a legal entity may be represented by a full-time officer, partner, member or manager of a limited liability company, or employee, provided that: the legal entity has specifically authorized such person to represent it in the particular matter; such representation is not the person's primary duty to the legal entity, but secondary or incidental to other duties relating to the management or operation of the legal entity; and the person is not

receiving separate or additional compensation (other than reimbursement for costs) for such representation.

12. In any administrative appeal proceeding relating to the Arizona Health Care Cost Containment System, an individual may be represented by a duly authorized agent who is not charging a fee for the representation.

13. In any administrative matter before the Arizona Department of Revenue, the Office of Administrative Hearings relating to the Arizona Department of Revenue, a state or county board of equalization, the Arizona Department of Transportation, the Arizona Department of Economic Security, the Department of Child Safety, the Arizona Corporation Commission, or any county, city, or town taxing or appeals official, a taxpayer may be represented by (1) a certified public accountant, (2) a federally authorized tax practitioner, as that term is defined in A.R.S. § 42-2069(D)(1), or (3) in matters in which the dispute, including tax, interest and penalties, is less than \$5,000.00 (five thousand dollars), any duly appointed representative. A legal entity, including a governmental entity, may be represented by a full-time officer, partner, member or manager of a limited liability company, or employee, provided that: the legal entity has specifically authorized such person to represent it in the particular matter; such representation is not the person's primary duty to the legal entity, but secondary or incidental to other duties relating to the management or operation of the legal entity; and the person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.

14. If the amount in any single dispute before the State Board of Tax Appeals is less than twenty-five thousand dollars, a taxpayer may be represented in that dispute before the board by a certified public accountant or by a federally authorized tax practitioner, as that term is defined in A.R.S. § 42-2069(D)(1).

15. In any administrative proceeding pursuant to 20 U.S.C. § 1415(f) or (k) regarding any matter relating to the identification, evaluation, educational placement, or the provision of a free appropriate public education for a child with a disability or suspected disability, a party may be represented by an individual with special knowledge or training with respect to the problems of children with disabilities as determined by the administrative law judge, and who is not charging the party a fee for the representation. The hearing officer shall have discretion to remove the individual, if continued representation impairs the administrative process or causes harm to the parties represented.

16. Nothing in these rules shall limit a certified public accountant or other federally authorized tax practitioner, as that term is defined in A.R.S. § 42-2069(D)(1), from practicing before the Internal Revenue Service or other federal agencies where so authorized.

17. Nothing in these rules shall prohibit the rendering of individual and corporate financial and tax advice to clients or the preparation of tax-related documents for filing with governmental agencies by a certified public accountant or other federally authorized tax practitioner as that term is defined in A.R.S. § 42-2069(D)(1).

18. Nothing in this rule shall affect the ability of nonlawyer assistants to act under the supervision

of a lawyer in compliance with ER 5.3 of the rules of professional conduct. This exemption is not subject to section (c).

19. Nothing in these rules shall prohibit the supreme court, court of appeals, superior courts, or limited jurisdiction courts in this state from creating and distributing form documents for use in Arizona courts.

20. Nothing in these rules shall prohibit the preparation of documents incidental to a regular course of business when the documents are for the use of the business and not made available to third parties.

21. Nothing in these rules shall prohibit the preparation of tax returns.

22. Nothing in these rules shall affect the rights granted in the Arizona or United States Constitutions.

23. Nothing in these rules shall prohibit an officer or employee of a governmental entity from performing the duties of his or her office or carrying out the regular course of business of the governmental entity.

24. Nothing in these rules shall prohibit a certified legal document preparer from performing services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-208. This exemption is not subject to paragraph (c) of this rule, as long as the disbarred attorney or member has been certified as provided in § 7-208 of the Arizona Code of Judicial Administration.

25. Nothing in these rules shall prohibit a mediator as defined in these rules from preparing a written mediation agreement or filing such agreement with the appropriate court, provided that:

(A) the mediator is employed, appointed or referred by a court or government entity and is serving as a mediator at the direction of the court or government entity; or

(B) the mediator is participating without compensation in a nonprofit mediation program, a community-based organization, or a professional association.

In all other cases, a mediator who is not an active member of the state bar and who prepares or provides legal documents for the parties without the supervision of an attorney must be certified as a legal document preparer in compliance with the Arizona Code of judicial Administration, Part 7, Chapter 2, Section 7-208.

26. Nothing in these rules shall prohibit a property tax agent, as that term is defined in A.R.S. § 32-3651, who is registered with the Arizona State Board of Appraisal pursuant to A.R.S. § 32-3642, from practicing as authorized pursuant to A.R.S. § 42-16001.

27. Nothing in these rules shall affect the ability of lawyers licensed in another jurisdiction to engage in conduct that is permitted under ER 5.5 of the rules of professional conduct.

28. In matters before the Arizona Corporation Commission, a public service corporation, an interim operator appointed by the Commission, or a nonprofit organization may be represented by a corporate officer, employee, or a member who is not an active member of the state bar if

(A) the public service corporation, interim operator, or nonprofit organization has specifically authorized the officer, employee, or member to represent it in the particular matter,

(B) such representation is not the person's primary duty to the public service corporation, interim operator, or nonprofit organization, but is secondary or incidental to such person's duties relating to the management or operation of the public service corporation, interim operator, or nonprofit organization, and

(C) the person is not receiving separate or additional compensation (other than reimbursement for costs) for such representation.

Notwithstanding the foregoing provisions, the Commission or presiding officer may require counsel in lieu of lay representation whenever it determines that lay representation is interfering with the orderly progress of the proceeding, imposing undue burdens on the other parties, or causing harm to the parties represented.

29. In any landlord/tenant dispute before the Arizona Department of Fire, Building and Life Safety, an individual may be represented by a duly authorized agent who is not charging a fee for the representation, other than reimbursement for actual costs.

30. A person licensed as a fiduciary pursuant to A.R.S. § 14-5651 may perform services in compliance with Arizona code of judicial administration, Part 7, Chapter 2, Section 7-202. Notwithstanding the foregoing provision, the court may suspend the fiduciary's authority to act without an attorney whenever it determines that lay representation is interfering with the orderly progress of the proceedings or imposing undue burdens on other parties.

31. Nothing in these rules shall prohibit an active member or full-time employee of an association defined in A.R.S. §§ 33-1202 or 33-1802, or the officers and employees of a management company providing management services to the association, from appearing in a small claims action, so long as:

(A) the association's employee or management company is specifically authorized in writing by the association to appear on behalf of the association;

(B) the association is a party to the small claims action.

APPENDIX 5: Draft Administrative Order Implementing Licensed Legal Advocate Pilot Program

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
AUTHORIZING A LICENSED) Administrative Order
LEGAL ADVOCATE PILOT PROGRAM) No. 20__ - _____
)
)
)
)
)

“Promoting Access to Justice” is Goal 1 of the Judiciary’s Strategic Agenda, *Justice for the Future: Planning for Excellence, 2019-2024*. The Task Force on the Delivery of Legal Services, established by Administrative Order 2018-111, was charged with reviewing the regulation of the delivery of legal services as well as examining and recommending whether nonlawyers, with specified qualifications, should be allowed to provide limited legal services.

At the same time the Task Force was pursuing its charge, the Innovation for Justice Program at the University of Arizona James E. Rogers College of Law (i4J) brought graduate students, undergraduate students and over 50 members of the community together in i4J’s Innovating Legal Services course to explore a challenge framed as: “should Arizona create a new tier of civil legal professional, and what could that mean for survivors of domestic abuse?” The Innovating Legal Services course developed a proposal for a pilot program that would train lay legal advocates to become Licensed Legal Advocates (LLAs), able to legally advise DV survivors as they navigate Arizona’s civil legal system. The proposed pilot removes the barrier imposed by unauthorized practice of law restrictions, giving the LLAs the ability to handle specifically-identified legal needs of participants at Emerge! and enhancing those participants’ access to justice. The details of the pilot program are captured in a report titled *Report to the Arizona Supreme Court Task Force on Delivery of Legal Services: Designing a New Tier of Legal Professional for Survivors of Domestic Violence*, which was presented to the Task Force.

The Task Force found the pilot program was consistent with its charge. In October 2019, the Task Force recommended to the Arizona Judicial Council (AJC) that the Supreme Court establish the Licensed Legal Advocate Pilot Program. The AJC recommended adoption of the [report/recommendation].

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that:

1. The Licensed Legal Advocate Pilot Program shall run for a period of 24 months from the date of implementation.
2. Rule 31(d) of the Arizona Rules of Supreme Court is deemed modified as set forth in Appendix A for the duration of the Licensed Legal Advocates Pilot Program.
3. Licensed legal advocates may provide legal advice in the following areas:
 - a. Identifying urgent legal needs at intake and providing advice regarding next steps of action with respect to those needs;
 - b. Assisting self-represented DV survivors with the completion of DV and family law forms and providing legal advice necessary to adequately complete those forms;
 - c. Providing advice regarding preserving potential court evidence and preparing for court hearings and mediations; and
 - d. Assisting survivors at court hearings by being able to sit with the survivor and quietly advise them as requested by the survivor or the court.
4. Licensed Legal Advocates are subject to the Licensed Legal Advocates Rules of Professional Conduct, as set forth in Appendix B, adapted from the Arizona Rules of Professional Conduct for the duration of the Licensed Legal Advocates Pilot Program.
5. Qualifications of Licensed Legal Advocates are set forth in Appendix C.
6. A licensing exam for the Licensed Legal Advocates Pilot Program shall be developed and administered by the Certification and Licensing Division of the AOC, who shall oversee licensure of Licensed legal Advocates.
7. The Licensed Legal Advocate Pilot Program shall be administered by the Pilot Program Director in coordination with the AOC.

Dated this _____ day of _____, 20__.

ROBERT BRUTINEL
Chief Justice

Task Force on Delivery of Legal Services

Report and Recommendations

© 2019 Arizona Supreme Court

October 4, 2019

This publication can be provided in an alternate format or other assistance may be provided upon request by a qualified individual with a disability under the provisions of the Americans with Disabilities act.



Alternative Business Structures

Suzanne Porter, Legal Service Innovations
Officer, Arizona Supreme Court

March 2023

Key Points

- ▶ What is an “ABS”?
- ▶ Application process
- ▶ Committee and Court review
- ▶ Renewals/amendments/other changes
- ▶ Current statistics of the program

What is an ABS?

- ▶ An ABS is an entity/law firm that has nonlawyer ownership or decision-making authority and delivers legal services Ariz. R. S. Ct. 31.1(c)
- ▶ Any law firm that has nonlawyer ownership MUST be licensed by the Arizona Supreme Court as an ABS.
- ▶ Nonlawyers in an ABS are NOT authorized to practice law.
- ▶ ABS regulations can be found in ACJA § 7-209 (online and in the back of the Rule book)

ABS Structure

- ▶ ABS must have an Arizona “Compliance Lawyer” and “Designated Principal”
 - Compliance Lawyer must be an employee or manager (need not be a full-time employee)
 - Compliance Lawyer is responsible for assuring EVERYONE complies with the Rules of Professional Conduct and ABS Code of Conduct.
- ▶ An ABS must disclose every “Authorized Person” (may be a person or entity) that has *either* :
 - a) a 10% or greater “economic interest” in the ABS; or
 - b) “Decision-making” authority in the ABS



How to apply...

<https://www.azcourts.gov/Licensing-Regulation/Alternative-Business-Structure>

The screenshot shows the homepage of the Arizona Judicial Branch website. At the top left is the logo 'Azcourts.gov Arizona Judicial Branch'. To the right is a search bar with the text 'Search Search...'. Below the logo is a navigation menu with the following items: Home, AZ Courts, AZ Supreme Court, Court Admin/AOC, Self-Service, Licensing & Regulation (highlighted in green), and Publications & Reports. On the right side of the navigation menu are social media icons for Facebook and Twitter. Below the navigation menu is a breadcrumb trail: Home / Licensing & Regulation / Alternative Business Structure / How to apply for ABS licensure. The main heading is 'How to apply for ABS licensure'. Below the heading is an icon of a laptop displaying a webpage. At the bottom of the page is a blue button with the text 'APPLY NOW'. On the left side of the page is a vertical sidebar menu with the following items: Home, AZ Courts, AZ Supreme Court, Court Admin/AOC, Self-Service, Licensing & Regulation, and Publications & Reports.

Application process

1. Initial ABS Application
2. Compliance Lawyer form
3. Designated principal form
4. Authorized Person Forms
(for each person and/or entity)
5. Payment



Application questions

How will the applicant advance the regulatory objectives*?

- ▶ Protecting and promoting the public interest
- ▶ Promoting access to legal services
- ▶ Advancing the administration of justice and rule of law
- ▶ Encouraging an independent, strong, diverse, and effective legal profession
- ▶ Promoting and maintaining adherence to professional principles

*See ACJA §7-209

Application questions

- ▶ How will the applicant:
 - Protect client confidentiality?
 - Check for conflicts?
 - Comply with Arizona's trust accounting requirements?
 - Uphold a lawyer's independent professional judgment?

Application questions

- ▶ Background of persons or entities:
 - Any professional discipline or inquiries?
 - Criminal convictions/pleas?
 - Findings of fraud, dishonesty, misrepresentation by courts or in employment settings?
 - Any civil litigation in the past ten years?



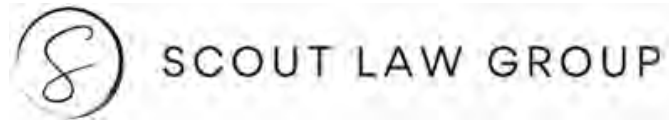
ABS Committee Review:

- #1: Application is “public record” (background investigation is not necessarily public)
- #2: Certification and licensing investigation and recommendation to Committee
- #3: Committee review and vote to recommend approval/denial by Arizona Supreme Court
- #4: Appearing before the Committee is optional, allows Committee to ask questions
- #5: Supreme Court approves or denies and issues Administrative Order
- #6: Applicant may appeal denial of license

Renewals and amendments

- ▶ Yearly renewal and review by Committee for approval
- ▶ State Bar of Arizona oversees discipline and reports to the Court
- ▶ Amendments to ABS through online (eg merger/acquisition, contact details, or changes in Authorized Person)

Recommended licenses to date (40)



Practice areas of approved ABSs to date

- ▶ Tax and financial planning partnerships
- ▶ Personal injury/mass tort
- ▶ Estate planning
- ▶ Immigration
- ▶ General business services (some with specialized target client groups including Spanish speaking, military)
- ▶ Litigation and e-discovery management
- ▶ Large scale online subscription legal services



Questions?

Arizona Supreme Court Certification
and Licensing Division

(602) 452-3378

ABSProgram@courts.az.gov

Clark Nuber ^{PS}

Presentation to the Audit Committee of



January 27, 2023

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Service Scope & Deliverables for the Year Ended September 30, 2022

Financial Statement Audit
for the Year Ended
September 30, 2022

Agreed on procedures over
the Special Report on
Budget Summary

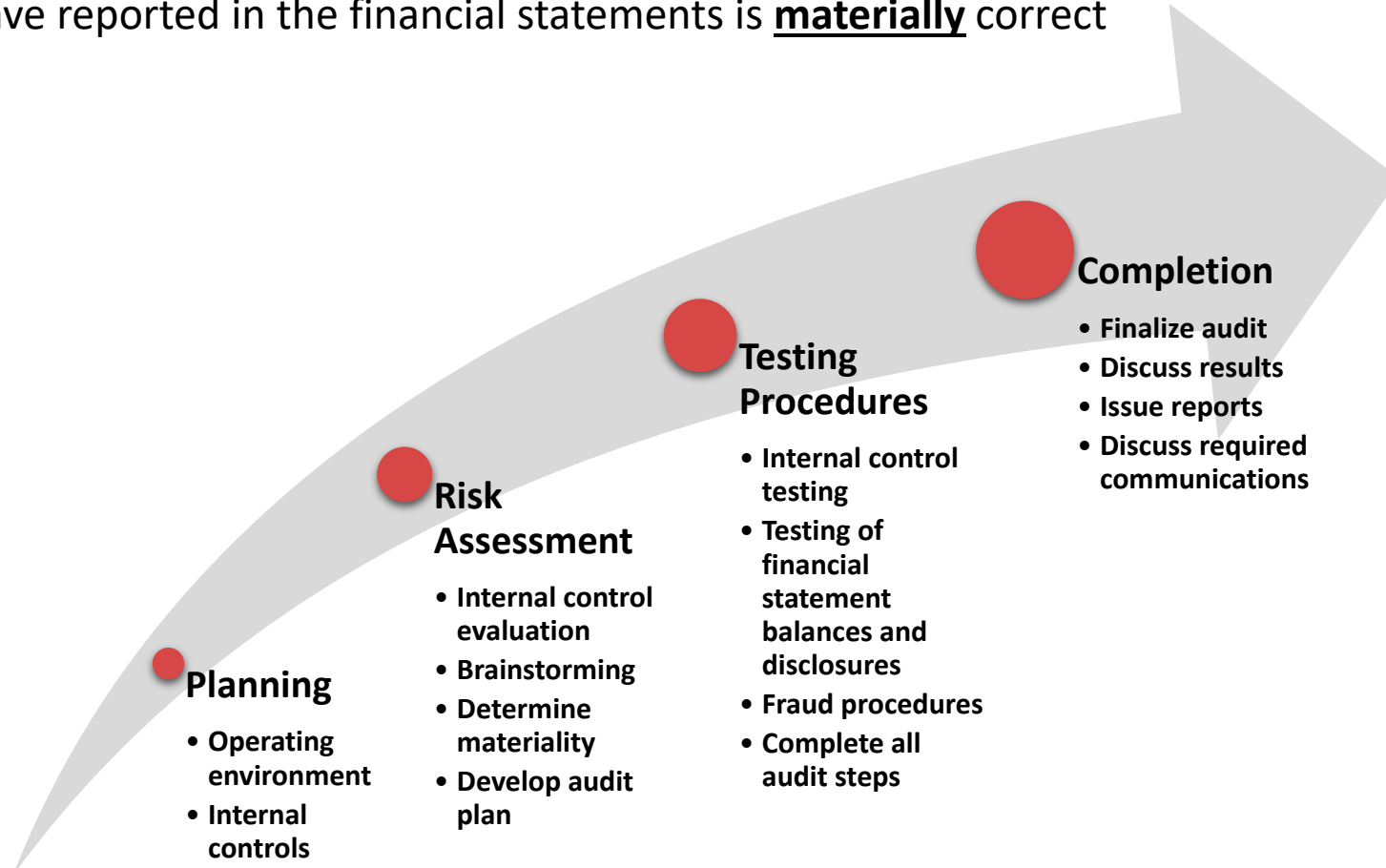
Other Services

- Preparation of draft financial statements in conjunction with the audit
- Routine management advice, as requested

Financial Statement Audit

Purpose

- Issue an **opinion** (“*audit report*”) that accompanies your annual financial statements
- Gives **assurance** to users of the financial statements (*lenders, funders, Board of Directors, etc.*) that the information you have reported in the financial statements is **materially** correct



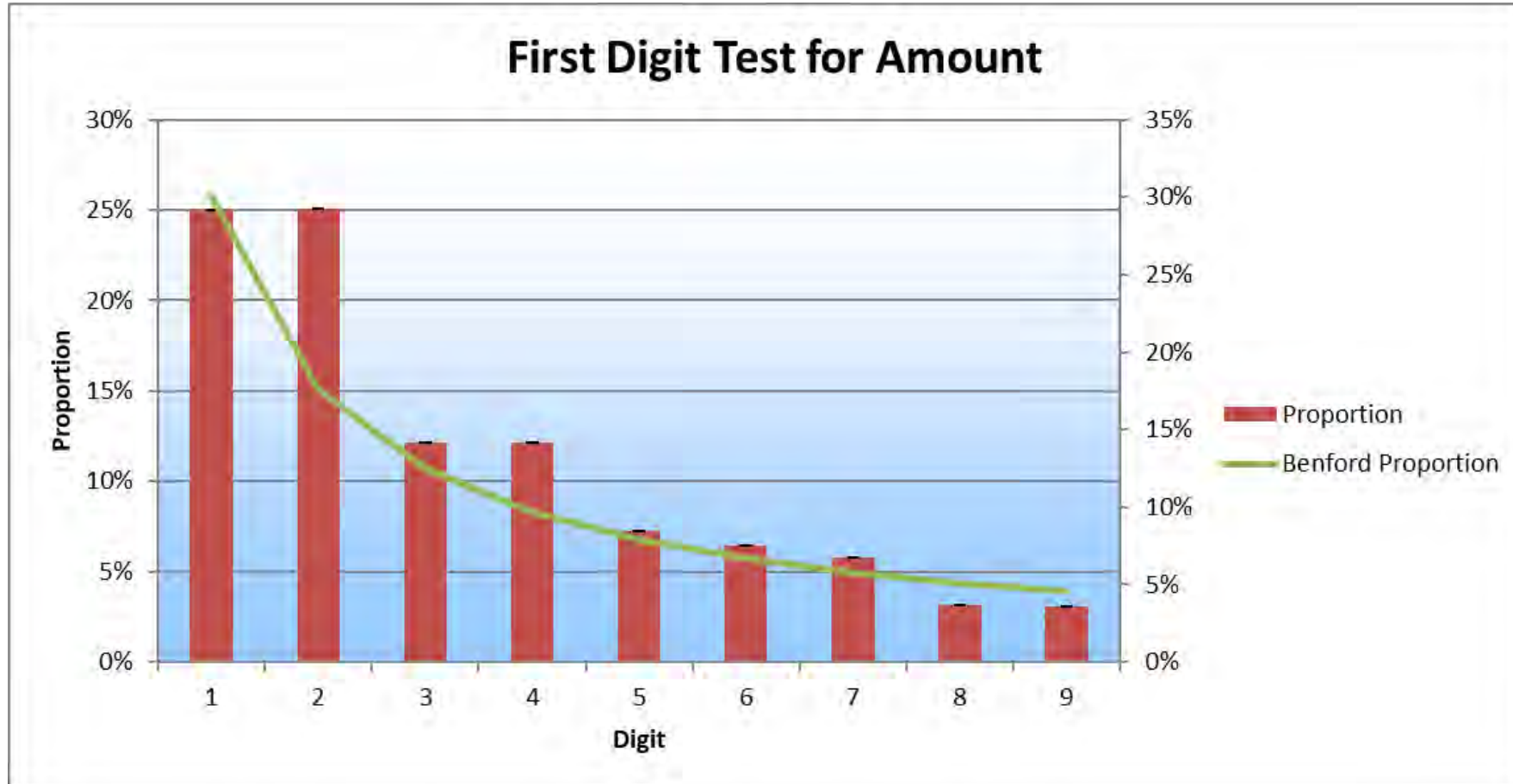
Areas of Financial Statement Audit Emphasis

- Revenue recognition
- Status of legal matters

Financial Statement Audit Results This Year

- **Unmodified opinion issued**
 - Indicates the financial statements are materially correct and we did not find any reason to modify our opinion
 - Implementation of SAS 134 - *Auditor Reporting Amendments*
 - Significant changes to the auditor's report including that the auditor's opinion is now first.
 - Other changes include a new Basis of Opinion section; disclosing management and the auditor's responsibility for going concern issues; and expanded section on auditor responsibilities.
- **Audit adjustments**
 - Proposed adjustment to present net assets with donor restrictions for \$91,000
- **Internal control deficiencies**
 - No material weaknesses in accounting controls or information systems noted

Benford's Law



Other Required Communications

Professional standards established by the AICPA require independent auditors to communicate certain matters directly to those charged with governance. This report presents a brief explanation of each of the communication requirements and our response as it relates to your organization.

Items to be Communicated	Auditor's Response
Auditor's responsibility under U.S. Auditing Standards.	Communicated in engagement letter.
Representations requested from management.	Communicated in representation letter.
Significant difficulties encountered during audit.	None.
Disagreements with management and matters that are contentious for which the auditor consulted outside of the engagement team.	None.
Major issues discussed prior to retention.	None.
Consultation with other accountants.	None we are aware of.
Fraud or noncompliance with laws and regulations.	No such matters came to our attention.
Consideration of entity's ability to continue as a going concern.	No such matters require disclosure.
Other information included in annual reports	We are not aware of any plans to issue an annual report that includes financial or nonfinancial information.
Qualitative aspects of accounting practices.	Policies and procedures and estimates are consistent with prior years and with practices we see at similar organizations.
Significant audit issues or unexpected matters relevant to the financial reporting process.	No matters were discussed.

Leases – effective
calendar year
ending 2022 (FY
2023)

- Lessees to recognize all leases as liabilities on the balance sheet.
- Expense recognition to remain the same for operating and financing (capital) leases.

Protiviti Study: Top 10 Risks

Top Risks for 2022	Top Risks for 2021
1. Pandemic-related government policies and regulations impact on business performance	1. Pandemic-related policies and regulations impact on business performance
2. Succession challenges, ability to attract and retain talent	2. Economic conditions constrain growth opportunities
3. Pandemic-related market conditions reduce customer demand	3. Pandemic-related market conditions reduce customer demand
4. Adoption of digital technologies may require new skills or significant efforts to upskill/reskill existing employees	4. Adoption of digital technologies may require new skills or significant efforts to upskill/reskill existing employees
5. Economic conditions, including inflationary pressures, constrain growth opportunities	5. Privacy/identity management of information security
6. Increasing labor costs impact profitability targets	6. Cyber threats
7. Resistance to change in operations and business model	7. Impact on regulatory change and scrutiny of operational resilience, products, and services
8. Inability to utilize data analytics and “big data” to achieve market intelligence and increase productivity and efficiency	8. Succession challenges, ability to attract and retain talent
9. Cyber threats	9. Resistance to change in operations and business model
10. Shift in expectations about social issues and diversity, equity and inclusion (DEI) outpace organization’s response	10. Ability to compete with “born digital” and other competitors

Your Engagement Team

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About Clark Nuber



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WASHINGTON STATE BAR ASSOCIATION

Special Report on the Fiscal Year 2023 Budget Summary

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Independent Accountant's Report on Applying Agreed-Upon Procedures	1 - 7
Exhibit A: Fiscal Year 2023 Budget Summary	8
Exhibit B: Fiscal Year 2022 Budget Summary - Original	9
Exhibit C: Statement of Activities For the Year Ended September 30, 2021	10

Independent Accountant’s Report on Applying Agreed-Upon Procedures

**To the Board of Governors
Washington State Bar Association
Seattle, Washington**

We have performed the procedures enumerated below on the Washington State Bar Association (WSBA) Fiscal Year 2023 Budget Summary. The WSBA’s management is responsible for the Fiscal Year 2023 Budget Summary.

The WSBA has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of assisting you in evaluating the consistency of the presentation of the Fiscal Year 2023 Budget Summary of revenues and expenses (2023 Budget) included in Exhibit A, with presentation of the Fiscal Year 2022 Budget Summary of revenues and expenses (2022 Budget) included in Exhibit B, and the presentation of revenues and expenses in the audited Statement of Activities for the fiscal year ended September 30, 2021 (2021 Statement of Activities) included in Exhibit C. This report is prepared to comply with Keller vs. State Bar of California, 496 U.S. 1 (1990), which prohibits using compulsory fees of any member who objects to that use for political or ideological activities that are not germane, or reasonably related, to regulating the legal profession or improving the quality of legal services (“nonchargeable” activities). Objecting members are offered a “Keller deduction” that represents the estimated portion of fees that is used for “nonchargeable” activities. The Keller deduction is calculated prospectively based on the coming year’s budget and the previous year’s political activity. The Special Report on the Budget Summary reports on the presentation of the coming year’s budget, which is used to compute the Keller deduction, with the previous year’s financial statements and current year budget by explaining differences in categories, budgeting methodologies, and significant revenues and expenses. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

The procedures and the associated findings are as follows:

1. We totaled all columns and rows of the 2023 and 2022 Budgets and the 2021 Statement of Activities to verify the mathematical accuracy.

Findings

None

2. We compared the 2023 Budget cost center descriptions to the 2022 Budget and the 2021 Statement of Activities cost center descriptions and explained differences.

Findings

The WSBA changed the following cost centers in the 2023 Budget compared to the 2022 Budget:

- The Administration cost center renamed Finance.
- The Equality and Justice Department FTE cost center was reallocated to existing Access to Justice and Diversity cost centers.
- The Communications FTE cost center was renamed Communications strategies FTE.



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In addition, the WSBA changed the following cost centers in the 2023 Budget compared to the 2021 Statement of Activities:

- The Administration cost center was renamed to Finance.
 - The Character and Fitness Board and Volunteer Engagement cost centers were introduced in the FY 2022 budget.
 - The Member Assistance Program and Member Benefits cost centers were eliminated, and their costs were combined into a new cost center titled Member Wellness Program.
 - The Outreach and Engagement cost center was eliminated, and its costs were absorbed into the Communication Strategies cost center.
 - Mini CLE was the new cost center added in FY22. In FY21 the costs were absorbed in Continuing Legal Education cost center.
3. We inquired of management if there were any differences in the methodology used to budget for revenue and expense amounts for each cost center for the 2023 Budget as compared to the methodology used to budget for revenue and expense amounts for each cost center for the 2022 Budget and to account for revenue and expenses in the 2021 Statement of Activities.

Findings

The WSBA noted no differences in the methodology used to budget for revenue or expense amounts for each cost center for the 2023 Budget as compared to the methodology used to budget for revenue and expense amounts for each cost center for the 2022 Budget and to account for revenues and expenses in the 2021 Statement of Activities.

4. We compared total revenues and total expenses by cost center in the 2023 Budget to the total revenues and total expenses by cost center in the 2022 Budget and noted differences in amounts both greater than \$100,000 and 20%. We inquired of management for an explanation of those differences.

Findings

The following categories showed differences greater than \$100,000 and 20%:

Comparison of 2023 Budget to 2022 Budget

	<u>2023 Budget</u>	<u>2022 Budget</u>	<u>Differences</u>	
			<u>Amount</u>	<u>Percentage</u>
Administration				
a. Expense	\$ -	\$ 1,092,707	\$ (1,092,707)	-100%
Access to Justice				
b. Expense	\$ 358,902	\$ 208,619	\$ 150,283	72%
Character & Fitness Board				
c. Expense	\$ 166,623	\$ 31,151	\$ 135,472	435%
Communications FTE				
d. Expense	\$ -	\$ 223,276	\$ (223,276)	-100%
Communications strategies FTE				
e. Expense	\$ 243,400	\$ -	\$ 243,400	100%
Equity and Justice Department FTE				
f. Expense	\$ -	\$ 181,312	\$ (181,312)	-100%
Finance				
g. Expense	\$ 1,094,220	\$ -	\$ 1,094,220	100%
Human Resources				
h. Expense	\$ 291,667	\$ 459,421	\$ (167,754)	-37%
Member services and engagement				
i. Expense	\$ 342,478	\$ 444,013	\$ (101,535)	-23%
Professional responsibility program				
j. Expense	\$ 153,571	\$ 282,184	\$ (128,613)	-46%

Management's explanations for the differences are as follows:

- a. Administration - This cost center name was changed from Administration to Finance.
 - b. Access to Justice - Access to Justice board outreach/planning and conference expenses increased compared to FY22. FTE allocation was increased from 1.30 in FY22 to 1.64 in FY23.
 - c. Character and Fitness Board - FTE allocation was increased from .05 in FY22 to .75 in FY23.
 - d. Communications FTE - This cost center name was changed from Communications FTE to Communications strategies FTE.
 - e. Communications Strategies FTE - This cost center name was changed from Communications FTE to Communications strategies FTE.
 - f. Equity and Justice Department FTE - The Equality and Justice Department FTE cost center was reallocated to existing Access to Justice and Diversity cost centers.
 - g. Finance - This cost center name was changed from Administration to Finance.
 - h. Human Resources - (\$200,000) Allowance for open positions was added in FY23.
 - i. Member Services and Engagement - FTE was decreased from 3.46 to 2.51 in FY23.
 - j. Professional Responsibility Program - Decrease in FTE from 1.59 in FY22 to .73 in FY23. Additionally decrease CPE committee and staff travel expenses.
5. We compared total revenues and total expenses by cost center in the 2023 Budget to the total revenues and total expenses by cost center in the 2021 Statement of Activities and noted differences in amounts both greater than \$100,000 and 20%. We inquired of management for an explanation of those differences.

Findings

The following categories showed differences greater than \$100,000 and 20%:

Comparison of 2023 Budget to 2021 Statement of Activities

	2023 Budget	2021 SOA	Difference	
			Amount	Percentage
Administration				
a. Expense	\$ -	\$ 1,070,812	\$ (1,070,812)	-100%
Admissions / bar exam				
b. Expense	\$ 1,303,852	\$ 1,042,802	\$ 261,050	25%
Advancement				
c. Expense	\$ 362,565	\$ 229,514	\$ 133,051	58%
Board of governors				
d. Expense	\$ 563,600	\$ 438,738	\$ 124,862	28%
Character & Fitness Board				
e. Expense	\$ 166,623	\$ -	\$ 166,623	100%
Client Protection Fund				
f. Revenue	\$ 730,000	\$ 506,141	\$ 223,859	44%
Continuing legal education				
g. Expense	\$ 1,386,755	\$ 1,067,130	\$ 319,625	30%
Communications Strategies				
h. Expense	\$ 790,829	\$ 509,408	\$ 281,421	55%
Diversity				
i. Expense	\$ 495,227	\$ 293,793	\$ 201,434	69%
Finance				
j. Expense	\$ 1,094,220	\$ -	\$ 1,094,220	100%
Human resources				
k. Expense	\$ 291,667	\$ 471,049	\$ (179,382)	-38%
Legislative				
l. Expense	\$ 269,464	\$ 162,136	\$ 107,328	66%
Mandatory continuing legal education administration				
m. Expense	\$ 781,344	\$ 599,914	\$ 181,430	30%
Member benefits				
n. Expense	\$ -	\$ 311,031	\$ (311,031)	-100%
Member services and engagement				
o. Expense	\$ 342,478	\$ 450,534	\$ (108,056)	-24%
Member wellness program				
p. Expense	\$ 237,519	\$ -	\$ 237,519	100%
Mini CLE				
q. Expense	\$ 114,412	\$ -	\$ 114,412	100%
Office of general counsel				
r. Expense	\$ 1,057,534	\$ 882,627	\$ 174,907	20%
Outreach and Engagement				
s. Expense	\$ -	\$ 221,569	\$ (221,569)	-100%
Practice Management Assistance				
t. Expense	\$ 206,433	\$ -	\$ 206,433	100%
Professional responsibility program				
u. Expense	\$ 153,571	\$ 282,311	\$ (128,740)	-46%
Public service programs				
v. Expense	\$ 486,257	\$ 367,434	\$ 118,823	32%
Regulatory Services				
w. Expense	\$ 560,458	\$ 384,547	\$ 175,911	46%
Sections Operations				
x. Expense	\$ 904,646	\$ 309,304	\$ 595,342	192%
Volunteer Engagement				
y. Expense	\$ 115,489	\$ -	\$ 115,489	100%

Management's explanations for the differences are as follows:

- a. Administration - This cost center name was changed from Administration to Finance.
- b. Admissions / Bar Exam - The number of FTE's allocated to this cost center was increased from 6.55 to 6.75, and expenses such as facilities and parking, UBE examiners, bar exam proctors, and depreciation are anticipated to be greater than FY21 due to the increased number of expected applicants during FY23.
- c. Advancement - The number of FTE's allocated to this cost center was increased from 1.15 to 1.88 and the staff training & conference expense was added in FY23.
- d. Board of Governors - BOG meetings, BOG conferences, BOG retreats expenses were increased due to more in person meetings scheduled vs. virtual meetings in FY21.
- e. Character and Fitness Board - Cost center was added in FY22, prior to that, expenses were included in the Admission cost center.
- f. Client Protection Fund - Client protection member assessments are anticipated to be greater in FY23 due to increase in active memberships.
- g. Continuing Legal Education - Facilities, speakers & development, salaries, and benefits expenses are anticipated to increase in FY23.
- h. Communication Strategies - Staff training & Conference and bar outreach expenses were added in FY23. FTE allocation for this cost center was increased from 3.80 to 5.20 in FY23.
- i. Diversity - FTE for this cost center was increased from 2.46 to 2.69. Expenses such as consulting services, surveys, staff training and conference were added in FY23.
- j. Finance - This cost center name has been changed from Administration to Finance.
- k. Human Resources - (\$200,000) allowance for open positions was added in FY23 and consulting services expense is expected to be less than FY21.
- l. Legislative - FTE allocation for this cost center was increased from 1 to 1.70.
- m. Mandatory Continuing Legal Education Administration - The number of FTE's allocated to this cost center was increased from 4.80 to 4.88.
- n. Member Benefits - The Member Assistance Program and Member Benefits cost centers were eliminated, and their costs were combined into a new cost center titled Member Wellness Program. Additionally, part of the Member Benefits cost center costs were allocated to a new cost center titled Practice Management Assistance.
- o. Member Services and Engagement - FTE allocation was decreased from 4.13 to 2.51 in FY23.
- p. Member Wellness Program - Cost center name was changed from Member Assistance Program to Member Wellness Program. FTE was increased from .50 to 1.48 in FY23.
- q. Mini CLE - Mini CLE was the new cost center added in FY22. In FY21 the costs were absorbed in Continuing Legal Education cost center.
- r. Office of General Counsel - FTE is increased from 6.38 to 6.42 in FY23.
- s. Outreach and Engagement - This cost center was absorbed into Communications Strategies.
- t. Practice Management Assistance - Part of the Member Benefits cost center costs were allocated to a new cost center titled Practice Management Assistance.
- u. Professional Responsibility Program - FTE decreased from 1.69 to .73 in FY23.
- v. Public Service Programs - FTE allocation was increased from 1 to 1.62 and Donations and Grants expense was increased to cover increase in workload and COLA for staff.
- w. Regulatory Services - Staff training and conference expense was added in FY23 and there is an increase in salaries and benefits compared to FY21.
- x. Sections Operations - Direct expense for sections activities are anticipated to increase in FY23 due to more in person events.

- y. Volunteer Engagement - This is a new cost center that has been broken out from the cost center titled Office of the Executive Director for the Fiscal Year 2022 budget.

We were engaged by the WSBA to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the AICPA. We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on Fiscal Year 2023 Budget Summary. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the WSBA and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.



Certified Public Accountants
January 27, 2023

EXHIBIT A

WASHINGTON STATE BAR ASSOCIATION

Fiscal Year 2023 Budget Summary

Cost Centers	Revenue	Expense	Net
Access to justice board	\$ -	\$ 358,902	\$ (358,902)
Admissions / bar exam	1,362,940	1,303,852	59,088
Advancement		362,565	(362,565)
Bar news	602,700	695,967	(93,267)
Board of governors		563,600	(563,600)
Character & Fitness Board		166,623	(166,623)
Communications strategies	3,500	790,829	(787,329)
Communications strategies FTE		243,400	(243,400)
Discipline	119,000	6,214,728	(6,095,728)
Diversity	135,000	495,227	(360,227)
Finance	26,000	1,094,220	(1,068,220)
Foundation		152,797	(152,797)
Human resources		291,667	(291,667)
Law clerk program	188,200	146,999	41,201
Legal Lunchbox	23,000	52,617	(29,617)
Legislative		269,464	(269,464)
Licensing	17,053,467		17,053,467
Licensing and membership records	452,200	641,962	(189,762)
Limited license legal technician	29,722	100,748	(71,026)
Limited practice officers	195,088	120,347	74,741
Mandatory continuing legal education administration	1,125,250	781,344	343,906
Member services and engagement	11,800	342,478	(330,678)
Member Wellness Program	7,500	237,519	(230,019)
Mini CLE		114,412	(114,412)
New Member Education	85,000	96,869	(11,869)
Office of the executive director		697,034	(697,034)
Office of general counsel	963	1,057,534	(1,056,571)
Office of general counsel disciplinary board		329,139	(329,139)
Practice Management Assistance	50,000	206,433	(156,433)
Practice of law board		75,355	(75,355)
Professional responsibility program		153,571	(153,571)
Public service programs	130,000	486,257	(356,257)
Publication and design services		123,787	(123,787)
Regulatory services		560,458	(560,458)
Sections administration	290,543	298,596	(8,053)
Service center		713,681	(713,681)
Technology		1,996,602	(1,996,602)
Volunteer Engagement		115,489	(115,489)
Total General Fund	21,891,873	22,453,072	(561,199)
Operating Loss for FY 2022			(561,199)
Percent change from FY 2021 budget	2%	4%	
Depreciation			46,986
Straight line rent			2,131,247
Capital labor			280,000
Net Cash Flow From FY 2022 Operations			1,897,034
Continuing legal education	1,653,725	1,386,755	266,970
Deskbooks	241,000	290,735	(49,735)
Continuing Legal Education	1,894,725	1,677,490	217,235
Operating Loss for FY 2022			217,235
Percent change from FY 2021 budget	-9%	-5%	
Sections Operations	649,695	904,646	(254,951)
Client Protection Fund	730,000	684,212	45,788
	\$ 25,166,293	\$ 25,719,420	\$ (553,127)

EXHIBIT B

WASHINGTON STATE BAR ASSOCIATION

Fiscal Year 2022 Budget Summary - Original

Cost Centers	Revenue	Expense	Net
Access to justice board	\$ -	\$ 208,619	\$ (208,619)
Administration	5,160	1,092,707	(1,087,547)
Admissions / bar exam	1,301,640	1,287,537	14,103
Advancement		350,555	(350,555)
Bar news	643,700	769,622	(125,922)
Board of governors		476,753	(476,753)
Character and Fitness Board		31,151	(31,151)
Communications strategies		726,303	(726,303)
Communications FTE		223,276	(223,276)
Discipline	105,877	6,004,654	(5,898,777)
Diversity	145,374	438,712	(293,338)
Equity and Justice Department FTE		181,312	(181,312)
Foundation		128,667	(128,667)
Human resources		459,421	(459,421)
Law clerk program	222,500	122,443	100,057
Legal Lunchbox	22,000	52,483	(30,483)
Legislative		271,935	(271,935)
Licensing	16,579,802		16,579,802
Licensing and membership records	378,180	606,309	(228,129)
Limited license legal technician	29,961	97,783	(67,822)
Limited practice officers	208,728	125,917	82,811
Mandatory continuing legal education administration	1,209,750	692,097	517,653
Member services and engagement	10,800	444,013	(433,213)
Member Wellness Program	7,000	231,067	(224,067)
Mini CLE		111,706	(111,706)
New Member Education	111,500	99,789	11,711
Office of the executive director		595,200	(595,200)
Office of general counsel		996,039	(996,039)
Office of general counsel disciplinary board		302,291	(302,291)
Practice Management Assistance	38,450	137,500	(99,050)
Practice of law board		84,486	(84,486)
Professional responsibility program		282,184	(282,184)
Public service programs	130,000	403,682	(273,682)
Publication and design services		106,573	(106,573)
Regulatory services		513,908	(513,908)
Sections administration	286,875	290,307	(3,432)
Service center		652,436	(652,436)
Technology		1,813,143	(1,813,143)
Volunteer Engagement		114,280	(114,280)
Total General Fund	21,437,297	21,526,860	(89,563)
Operating Loss for FY 2023			(89,563)
Percent change from FY 2022 budget	4%	3%	
Depreciation			193,506
Straight line rent			1,937,648
Capital labor			155,000
Net Cash Flow From FY 2023 Operations			2,196,591
Continuing legal education	1,904,985	1,479,489	425,496
Deskbooks	167,600	282,641	(115,041)
Continuing Legal Education	2,072,585	1,762,130	310,455
Operating Loss for FY 2023			310,455
Percent change from FY 2022 budget	13%	-7%	
Sections Operations	637,652	899,652	(262,000)
Client Protection Fund	830,253	660,675	169,578
	\$ 24,977,787	\$ 24,849,317	\$ 128,470

EXHIBIT C

WASHINGTON STATE BAR ASSOCIATION

Statement of Activities
For the Year Ended September 30, 2021

	2021		Revenues
	Revenues	Expenses	Over (Under) Expenses
Without Donor Restriction Activities General:			
Access to justice board	\$ -	\$ 261,650	\$ (261,650)
Administration	4,577	1,070,812	(1,066,235)
Admissions / bar exam	1,184,222	1,042,802	141,420
Advancement		229,514	(229,514)
Bar news	583,112	728,381	(145,269)
Board of governors		438,738	(438,738)
Communications strategies	2,808	509,408	(506,600)
Communications strategies FTE		217,277	(217,277)
COVID-19		(945)	945
Discipline	127,875	5,703,554	(5,575,679)
Diversity	135,000	293,793	(158,793)
Foundation		122,904	(122,904)
Human resources		471,049	(471,049)
Law clerk program	186,801	101,265	85,536
Legislative		162,136	(162,136)
Licensing	16,729,236		16,729,236
Licensing and membership records	461,925	590,421	(128,496)
Limited license legal technician	30,828	118,027	(87,199)
Limited practice officers	200,975	82,206	118,769
Mandatory continuing legal education administration	961,010	599,914	361,096
Member assistance program	11,301	96,614	(85,313)
Member benefits	16,158	311,031	(294,873)
Member services and engagement	98,777	450,534	(351,757)
Office of the executive director		675,724	(675,724)
Office of general counsel	747	882,627	(881,880)
Office of general counsel disciplinary board		241,410	(241,410)
Outreach and engagement		221,569	(221,569)
Practice of law board		57,639	(57,639)
Professional responsibility program		282,311	(282,311)
Public service programs	103,000	367,434	(264,434)
Publication and design services		100,404	(100,404)
Regulatory services		384,547	(384,547)
Sections administration	213,088	273,159	(60,071)
Service center		668,284	(668,284)
Technology		1,751,307	(1,751,307)
Total General	\$ 21,051,440	\$ 19,507,500	\$ 1,543,940
Continuing Legal Education:			
Products	\$ 629,038	\$ 218,208	\$ 410,830
Seminars	779,539	848,922	(69,383)
Deskbooks	178,150	340,047	(161,897)
Total Continuing Legal Education	\$ 1,586,727	\$ 1,407,177	\$ 179,550
Sections Operations	\$ 607,937	\$ 309,304	\$ 298,633
Client Protection Fund	\$ 506,141	\$ 653,025	\$ (146,884)

WASHINGTON STATE BAR ASSOCIATION AND AFFILIATED FOUNDATION

Consolidated Financial Statements

For the Years Ended September 30, 2022 and 2021

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Independent Auditor's Report

**To the Board of Governors
Washington State Bar Association
Seattle, Washington**

Opinion

We have audited the financial statements of Washington State Bar Association and Affiliated Foundation (collectively, the WSBA), which comprise the consolidated statements of financial position as of September 30, 2022 and 2021, and the related consolidated statements of activities and changes in net assets, functional expenses and cash flows for the years then ended, and the related notes to the consolidated financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the WSBA as of September 30, 2022 and 2021, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the WSBA and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the WSBA's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.



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Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the WSBA's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the WSBA's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The Washington State Bar Foundation consolidating statement of financial position on page 4 and the statement of activities on page 18 is presented for purposes of additional analysis and is not a required part of the financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the financial statements as a whole.



Certified Public Accountants
January 27, 2023

WASHINGTON STATE BAR ASSOCIATION

Consolidated Statement of Financial Position
September 30, 2022

	Washington State Bar Association	Washington State Bar Foundation	Subtotal	Eliminations	Total
Assets					
Cash and cash equivalents	\$ 14,361,666	\$ 412,437	\$ 14,774,103	\$ -	\$ 14,774,103
Restricted cash and cash equivalents	4,917,392		4,917,392		4,917,392
Receivables, net	132,030		132,030		132,030
Prepaid expenses	528,017		528,017		528,017
Desk and course books	191,648		191,648		191,648
Investments	1,992,752		1,992,752		1,992,752
Property and equipment, net	1,119,706	14,400	1,134,106		1,134,106
Total Assets	\$ 23,243,211	\$ 426,837	\$ 23,670,048	\$ -	\$ 23,670,048
Liabilities and Net Assets					
Liabilities:					
Accounts payable	\$ 760,077	\$ -	\$ 760,077	\$ -	\$ 760,077
Grants payable	7,957		7,957		7,957
Accrued expenses	696,346		696,346		696,346
Client Protection Fund, committed gifts	705,248		705,248		705,248
Deferred licensing fees	4,116,056		4,116,056		4,116,056
Deferred lease obligation and incentive	959,276		959,276		959,276
Other deferred revenue	376,786		376,786		376,786
Total Liabilities	7,621,746		7,621,746		7,621,746
Net Assets:					
Without donor restrictions-					
General and designated funds	8,713,263		8,713,263		8,713,263
Continuing Legal Education	1,042,049		1,042,049		1,042,049
Sections Operations	1,802,651		1,802,651		1,802,651
Client Protection Fund	4,063,502		4,063,502		4,063,502
Washington State Bar Foundation		426,837	426,837		426,837
Total Net Assets	15,621,465	426,837	16,048,302		16,048,302
Total Liabilities and Net Assets	\$ 23,243,211	\$ 426,837	\$ 23,670,048	\$ -	\$ 23,670,048

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION

Consolidated Statement of Financial Position
September 30, 2021

	Washington State Bar Association	Washington State Bar Foundation	Subtotal	Eliminations	Total
Assets					
Cash and cash equivalents	\$ 14,540,805	\$ 387,659	\$ 14,928,464	\$ -	\$ 14,928,464
Restricted cash and cash equivalents	4,824,916		4,824,916		4,824,916
Receivables, net	119,661		119,661		119,661
Prepaid expenses	459,234		459,234		459,234
Desk and course books	224,372		224,372		224,372
Property and equipment, net	648,851	14,400	663,251		663,251
Total Assets	\$ 20,817,839	\$ 402,059	\$ 21,219,898	\$ -	\$ 21,219,898
Liabilities and Net Assets					
Liabilities:					
Accounts payable	\$ 749,623	\$ -	\$ 749,623	\$ -	\$ 749,623
Accrued expenses	687,831		687,831		687,831
Client Protection Fund, committed gifts	612,037		612,037		612,037
Deferred licensing fees	4,092,366		4,092,366		4,092,366
Deferred lease obligation and incentive	1,052,809		1,052,809		1,052,809
Other deferred revenue	347,120		347,120		347,120
Total Liabilities	7,541,786		7,541,786		7,541,786
Net Assets:					
Without donor restrictions-					
General and designated funds	7,072,172		7,072,172		7,072,172
Continuing Legal Education	648,792		648,792		648,792
Sections Operations	1,508,843		1,508,843		1,508,843
Client Protection Fund	4,046,246		4,046,246		4,046,246
Washington State Bar Foundation		402,059	402,059		402,059
Total Net Assets	13,276,053	402,059	13,678,112		13,678,112
Total Liabilities and Net Assets	\$ 20,817,839	\$ 402,059	\$ 21,219,898	\$ -	\$ 21,219,898

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION

Consolidated Statements of Activities and Changes in Net Assets
For the Years Ended September 30, 2022 and 2021

	2022	2021
Revenues:		
Licensing revenues	\$ 17,044,516	\$ 16,912,694
Client protection fund member assessments	704,366	363,280
Exam fees	1,225,065	1,202,631
Continuing legal education - products	1,340,095	641,818
Continuing legal education - seminars	645,144	882,020
Contributions and grants	384,124	394,451
Other	4,123,118	3,621,974
Total Revenues	25,466,428	24,018,868
Expenses:		
Salaries, benefits and payroll taxes	16,076,544	15,303,987
Occupancy	2,258,611	2,036,747
Technology	924,502	934,245
Gifts to injured clients	566,947	499,637
Supplies	420,607	433,793
Grants, sponsorships and donations	415,965	372,249
Professional services	380,613	332,309
Other	286,216	392,923
Depreciation and amortization	238,528	368,250
Insurance	395,952	327,956
Sections events	383,771	251,832
Meetings and travel	321,478	254,926
Examination fees	158,273	150,200
Subscriptions	158,108	151,460
Conferences	77,516	75,245
CLE production	32,607	72,127
Total Expenses	23,096,238	21,957,886
Total Change in Net Assets Without Donor Restrictions	2,370,190	2,060,982
Net Assets, beginning of year	13,678,112	11,727,302
Cumulative effect of adopting new accounting pronouncement (Note 10)		(110,172)
Net Assets, End of Year	\$ 16,048,302	\$ 13,678,112

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION

Consolidated Statement of Functional Expenses
For the Year Ended September 30, 2022

	Program										2022 Total	
	Discipline	Client Protection Fund	BOG/OED	Regulatory Services	Communicatio	Advancement	Foundation	Sections	Total Program	Management and General		Fundraising
Salaries, benefits and payroll taxes	\$ 4,578,551	\$ 128,915	\$ 598,506	\$ 2,384,326	\$ 1,357,444	\$ 2,119,731	\$ -	\$ -	\$ 11,167,473	\$ 4,812,719	\$ 96,352	\$ 16,076,544
Occupancy	531,539	17,860	49,318	378,411	264,671	378,925			1,620,724	623,477	14,410	2,258,611
Technology	229,764	7,629	28,330	127,089	85,218	132,834		1,584	612,448	302,899	9,155	924,502
Gifts to injured clients		566,947							566,947			566,947
Supplies	20,522	689	1,904	39,658	316,351	16,781			395,905	24,071	631	420,607
Grants, sponsorships and donations						72,659	94,346	72,500	239,505	176,460		415,965
Insurance	103,478	3,477	9,596	57,920	36,628	60,669			271,768	121,379	2,805	395,952
Sections events								383,771	383,771			383,771
Professional services	107,156	1,850	4,020	63,888	25,376	25,156			227,446	151,989	1,178	380,613
Meetings and travel	13,222		205,479	55,889	6,850	27,187			308,627	11,705	1,146	321,478
Other	48,724	2,933	38,774	22,521	14,834	101,469		2,950	232,205	53,375	636	286,216
Depreciation and amortization	49,747	1,672	4,616	75,116	17,608	30,070			178,829	58,350	1,349	238,528
Examination fees				158,273					158,273			158,273
Subscriptions	60,946		138	11,528	17,696	53,213			143,521	14,587		158,108
Conferences			68,341			2,094		7,081	77,516			77,516
CLE production					32,466	141			32,607			32,607
Total Expenses	\$ 5,743,649	\$ 731,972	\$ 1,009,022	\$ 3,374,619	\$ 2,175,142	\$ 3,020,929	\$ 94,346	\$ 467,886	\$ 16,617,565	\$ 6,351,011	\$ 127,662	\$ 23,096,238

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION

Consolidated Statement of Functional Expenses
For the Year Ended September 30, 2021

	Program										2021 Total	
	Discipline	Client Protection Fund	BOG/OED	Regulatory Services	Communicatio	Advancement	Foundation	Sections	Total Program	Management and General		Fundraising
Salaries, benefits and payroll taxes	\$ 4,642,110	\$ 119,743	\$ 713,817	\$ 2,004,282	\$ 1,319,757	\$ 2,124,364	\$ -	\$ -	\$ 10,924,073	\$ 4,286,085	\$ 93,829	\$ 15,303,987
Occupancy	519,387	17,171	66,563	287,877	231,517	357,416			1,479,931	542,732	14,084	2,036,747
Technology	215,605	7,055	27,349	110,846	80,103	130,253		1,471	572,682	352,776	8,787	934,245
Gifts to injured clients		499,637							499,637			499,637
Supplies	18,632	610	2,365	31,957	342,848	17,490			413,902	19,280	611	433,793
Other	17,920	2,642	32,839	50,507	104,541	168,555		600	377,604	14,966	353	392,923
Depreciation and amortization	55,437	1,833	7,105	187,926	19,502	37,016			308,819	57,928	1,503	368,250
Grants, sponsorships and donations						236,670	80,879	54,700	372,249			372,249
Professional services	76,888	1,422	5,276	38,055	40,483	41,034			203,158	128,035	1,116	332,309
Insurance	88,064	2,911	11,286	45,733	30,979	53,748			232,721	92,847	2,388	327,956
Meetings and travel	11,138		200,771	947	18,294	12,021			243,171	11,524	231	254,926
Sections events								251,832	251,832			251,832
Subscriptions	58,374		133	10,852	19,305	47,856			136,520	14,940		151,460
Examination fees				150,200					150,200			150,200
Conferences			46,958			27,587		700	75,245			75,245
CLE production					71,893	234			72,127			72,127
Total Expenses	\$ 5,703,555	\$ 653,024	\$ 1,114,462	\$ 2,919,182	\$ 2,279,222	\$ 3,254,244	\$ 80,879	\$ 309,303	\$ 16,313,871	\$ 5,521,113	\$ 122,902	\$ 21,957,886

See accompanying notes.

WASHINGTON STATE BAR ASSOCIATION

Consolidated Statements of Cash Flows
For the Years Ended September 30, 2022 and 2021

	<u>2022</u>	<u>2021</u>
Cash Flows From Operating Activities:		
Cash received from licensing fees	\$ 17,068,206	\$ 16,970,094
Cash received from CLE products and seminars	1,988,535	1,671,636
Cash received from other activities	6,304,642	5,370,197
Cash paid to employees	(12,324,988)	(11,459,787)
Cash paid to vendors	(10,540,472)	(9,954,944)
Interest received	146,032	9,889
Net Cash Provided by Operating Activities	2,641,955	2,607,085
Cash Flows From Investing Activities:		
Purchase of investments	(1,992,752)	
Acquisition of property and equipment	(711,088)	(171,877)
Net Cash Used in Investing Activities	(2,703,840)	(171,877)
Net Change in Cash, Cash Equivalents and Restricted Cash	(61,885)	2,435,208
Cash, cash equivalents and restricted cash, beginning of year	19,753,380	17,318,172
Cash, Cash Equivalents and Restricted Cash, End of Year	\$ 19,691,495	\$ 19,753,380
The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the consolidated statements of financial position that sums to the total of the same such amounts shown in the consolidated statements of cash flows:		
Cash and cash equivalents	\$ 14,774,103	\$ 14,928,464
Restricted cash and cash equivalents	4,917,392	4,824,916
Total Cash, Cash Equivalents and Restricted Cash Shown in the Consolidated Statements of Cash Flows	\$ 19,691,495	\$ 19,753,380

WASHINGTON STATE BAR ASSOCIATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2022 and 2021

Note 1 - Nature of Operations and Significant Accounting Policies

Nature of Operations - Washington State Bar Association (“WSBA”) is an instrumentality of the Supreme Court of the State of Washington operating under the supervisory authority of the Washington Supreme Court. Operations consist of regulating the practice of law in the state under delegated authority of the Washington Supreme Court, and providing various law-related services to the members and public. Lawyers, Limited License Legal Technicians, and Limited Practice Officers must be active members of WSBA in order to practice law in Washington State. A primary source of revenues of WSBA is license fees, which members must pay in order to maintain their licenses. License fees follow a pro-rated schedule based on the attorney member’s years of practice. For 2022 and 2021, the license fee was set at \$458 for all attorneys in practice for three years or more, and a pro-rated lower fee for those in practice for fewer than three years. WSBA members are primarily Washington State residents.

The Washington State Bar Foundation (the Foundation) helps fund WSBA programs that provide legal assistance to Washington state’s most vulnerable populations, match moderate income clients with legal professional who work for reduced fees, and ensure the legal profession reflects the communities it serves and supports all members. The members of the Foundation consist solely of the members of the Board of Governors of WSBA.

Principles of Consolidation - These consolidated financial statements consolidate the statements of Washington State Bar Association and Washington State Bar Foundation (collectively, “the WSBA”). Inter-organization accounts and transactions have been eliminated in the consolidation. The Washington State Bar Foundation is a separate legal entity from the Washington State Bar Association and is tax-exempt under section 501(c)(3) of the Internal Revenue Code.

Basis of Presentation - Net assets, revenues, gains and losses are classified based on the existence or absence of donor-imposed restrictions. Accordingly, the net assets of the WSBA and changes therein are classified and reported as follows:

Net Assets Without Donor Restrictions - Net assets that are not subject to donor-imposed stipulations.

Net Assets With Donor Restrictions - Net assets whose use is limited by donor-imposed time and/or purpose restrictions. As of September 30, 2022, and 2021, the WSBA had no net assets with donor restrictions.

Revenues are reported as increases in net assets without donor restrictions unless use of the related asset is limited by donor-imposed restrictions. Expenses are reported as decreases in net assets without donor restrictions. Gains and losses on investments and other assets or liabilities are reported as increases or decreases in net assets without donor restrictions unless their use is restricted by explicit donor stipulation or by law. Expirations of donor restrictions on net assets (i.e., the donor stipulated purpose has been fulfilled or the stipulated time period has lapsed) are reported as net assets released from restriction. Contributions with externally imposed restrictions that are met in the same year as received are reported as revenues of the net assets without donor restrictions class.

Revenue Recognition - The following are the principal activities from which WSBA earns revenue:

Licensing Revenue - The WSBA earns licensing revenue from providing members a license to practice law and access to programs, education and events. Licensing fees are generally due from members by February 1st of the calendar year the license is related to and revenue is recognized over the calendar year membership period.

Client Protection Fund Member Assessment - The WSBA earns revenues by assessing members a mandatory fee for the Client Protection Fund (see Note 2). Fees are paid by members as part of the annual licensing process and recognized as revenue at the point in time they are collected.

WASHINGTON STATE BAR ASSOCIATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2022 and 2021

Note 1 - Continued

Exam Fees - The WSBA earns revenue by administering exams for the legal profession. Applicants remit payment for the exam in advance of the examination date. Revenue is recognized at the point in time the examination is administered. As of September 30, 2022 and 2021, deferred revenue from examination fees totaled \$101,090 and \$108,080, respectively, and is included in other deferred revenue on the consolidated statements of financial position.

Continuing Legal Education - The WSBA provides continuing legal education to the profession through live seminars and products. Revenue is recognized at the point in time a seminar occurs or a CLE product is provided to the customer. Payment is received in advance of the seminar or at the time the product is purchased.

Cash and Cash Equivalents and Investments - Cash and cash equivalents include money market funds and bank deposits. Bank deposits are maintained for ongoing operating expenses and are sometimes in excess of federally insured limits. The WSBA has not experienced any losses in these accounts.

Unrealized gains and losses, if any, are reported in the statements of activities as increases or decreases in net assets. Investment balances include federally insured certificates of deposit and U.S. treasury bills.

Restricted cash and cash equivalents relate to funds restricted for the Client Protection Fund (see Note 2). Part of the restricted cash and cash equivalents are amounts paid into the Client Protection Fund.

The composition of cash balances and investments are included in Note 3 and 4, respectively.

Receivables - Receivables are generally from members and result from Bar News advertising, consulting fees, and unpaid fees related to continuing legal education programs. Receivables are unsecured, stated at the amount management expects to collect from outstanding balances, and do not bear interest. Management provides for probable uncollectible amounts through a charge to change in net assets and a credit to a valuation allowance. The valuation allowance is calculated based on days outstanding within the receivables account. Accounts that are determined to be uncollectible are written off against this allowance. There was no allowance considered necessary as of September 30, 2022 or 2021.

Desk and Course Books - Inventory of desk books is stated at lower of cost (first-in, first-out method) or market.

Property and Equipment - Property and equipment is stated at cost. Depreciation and amortization is computed over the estimated useful lives of the assets, using the straight-line method. The capitalization policy threshold is \$2,500.

Leasehold improvements	Life of lease
Equipment, furniture, software and fixtures	1 to 10 years

The WSBA follows the provisions outlined by accounting principles generally accepted in the United States of America (U.S. GAAP) to account for costs of computer software developed or obtained for internal use. The WSBA capitalizes certain direct costs incurred in developing internal use software.

Deferred Licensing Fees - Licensing fees are recognized ratably over the applicable calendar year period. Accordingly, fees collected during the WSBA's fiscal year that relate to the fourth quarter of the calendar membership period are included as deferred revenue in these financial statements.

WASHINGTON STATE BAR ASSOCIATION

**Notes to the Consolidated Financial Statements
For the Years Ended September 30, 2022 and 2021**

Note 1 - Continued

Contributions - Contributions are recognized as revenue when the donor imposed conditions, if any, have been met. All contributions are considered to be without donor restriction unless specifically restricted by the donor. Noncash contributions are reflected in the accompanying consolidated financial statements at the estimated fair value at the date of receipt.

Income Taxes - The WSBA is an organization exempt from federal income taxes because it is an instrumentality of the Supreme Court of the State of Washington exercising a governmental function. Washington State Bar Foundation has been notified by the Internal Revenue Service that it is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.

Classification of Expenses - The financial statements report certain categories of expenses that are attributable to programs and supporting services of the WSBA. Those expenses include employee benefits and taxes, occupancy, indirect professional services, depreciation and amortization and technology expenses. These expenses are allocated based on the number of full time equivalents included in each program or supporting service.

Net Assets - The WSBA Board of Governors has directed that portions of the WSBA’s net assets without donor restrictions be designated for Sections Operations and Continuing Legal Education. The total of revenues over expenses for all sections (which represent specialized legal interests) is included in the Sections Operations designated balance. The difference between revenues and expenses for Continuing Legal Education products and seminars is included in the Continuing Legal Education designated balance.

The WSBA has also designated a portion of its net assets without donor restrictions at September 30 as follows:

	2022	2021
Operating Reserve Fund	\$ 2,000,000	\$ 1,500,000
Facilities Reserve Fund	1,000,000	1,050,000
General Fund	5,713,263	4,522,172
	\$ 8,713,263	\$ 7,072,172

The Operating Reserve Fund provides unrestricted funds for any general, unanticipated, but necessary, expenses that may be incurred throughout the year. The goal is to ensure that funds are available in the event of an emergency or an unanticipated decline in revenue. In 2022, the Board designated an additional \$500,000 of reserves to this fund to total \$2,000,000.

The Facilities Reserve Fund is used for refurbishment of existing leased space or costs to move to another space after the current lease ends in December 2026.

The General Fund was established to accumulate net reserves above the Operating Reserve Fund and Facilities Reserve Fund.

WASHINGTON STATE BAR ASSOCIATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2022 and 2021

Note 1 - Continued

Use of Estimates - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Subsequent Events - The WSBA has evaluated subsequent events through January 27, 2023, the date on which the consolidated financial statements were available to be issued.

Note 2 - Client Protection Fund

In 1995, the Washington Supreme Court and the WSBA created the Client Protection Fund ("the Fund"). In fiscal years 2022 and 2021, the Fund received a \$20 and \$10, respectively, mandatory annual assessment per individual required to pay into the fund (including all active attorney members, pro hac vice applicants, etc.). The Fund may be used only for the purpose of relieving or mitigating a loss sustained by any person due to the dishonesty of, or failure to account for money or property entrusted to, any attorney member of the WSBA in connection with the member's practice of law, or while acting as a fiduciary in a matter related to the member's practice of law. As the WSBA's use of the funds is restricted as described above, it is shown as restricted cash and cash equivalents in the assets section of the consolidated statements of financial position and the net assets of the fund are separately presented on the consolidated statements of financial position.

The Client Protection Fund is administered pursuant to Admission to Practice Rule 15 and Procedural Rules adopted by the Board of Governors and approved by the Supreme Court. A client or a person in a fiduciary relationship with a licensed legal professional (LLP) who files a grievance with the WSBA that alleges a dishonest taking of funds or property by a LLP, may be provided with an application form to apply for a gift from the Fund. The WSBA recognizes gifts from the Fund at the time an application is approved by the Client Protection Board or Trustees and applicants are advised of the decision. Gifts from the Fund are expected to be paid within one year from the consolidated statement of financial position date and are recorded as Client Protection Fund, committed gifts on the consolidated statements of financial position.

Note 3 - Cash and Cash Equivalents

Cash and cash equivalents consist of the following at September 30:

	<u>2022</u>	<u>2021</u>
Unrestricted Cash and Cash Equivalents:		
Bank deposits	\$ 1,165,656	\$ 699,141
Money market funds	<u>13,608,447</u>	<u>14,229,323</u>
	<u>\$ 14,774,103</u>	<u>\$ 14,928,464</u>
Restricted Cash and Cash Equivalents:		
Bank deposits	\$ 376,657	\$ 310,634
Money market funds	<u>4,540,735</u>	<u>4,514,282</u>
	<u>\$ 4,917,392</u>	<u>\$ 4,824,916</u>

WASHINGTON STATE BAR ASSOCIATION

Notes to the Consolidated Financial Statements
For the Years Ended September 30, 2022 and 2021

Note 4 - Investments

Investments consist of the following at September 30:

	<u>2022</u>	<u>2021</u>
Certificates of deposit	\$ 1,250,000	\$ -
US Treasury Bills	742,752	
	<u>\$ 1,992,752</u>	<u>\$ -</u>

The following schedule summarizes the returns from investments:

	<u>2022</u>	<u>2021</u>
Interest income - unrestricted	\$ 116,053	\$ 4,999
Interest income - restricted	35,955	4,890
	<u>\$ 152,008</u>	<u>\$ 9,889</u>

Investment income is included as other revenue on the consolidated statements of activities.

Note 5 - Property and Equipment

Property and equipment consist of the following at September 30:

	<u>2022</u>	<u>2021</u>
Leasehold improvements	\$ 817,170	\$ 728,967
Furniture	1,049,101	1,049,101
Office equipment	1,669,517	1,605,864
Software	4,163,847	3,872,247
	7,699,635	7,256,179
Less accumulated depreciation and amortization	(6,893,809)	(6,653,576)
Projects in process	328,280	60,648
	<u>\$ 1,134,106</u>	<u>\$ 663,251</u>

WASHINGTON STATE BAR ASSOCIATION

Notes to the Consolidated Financial Statements For the Years Ended September 30, 2022 and 2021

Note 6 - Qualified Employee Benefit Plan

The WSBA participates in the Washington State Public Employees' Retirement System ("PERS"), a series of defined benefit/defined contribution employee benefit plans sponsored and managed by the State of Washington Department of Retirement Systems ("DRS"). The funding of the plan is analyzed and rates are proposed by the Office of the State Actuary ("OSA") per RCW, Chapter 41.45, and all rates are approved by the legislature. There is a pension funding council that consults with the economic and revenue forecast supervisor and the executive director of the state investment board, for guidance on long-term economic assumptions that are proposed by the OSA. In accordance with PERS, the WSBA and the WSBA's employees make contributions to the plan based on rates established by DRS. Employer contributions for the years ended September 30, 2022 and 2021, were \$1,203,504 and \$1,350,056 respectively.

Note 7 - Fair Value Measurements

U.S. GAAP establish a framework for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3).

The three levels of the fair value hierarchy are described as follows:

Level 1 - Unadjusted quoted prices available in active markets for identical assets or liabilities;

Level 2 - Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices in active markets for similar assets or liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities; or

Level 3 - Unobservable inputs that are significant to the fair value measurement.

A financial instrument's level within the fair value hierarchy is based upon the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs.

Following is a description of the valuation methodologies used for assets and liabilities measured at fair value. There have been no changes in the methodologies used at September 30, 2022 or 2021.

Certificates of Deposit - Certificates of deposit are valued at face value plus accumulated interest at year end and are measured at cost.

US Treasury Bills - US treasury bills are valued using bid evaluations from similar instruments in actively quoted markets.

WASHINGTON STATE BAR ASSOCIATION

Notes to the Consolidated Financial Statements
For the Years Ended September 30, 2022 and 2021

Note 7 - Continued

Fair Values Measured on a Recurring Basis - There were no investments measured at fair value at September 30, 2021.

Fair values of assets measured on a recurring basis at September 30, 2022 were as follows:

	Fair Value Measurements at September 30, 2022			
	Level 1	Level 2	Level 3	Total
US Treasury Bills	\$ 742,752	\$ -	\$ -	\$ 742,752
	<u>\$ 742,752</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 742,752</u>

Note 8 - Lease Commitments

The WSBA signed a lease extension for office space effective March 1, 2015. The lease is an operating lease agreement expiring during the year ending September 30, 2027. The lease calls for escalating rent payments each year, resulting in a liability for the differences between the rent payments and rent calculated on a straight-line basis.

Future minimum rental payments under noncancelable operating leases are as follows:

For the Year Ending September 30,

2023	\$ 1,800,161
2024	1,850,751
2025	1,901,341
2026	1,951,931
2027	<u>493,253</u>

Total Minimum Rental Payments \$ 7,997,437

Rent expense under all lease agreements totaled \$2,031,801 and \$1,945,821 for the years ended September 30, 2022 and 2021, respectively.

Note 9 - Commitments and Contingencies

Contingencies - The WSBA is subject to various legal proceedings and claims which arise in the ordinary course of its business. Management believes that the final disposition of such matters will not have a material adverse effect on the financial position or results of operations of the WSBA.

Commitments - The WSBA is obligated to provide counsel for respondents in disability proceedings, pursuant to the Rule for Enforcement of Lawyer Conduct (ELC) 8.3. Legal fees are incurred as a result of this obligation. In both the fiscal years 2022 and 2021, the WSBA paid a total of \$48,000, for outside counsel to represent various respondents in disability proceedings. The WSBA has liability for future legal fees related to ongoing and new disability proceedings, but the future cost is not determinable due to the nature of the proceedings. As such, no liability has been recognized in accordance with U.S. GAAP as of September 30, 2022 and 2021.

WASHINGTON STATE BAR ASSOCIATION

Notes to the Consolidated Financial Statements
For the Years Ended September 30, 2022 and 2021

Note 10 - Adoption of New Accounting Pronouncement

During the year ended September 30, 2021, the WSBA adopted the Financial Accounting Standards Board's Accounting Standards Update (ASU) No. 2014-09 - *Revenue from Contracts with Customers (Topic 606)* and other related ASUs. These ASUs replaced the existing revenue recognition guidance in U.S. GAAP and require entities to recognize revenues when control of the promised goods or services is transferred to customers at an amount that reflects the consideration to which the entity expects to be entitled to in exchange for those goods or services.

The primary effect of adoption of these ASUs for the WSBA is a change in the timing of revenue recognition of sections membership dues resulting in section membership dues being recognized over the membership period. Previously the WSBA recognized sections dues revenue at the time members registered for the section membership. The WSBA elected to adopt the changes from these ASUs using the modified retrospective method. Results for the year ended September 30, 2020 are not adjusted and continue to be reported in accordance with the prior accounting guidance. The WSBA recorded a cumulative effect adjustment in the consolidated statement of activities in the amount of \$110,172 for the year ended September 30, 2021, to decrease net assets. The decrease represents revenue that was recognized as earned at September 30, 2020 that are now to be recognized as earned.

Note 11 - Liquidity and Availability of Financial Assets

As part of the WSBA's liquidity management, it has a policy to structure its financial assets to be available as its general expenditures, liabilities, and other obligations come due. In addition, as of September 30, 2022 and 2021 the WSBA has an operating reserve that had a balance of \$2.0 million and \$1.5 million, respectively. This is a governing board-designated reserve with the objective of setting funds aside to be drawn upon in the event of financial distress or an immediate liquidity need resulting from events outside the typical life cycle of converting financial assets to cash or settling financial liabilities. The operating reserve funds are held in lower-risk cash and money market securities. The operating reserve balance is included in the cash and cash equivalents in the consolidated statements of financial position.

The following reflects the WSBA's financial assets as of the date of the consolidated statements of financial position, reduced by amounts not available for general use within one year because of contractual or donor-imposed restrictions or internal designations. Amounts not available include amounts set aside for long-term investing in the operating and facilities reserve funds that could be drawn upon if the governing board approves that action.

	<u>2022</u>	<u>2021</u>
Total cash, cash equivalents and restricted cash	\$ 19,691,495	\$ 19,753,380
Receivables	132,030	119,661
Total financial assets	19,823,525	19,873,041
Contractual restrictions-		
Cash held restricted for Client Protection Fund	(4,917,392)	(4,824,916)
Board designations-		
Facilities Reserve Fund	(1,000,000)	(1,050,000)
Operating Reserve Fund	<u>(2,000,000)</u>	<u>(1,500,000)</u>
Financial Assets Available to Meet Cash Needs for General Expenditures Within One Year	<u>\$ 11,906,133</u>	<u>\$ 12,498,125</u>

SUPPLEMENTARY INFORMATION

WASHINGTON STATE BAR ASSOCIATION

Washington State Bar Foundation Statement of Activities
For the Year Ended September 30, 2022

Activities Without Donor Restrictions

Revenue:

Contributions	\$ 378,313
In-kind revenue from WSBA	127,662
Miscellaneous income	<u>5,811</u>

Total Revenue **511,786**

Expenses:

Program expenses	359,346
In-kind expenses from WSBA	<u>127,662</u>

Total Expenses **487,008**

Change in Net Assets Without Donor Restrictions **24,778**

Net assets without donor restrictions, beginning of year 402,059

Net Assets Without Donor Restrictions, End of Year **\$ 426,837**

WASHINGTON STATE
B A R A S S O C I A T I O N

Financial Reports

(Unaudited)

Year to Date December 31, 2022

Prepared by

Maggie Yu, Controller & Darshita Patel, Accountant

Submitted by

Tiffany Lynch, Director of Finance

January 23, 2023

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Terra Nevitt, Executive Director; Tiffany Lynch, Director of Finance; Maggie Yu, Controller

Re: Key Financial Benchmarks for the Preliminary Fiscal Year to Date (YTD) through December 31, 2022
As % of Completion to Annual Budget

	% of Year	Current Year % YTD	Current Year \$ Difference Favorable/(Unfavorable)	Prior Year YTD	Comments
Total Salaries & Benefits	25%	24%	\$156,502	24%	Favorable due to timing of transportation payment and higher capital labor.
Other Indirect Expenses*	25%	23%	\$107,570	22%	Favorable due to timing of payments.
Total Indirect Expenses	25%	24%	\$264,072	24%	Favorable resulting from a combination of reasons described above.

General Fund Revenues	25%	26%	\$288,154	25%	Favorable due to interest income, new member program seminar registrations and timing of collection for bar exam fees.
General Fund Indirect Expenses	25%	24%	\$241,830	24%	Favorable as described under indirect expenses above.
General Fund Direct Expenses	25%	10%	\$393,548	10%	Favorable to budget due to timing of program activities and meetings/events.
General Fund Net	25%	140%	\$923,533	655%	Favorable to budget for the reasons described above.

CLE Revenue	25%	36%	\$206,165	50%	Favorable to budget due to higher product sales.
CLE Direct Expenses	25%	8%	\$62,701	5%	Favorable to budget due to scheduled timing of payments.
CLE Indirect Expenses	25%	23%	\$20,181	23%	Favorable as described under indirect expenses above
CLE Net	25%	158%	\$289,046	230%	Favorable to budget for the reasons described above.

*Workplace benefits, Human Resources, meeting support, rent, taxes, furniture & maintenance, office supplies, depreciation, insurance, equipment, professional fees (legal & audit), internet & telephone, postage, storage, bank fees, Technology

Washington State Bar Association Financial Summary
Compared to Fiscal Year 2023 Budget
For the Period from December 1, 2022 to December 31, 2022

Category	Actual Revenues	Budgeted Revenues	Actual Indirect Expenses	Budgeted Indirect Expenses	Actual Direct Expenses	Budgeted Direct Expenses	Actual Total Expenses	Budgeted Total Expenses	Actual Net Result	Budgeted Net Result
Access to Justice	-	-	57,471	237,082	13,256	121,820	70,727	358,902	(70,727)	(358,902)
Admissions/Bar Exam	417,300	1,362,940	222,000	892,773	11,246	411,079	233,246	1,303,852	184,054	59,088
Advancement FTE	-	-	84,903	354,465	198	8,100	85,101	362,565	(85,101)	(362,565)
Bar News	150,383	602,700	80,444	332,507	108,054	363,460	188,498	695,967	(38,115)	(93,267)
Board of Governors	-	-	48,536	191,700	44,019	371,900	92,555	563,600	(92,555)	(563,600)
Character & Fitness Board	-	-	33,979	139,623	869	27,000	34,848	166,623	(34,848)	(166,623)
Communications Strategies	113	3,500	163,096	674,814	3,615	116,015	166,711	790,829	(166,598)	(787,329)
Communications Strategies FTE	-	-	60,044	243,400	-	-	60,044	243,400	(60,044)	(243,400)
Discipline	17,830	119,000	1,390,029	6,007,729	19,711	206,999	1,409,741	6,214,728	(1,391,911)	(6,095,728)
Diversity	135,000	135,000	51,580	373,692	5,670	121,535	57,250	495,227	77,750	(360,227)
Finance	114,332	26,000	243,983	1,080,720	1,008	13,500	244,991	1,094,220	(130,659)	(1,068,220)
Foundation	-	-	35,433	147,147	3,049	5,650	38,482	152,797	(38,482)	(152,797)
Human Resources	-	-	139,174	291,667	-	-	139,174	291,667	(139,174)	(291,667)
Law Clerk Program	38,833	188,200	32,413	138,099	1,601	8,900	34,015	146,999	4,818	41,201
Legislative	-	-	54,259	242,681	3,968	26,783	58,227	269,464	(58,227)	(269,464)
Legal Lunchbox	16,415	23,000	11,736	51,117	551	1,500	12,287	52,617	4,128	(29,617)
Licensing and Membership Records	88,033	452,200	152,740	622,311	4,808	19,651	157,548	641,962	(69,515)	(189,762)
Licensing Fees	4,088,159	17,053,467	-	-	-	-	0	-	4,088,159	17,053,467
Limited License Legal Technician	3,064	29,722	20,078	85,248	1,131	15,500	21,209	100,748	(18,145)	(71,026)
Limited Practice Officers	55,649	195,088	23,261	99,305	-	21,042	23,261	120,347	32,388	74,741
Mandatory CLE	324,400	1,125,250	196,524	714,329	2,870	67,015	199,394	781,344	125,006	343,906
Member Wellness Program	-	7,500	42,992	234,719	300	2,800	43,292	237,519	(43,292)	(230,019)
Member Services & Engagement	2,400	11,800	71,136	302,978	1,789	39,500	72,924	342,478	(70,524)	(330,678)
Mini CLE	-	-	27,261	114,412	-	-	27,261	114,412	(27,261)	(114,412)
New Member Education	72,677	85,000	22,610	95,269	-	1,600	22,610	96,869	50,067	(11,869)
Office of General Counsel	-	963	229,585	1,038,134	1,228	19,400	230,813	1,057,534	(230,813)	(1,056,571)
Office of the Executive Director	-	-	127,686	568,259	9,914	128,775	137,599	697,034	(137,599)	(697,034)
OGC-Disciplinary Board	-	-	52,635	217,139	20,641	112,000	73,276	329,139	(73,276)	(329,139)
Practice of Law Board	-	-	15,185	63,355	-	12,000	15,185	75,355	(15,185)	(75,355)
Practice Management Assistance	13,378	50,000	32,054	133,033	-	73,400	32,054	206,433	(18,676)	(156,433)
Professional Responsibility Program	-	-	55,402	151,321	621	2,250	56,023	153,571	(56,023)	(153,571)
Public Service Programs	130,000	130,000	52,557	219,329	457	266,928	53,014	486,257	76,986	(356,257)
Publication and Design Services	-	-	28,727	119,175	4,120	4,612	32,847	123,787	(32,847)	(123,787)
Regulatory Services FTE	-	-	120,270	536,908	-	23,550	120,270	560,458	(120,270)	(560,458)
Sections Administration	93,155	290,543	69,038	290,746	470	7,850	69,508	298,596	23,647	(8,053)
Service Center	-	-	169,702	703,381	881	10,300	170,583	713,681	(170,583)	(713,681)
Volunteer Engagement	-	-	24,758	97,639	2,973	17,850	27,731	115,489.27	(27,731)	(115,489)
Technology	-	-	465,592	1,996,602	-	-	465,592	1,996,602	(465,592)	(1,996,602)
Subtotal General Fund	5,761,122	21,891,872	4,708,872	19,802,808	269,018	2,650,264	4,977,889	22,453,072	783,233	(561,199)
Expenses using reserve funds									-	-
Total General Fund - Net Result from Operations									783,233	(561,199)
Percentage of Budget	26%		24%		10%		22%			
CLE-Seminars and Products	662,530	1,653,725	251,775	1,079,536	31,185	307,219	282,960	1,386,755	379,570	266,970
CLE - Deskbooks	17,316	241,000	53,531	222,410	-	68,325	53,531	290,735	(36,215)	(49,735)
Total CLE	679,846	1,894,725	305,306	1,301,946	31,185	375,544	336,491	1,677,490	343,355	217,235
Percentage of Budget	36%		23%		8%		20%			
Total All Sections	149,205	649,695	-	-	128,457	904,646	128,457	904,646	20,749	(254,951)
Client Protection Fund-Restricted	297,572	730,000	43,417	181,912	5,376	502,300	48,793	684,212	248,779	45,788
Totals	6,887,745	25,166,292	5,057,595	21,286,666	434,035	4,432,754	5,491,630	25,719,419	1,396,115	(553,127)
Percentage of Budget	27%		24%		10%		21%			

Summary of Fund Balances:	Fund Balances Sept. 30, 2022	2023 Budgeted Fund Balances	Fund Balances Year to date
Restricted Funds:			
Client Protection Fund	4,063,501	4,109,289	4,312,281
Board-Designated Funds (Non-General Fund):			
CLE Fund Balance	1,042,049	1,259,284	1,385,404
Section Funds	1,802,650	1,547,699	1,823,398
Board-Designated Funds (General Fund):			
Operating Reserve Fund	2,000,000	2,000,000	2,000,000
Facilities Reserve Fund	1,000,000	1,000,000	1,000,000
Unrestricted Funds (General Fund):			
Unrestricted General Fund	5,713,268	5,152,068	6,496,500
Total General Fund Balance	8,713,268	8,152,068	9,496,500
Net Change in Total General Fund Balance		(561,199)	783,233
Total Fund Balance	15,621,468	15,068,341	17,017,583
Net Change In Fund Balance		(553,127)	1,396,115

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LICENSE FEES						
REVENUE:						
LICENSE FEES	17,053,467	1,339,238	4,088,159	12,965,307	24%	175,207
TOTAL REVENUE:	17,053,467	1,339,238	4,088,159	12,965,307	24%	(175,207)

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ACCESS TO JUSTICE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
SURVEYS	100	-	-	100	0%	25
ATJ BOARD RETREAT	2,000	-	2,130	(130)	107%	(1,630)
LEADERSHIP TRAINING	2,000	-	-	2,000	0%	500
ATJ BOARD EXPENSE	78,400	-	11,000	67,400	14%	8,600
STAFF TRAVEL/PARKING	3,000	-	50	2,950	2%	700
STAFF CONFERENCE & TRAINING	1,675	75	75	1,600	4%	344
PUBLIC DEFENSE	4,000	-	-	4,000	0%	1,000
CONFERENCE/INSTITUTE EXPENSE	23,145	-	-	23,145	0%	5,786
RECEPTION/FORUM EXPENSE	7,500	-	-	7,500	0%	1,875
TOTAL DIRECT EXPENSES:	121,820	75	13,256	108,564	11%	17,199
INDIRECT EXPENSES:						
SALARY EXPENSE (1.64 FTE)	138,139	12,213	35,138	103,001	25%	(603)
BENEFITS EXPENSE	48,192	3,749	10,878	37,314	23%	1,170
OTHER INDIRECT EXPENSE	50,751	3,513	11,455	39,296	23%	1,233
TOTAL INDIRECT EXPENSES:	237,082	19,475	57,471	179,610	24%	1,799
TOTAL ALL EXPENSES:	358,902	19,550	70,727	288,175	20%	18,999
NET INCOME (LOSS):	(358,902)	(19,550)	(70,727)	(288,175)	20%	18,999

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ADMISSIONS						
REVENUE:						
EXAM SOFTWARE REVENUE	27,000	-	-	27,000	0%	(6,750)
BAR EXAM FEES	1,253,000	30,540	408,320	844,680	33%	95,070
RULE 9/LEGAL INTERN FEES	12,000	300	1,100	10,900	9%	(1,900)
SPECIAL ADMISSIONS	70,940	2,160	7,880	63,060	11%	(9,855)
TOTAL REVENUE:	1,362,940	33,000	417,300	945,640	31%	76,565
DIRECT EXPENSES:						
POSTAGE	750	42	245	505	33%	(57)
STAFF TRAVEL/PARKING	23,000	17	17	22,983	0%	5,733
STAFF MEMBERSHIP DUES	600	-	150	450	25%	-
SUPPLIES	2,750	-	-	2,750	0%	688
FACILITY, PARKING, FOOD	101,000	-	-	101,000	0%	25,250
EXAMINER FEES	36,000	-	2,500	33,500	7%	6,500
UBE EXMINATIONS	123,000	-	-	123,000	0%	30,750
BOARD OF BAR EXAMINERS	18,850	-	-	18,850	0%	4,713
BAR EXAM PROCTORS	39,000	-	-	39,000	0%	9,750
DISABILITY ACCOMMODATIONS	27,000	750	750	26,250	3%	6,000
CHARACTER & FITNESS INVESTIGATIONS	2,000	-	-	2,000	0%	500
LAW SCHOOL VISITS	1,700	-	206	1,494	12%	219
DEPRECIATION-SOFTWARE	24,929	2,038	6,113	18,816	25%	119
STAFF CONFERENCE & TRAINING	10,500	108	1,266	9,234	12%	1,359
TOTAL DIRECT EXPENSES:	411,079	2,955	11,246	399,833	3%	91,524
INDIRECT EXPENSES:						
SALARY EXPENSE (6.75 FTE)	512,745	45,972	129,774	382,971	25%	(1,587)
BENEFITS EXPENSE	171,146	15,567	45,143	126,002	26%	(2,357)
OTHER INDIRECT EXPENSE	208,882	14,440	47,083	161,799	23%	5,138
TOTAL INDIRECT EXPENSES:	892,773	75,979	222,000	670,773	25%	1,193
TOTAL ALL EXPENSES:	1,303,852	78,935	233,246	1,070,606	18%	92,717
NET INCOME (LOSS):	59,088	(45,935)	184,054	(124,966)	311%	169,282

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ADVANCEMENT FTE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF CONFERENCE & TRAINING	8,100	-	198	7,902	2%	1,827
TOTAL DIRECT EXPENSES:	8,100	-	198	7,902	2%	1,827
INDIRECT EXPENSES:						
SALARY EXPENSE (1.88 FTE)	233,777	20,043	57,376	176,401	25%	1,069
BENEFITS EXPENSE	62,511	4,984	14,456	48,055	23%	1,172
OTHER INDIRECT EXPENSE	58,178	4,009	13,071	45,106	22%	1,473
TOTAL INDIRECT EXPENSES:	354,465	29,036	84,903	269,563	24%	3,714
TOTAL ALL EXPENSES:	362,565	29,036	85,101	277,465	23%	5,541
NET INCOME (LOSS):	(362,565)	(29,036)	(85,101)	(277,465)	23%	5,541

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
BAR NEWS						
REVENUE:						
DISPLAY ADVERTISING	400,000	45,000	129,000	271,000	32%	29,000
SUBSCRIPT/SINGLE ISSUES	200	-	-	200	0%	(50)
CLASSIFIED ADVERTISING	2,500	640	3,427	(927)	137%	2,802
JOB TARGET ADVERTISING	200,000	11,244	17,956	182,044	9%	(32,044)
TOTAL REVENUE:	602,700	56,884	150,383	452,317	25%	(292)
DIRECT EXPENSES:						
POSTAGE	110,000	11,965	34,804	75,196	32%	(7,304)
PRINTING, COPYING & MAILING	250,000	24,600	73,250	176,750	29%	(10,750)
DIGITAL/ONLINE DEVELOPMENT	1,000	-	-	1,000	0%	250
GRAPHICS/ARTWORK	100	-	-	100	0%	25
STAFF CONFERENCE & TRAINING	2,000	-	-	2,000	0%	500
STAFF MEMBERSHIP DUES	135	-	-	135	0%	34
SUBSCRIPTIONS	225	-	-	225	0%	56
TOTAL DIRECT EXPENSES:	363,460	36,565	108,054	255,406	30%	(17,189)
INDIRECT EXPENSES:						
SALARY EXPENSE (2.23 FTE)	209,396	18,253	52,466	156,930	25%	(117)
BENEFITS EXPENSE	54,103	4,314	12,415	41,688	23%	1,111
OTHER INDIRECT EXPENSE	69,008	4,773	15,563	53,445	23%	1,689
TOTAL INDIRECT EXPENSES:	332,507	27,341	80,444	252,064	24%	2,683
TOTAL ALL EXPENSES:	695,967	63,906	188,498	507,470	27%	(14,506)
NET INCOME (LOSS):	(93,267)	(7,021)	(38,115)	(55,153)	41%	(14,798)

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2022 to December 31, 2022
25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
BOARD OF GOVERNORS						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
BOG MEETINGS	205,000	255	22,405	182,595	11%	28,845
BOG COMMITTEES' EXPENSES	7,000	-	-	7,000	0%	1,750
BOG RETREAT	50,000	-	12,947	37,053	26%	(447)
BOG CONFERENCE ATTENDANCE	43,000	-	-	43,000	0%	10,750
BOG TRAVEL & OUTREACH	10,000	556	5,449	4,551	54%	(2,949)
LEADERSHIP TRAINING	20,000	-	-	20,000	0%	5,000
BOG ELECTIONS	26,900	-	-	26,900	0%	6,725
PRESIDENT'S DINNER	10,000	-	-	10,000	0%	2,500
CONSULTING SERVICES	-	-	3,218	(3,218)		(3,218)
TOTAL DIRECT EXPENSES:	371,900	811	44,019	327,881	12%	48,956
INDIRECT EXPENSES:						
SALARY EXPENSE (1.40 FTE)	112,271	12,148	30,706	81,564	27%	(2,639)
BENEFITS EXPENSE	36,105	2,796	8,079	28,027	22%	948
OTHER INDIRECT EXPENSE	43,324	2,991	9,751	33,572	23%	1,079
TOTAL INDIRECT EXPENSES:	191,700	17,934	48,536	143,164	25%	(611)
TOTAL ALL EXPENSES:	563,600	18,745	92,555	471,045	16%	48,345
NET INCOME (LOSS):	(563,600)	(18,745)	(92,555)	(471,045)	16%	48,345

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CHARACTER & FITNESS BOARD						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
CHARACTER & FITNESS BOARD EXP	12,000	-	-	12,000	0%	3,000
COURT REPORTERS	15,000	869	869	14,131	6%	2,881
TOTAL DIRECT EXPENSES:	27,000	869.00	869.00	26,131	3%	5,881
INDIRECT EXPENSES:						
SALARY EXPENSE (0.75 FTE)	90,551	7,948	22,873	67,678	25%	(235)
BENEFITS EXPENSE	25,863	2,004	5,819	20,044	22%	647
OTHER INDIRECT EXPENSE	23,209	1,622	5,287	17,922	23%	515
TOTAL INDIRECT EXPENSES:	139,623	11,574	33,979	105,644	24%	927
TOTAL ALL EXPENSES:	166,623	12,443	34,848	131,775	21%	6,808
NET INCOME (LOSS):	(166,623)	(12,443)	(34,848)	(131,775)	21%	6,808

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LAW CLERK PROGRAM						
REVENUE:						
LAW CLERK FEES	185,000	37,500	38,333	146,667	21%	(7,917)
LAW CLERK APPLICATION FEES	3,200	300	500	2,700	16%	(300)
TOTAL REVENUE:	188,200	37,800	38,833	149,367	21%	(8,217)
DIRECT EXPENSES:						
SUBSCRIPTIONS	250	-	-	250	0%	63
CHARACTER & FITNESS INVESTIGATIONS	100	-	-	100	0%	25
LAW CLERK BOARD EXPENSE	8,000	491	1,601	6,399	20%	399
LAW CLERK OUTREACH	550	-	-	550	0%	138
TOTAL DIRECT EXPENSES:	8,900	491	1,601	7,299	18%	624
INDIRECT EXPENSES:						
SALARY EXPENSE (0.98 FTE)	82,442	7,152	19,987	62,455	24%	623
BENEFITS EXPENSE	25,330	1,950	5,630	19,700	22%	703
OTHER INDIRECT EXPENSE	30,327	2,084	6,797	23,530	22%	785
TOTAL INDIRECT EXPENSES:	138,099	11,186	32,413	105,685	23%	2,111
TOTAL ALL EXPENSES:	146,999	11,677	34,015	112,984	23%	2,735
NET INCOME (LOSS):	41,201	26,123	4,818	36,383	12%	(5,482)

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CLE - PRODUCTS						
REVENUE:						
SHIPPING & HANDLING	100	18	54	46	54%	29
COURSEBOOK SALES	7,000	115	490	6,510	7%	(1,260)
MP3 AND VIDEO SALES	910,000	286,706	452,866	457,134	50%	225,366
TOTAL REVENUE:	917,100	286,839	453,410	463,690	49%	224,135
DIRECT EXPENSES:						
DEPRECIATION	1,309	279	837	472	64%	(510)
STAFF MEMBERSHIP DUES	200	-	-	200	0%	50
COST OF SALES - COURSEBOOKS	690	7	40	650	6%	132
A/V DEVELOP COSTS (RECORDING)	1,250	-	-	1,250	0%	313
ONLINE PRODUCT HOSTING EXPENSES	53,000	4,130	10,526	42,474	20%	2,724
POSTAGE & DELIVERY-COURSEBOOKS	-	13	34	(34)		(34)
DISABILITY ACCOMMODATIONS	2,000	-	-	2,000	0%	500
STAFF CONFERENCE & TRAINING	300	-	-	300	0%	75
TOTAL DIRECT EXPENSES:	58,749	4,430	11,437	47,312	19%	3,250
INDIRECT EXPENSES:						
SALARY EXPENSE (1.30 FTE)	93,769	5,220	14,472	79,297	15%	8,970
BENEFITS EXPENSE	36,718	2,818	8,178	28,541	22%	1,002
OTHER INDIRECT EXPENSE	41,778	2,759	8,995	32,783	22%	1,449
TOTAL INDIRECT EXPENSES:	172,265	10,796	31,645	140,620	18%	11,421
TOTAL ALL EXPENSES:	231,014	15,226	43,083	187,932	19%	14,671
NET INCOME (LOSS):	686,086	271,613	410,327	275,758	60%	238,806

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CLE - SEMINARS						
REVENUE:						
SEMINAR REGISTRATIONS	850,000	94,096	209,120	640,880	25%	(3,380)
SEMINAR-EXHIB/SPNSR/ETC	20,000	-	-	20,000	0%	(5,000)
SEMINAR SPLITS W/ CLE	(133,375)	-	-	(133,375)	0%	33,344
TOTAL REVENUE:	736,625	94,096	209,120	527,505	28%	24,964
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	15,000	104	104	14,896	1%	3,646
STAFF MEMBERSHIP DUES	1,500	-	-	1,500	0%	375
COURSEBOOK PRODUCTION	1,000	-	-	1,000	0%	250
POSTAGE - FLIERS/CATALOGS	5,000	-	-	5,000	0%	1,250
ACCREDITATION FEES	3,000	2,940	2,856	144	95%	(2,106)
SEMINAR BROCHURES	20,000	-	-	20,000	0%	5,000
FACILITIES	165,200	5,805	13,910	151,290	8%	27,390
SPEAKERS & PROGRAM DEVELOP	32,000	2,824	2,877	29,123	9%	5,123
HONORARIA	1,200	-	-	1,200	0%	300
CLE SEMINAR COMMITTEE	200	-	-	200	0%	50
DISABILITY ACCOMODATIONS	2,000	-	-	2,000	0%	500
STAFF CONFERENCE & TRAINING	2,370	-	-	2,370	0%	593
TOTAL DIRECT EXPENSES:	248,470	11,673	19,747	228,723	8%	42,370
INDIRECT EXPENSES:						
SALARY EXPENSE (6.83 FTE)	502,652	46,891	130,516	372,137	26%	(4,852)
BENEFITS EXPENSE	183,351	14,472	41,941	141,410	23%	3,897
OTHER INDIRECT EXPENSE	221,267	14,621	47,674	173,593	22%	7,643
TOTAL INDIRECT EXPENSES:	907,270	75,984	220,130	687,140	24%	6,688
TOTAL ALL EXPENSES:	1,155,740	87,658	239,877	915,863	21%	49,058
NET INCOME (LOSS):	(419,115)	6,439	(30,757)	(388,358)	7%	74,022

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CONTINUING LEGAL EDUCATION (CLE)						
REVENUE:						
SEMINAR REGISTRATIONS	850,000	94,096	209,120	640,880	25%	(3,380)
SEMINAR REVENUE-OTHER	20,000	-	-	20,000	0%	(5,000)
SEMINAR SPLITS W/ CLE	(133,375)	-	-	(133,375)	0%	33,344
SHIPPING & HANDLING	100	18	54	46	54%	29
COURSEBOOK SALES	7,000	115	490	6,510	7%	(1,260)
MP3 AND VIDEO SALES	910,000	286,706	452,866	457,134	50%	225,366
TOTAL REVENUE:	1,653,725	380,935	662,530	991,196	40%	24,964
DIRECT EXPENSES:						
COURSEBOOK PRODUCTION	1,000	-	-	1,000	0%	250
POSTAGE - FLIERS/CATALOGS	5,000	-	-	5,000	0%	1,250
DEPRECIATION	1,309	279	837	472	64%	(510)
ONLINE EXPENSES	53,000	4,130	10,526	42,474	20%	2,724
ACCREDITATION FEES	3,000	2,940	2,856	144	95%	(2,106)
SEMINAR BROCHURES	20,000	-	-	20,000	0%	5,000
FACILITIES	165,200	5,805	13,910	151,290	8%	27,390
DISABILITY ACCOMMODATIONS	4,000	-	-	4,000	0%	1,000
SPEAKERS & PROGRAM DEVELOP	32,000	2,824	2,877	29,123	9%	5,123
HONORARIA	1,200	-	-	1,200	0%	300
CLE SEMINAR COMMITTEE	200	-	-	200	0%	50
STAFF TRAVEL/PARKING	15,000	104	104	14,896	1%	3,646
STAFF CONFERENCE & TRAINING	2,370	-	-	2,370	0%	593
STAFF MEMBERSHIP DUES	1,700	-	-	1,700	0%	425
COST OF SALES - COURSEBOOKS	690	7	40	650	6%	132
A/V DEVELOP COSTS (RECORDING)	1,250	-	-	1,250	0%	313
POSTAGE & DELIVERY-COURSEBOOKS	-	13	34	(34)		(34)
STAFF TRAVEL/PARKING	300	-	-	300	0%	75
TOTAL DIRECT EXPENSES:	307,219	16,103	31,185	276,034	10%	45,620
INDIRECT EXPENSES:						
SALARY EXPENSE (8.13 FTE)	596,422	52,111	144,988	451,434	24%	4,118
BENEFITS EXPENSE	220,069	17,289	50,118	169,951	23%	4,899
OTHER INDIRECT EXPENSE	263,045	17,380	56,669	206,376	22%	9,092
TOTAL INDIRECT EXPENSES:	1,079,536	86,781	251,775	827,761	23%	18,109
TOTAL ALL EXPENSES:	1,386,755	102,884	282,960	1,103,795	20%	63,729
NET INCOME (LOSS):	266,970	278,052	379,570	(112,599)	142%	312,827

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
COMMUNICATION STRATEGIES FTE						
INDIRECT EXPENSES:						
SALARY EXPENSE (1.00 FTE)	168,213	14,903	42,868	125,346	25%	(814)
BENEFITS EXPENSE	44,241	3,495	10,183	34,058	23%	877
OTHER INDIRECT EXPENSE	30,946	2,145	6,994	23,952	23%	743
TOTAL INDIRECT EXPENSES:	<u>243,400</u>	<u>20,543</u>	<u>60,044</u>	<u>183,356</u>	<u>25%</u>	<u>806</u>
NET INCOME (LOSS):	<u>(243,400)</u>	<u>(20,543)</u>	<u>(60,044)</u>	<u>(183,356)</u>	<u>25%</u>	<u>806</u>

Washington State Bar Association

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
COMMUNICATION STRATEGIES						
REVENUE:						
SPONSORSHIPS	1,000	-	-	1,000	0%	(250)
WSBA LOGO MERCHANDISE SALES	2,500	-	113	2,387	5%	(512)
TOTAL REVENUE:	3,500	-	113	3,387	3%	(762)
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	3,395	-	396	2,999	12%	453
STAFF MEMBERSHIP DUES	1,120	-	-	1,120	0%	280
SUBSCRIPTIONS	4,000	139	417	3,583	10%	583
APEX DINNER	47,000	-	-	47,000	0%	11,750
50 YEAR MEMBER TRIBUTE LUNCH	20,000	-	-	20,000	0%	5,000
BAR OUTREACH	18,000	-	-	18,000	0%	4,500
COMMUNICATIONS OUTREACH	15,000	758	985	14,015	7%	2,765
STAFF CONFERENCE & TRAINING	7,500	-	1,817	5,683	24%	58
TOTAL DIRECT EXPENSES:	116,015	897	3,615	112,400	3%	25,389
INDIRECT EXPENSES:						
SALARY EXPENSE (5.20 FTE)	387,612	34,028	97,809	289,803	25%	(906)
BENEFITS EXPENSE	126,285	10,025	28,941	97,345	23%	2,631
OTHER INDIRECT EXPENSE	160,917	11,147	36,346	124,570	23%	3,883
TOTAL INDIRECT EXPENSES:	674,814	55,200	163,096	511,718	24%	5,608
TOTAL ALL EXPENSES:	790,829	56,097	166,711	624,118	21%	30,996
NET INCOME (LOSS):	(787,329)	(56,097)	(166,598)	(620,731)	21%	30,235

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CLIENT PROTECTION FUND						
REVENUE:						
CPF RESTITUTION	40,000	828	2,183	37,817	5%	(7,817)
CPF MEMBER ASSESSMENTS	690,000	153,380	250,340	439,660	36%	77,840
INTEREST INCOME	-	18,063	45,049	(45,049)		45,049
TOTAL REVENUE:	730,000	172,271	297,572	432,428	41%	115,072
DIRECT EXPENSES:						
BANK FEES - WELLS FARGO	2,100	190	569	1,531	27%	(44)
GIFTS TO INJURED CLIENTS	500,000	4,623	4,623	495,377	1%	120,377
CPF BOARD EXPENSES	-	94	184	(184)		(184)
STAFF MEMBERSHIP DUES	200	-	-	200	0%	50
TOTAL DIRECT EXPENSES:	502,300	4,907	5,376	496,924	1%	120,199
INDIRECT EXPENSES:						
SALARY EXPENSE (1.23 FTE)	104,797	9,232	26,565	78,232	25%	(366)
BENEFITS EXPENSE	37,207	2,852	8,282	28,925	22%	1,020
OTHER INDIRECT EXPENSE	39,907	2,628	8,569	31,338	21%	1,407
TOTAL INDIRECT EXPENSES:	181,912	14,712	43,417	138,496	24%	2,061
TOTAL ALL EXPENSES:	684,212	19,618	48,793	635,419	7%	122,260
NET INCOME (LOSS):	45,788	152,653	248,779	(202,991)	543%	237,332

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
DESKBOOKS						
REVENUE:						
DESKBOOK SALES	150,000	-	6,456	143,544	4%	(31,044)
LEXIS/NEXIS ROYALTIES	35,000	-	3,803	31,197	11%	(4,947)
SECTION PUBLICATION SALES	6,000	-	495	5,505	8%	(1,005)
FASTCASE ROYALTIES	50,000	-	6,563	43,438	13%	(5,938)
TOTAL REVENUE:	241,000	-	17,316	223,684	7%	(42,934)
DIRECT EXPENSES:						
COST OF SALES - DESKBOOKS	65,000	-	-	65,000	0%	16,250
COST OF SALES - SECTION PUBLICATION	1,500	-	-	1,500	0%	375
SPLITS TO SECTIONS	300	-	-	300	0%	75
DESKBOOK ROYALTIES	300	-	-	300	0%	75
STAFF CONFRENCES & TRAINING	1,000	-	-	1,000	0%	250
STAFF MEMBERSHIP DUES	225	-	-	225	0%	56
TOTAL DIRECT EXPENSES:	68,325	-	-	68,325	0%	17,081
INDIRECT EXPENSES:						
SALARY EXPENSE (1.50 FTE)	132,287	11,689	33,630	98,657	25%	(559)
BENEFITS EXPENSE	41,948	3,267	9,460	32,488	23%	1,027
OTHER INDIRECT EXPENSE	48,175	3,202	10,441	37,734	22%	1,603
TOTAL INDIRECT EXPENSES:	222,410	18,158	53,531	168,879	24%	2,071
TOTAL ALL EXPENSES:	290,735	18,158	53,531	237,204	18%	19,152
NET INCOME (LOSS):	(49,735)	(18,158)	(36,215)	(13,520)	73%	(23,781)

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
DISCIPLINE						
REVENUE:						
AUDIT REVENUE	1,000	-	361	639	36%	111
RECOVERY OF DISCIPLINE COSTS	100,000	3,580	12,999	87,001	13%	(12,001)
DISCIPLINE HISTORY SUMMARY	18,000	1,350	4,469	13,531	25%	(31)
TOTAL REVENUE:	119,000	4,930	17,830	101,170	15%	(11,920)
DIRECT EXPENSES:						
DEPRECIATION-SOFTWARE	45,835	-	-	45,835	0%	11,459
PUBLICATIONS PRODUCTION	200	-	169	31	84%	(119)
STAFF TRAVEL/PARKING	20,000	269	1,475	18,525	7%	3,525
STAFF MEMBERSHIP DUES	7,610	645	1,395	6,215	18%	508
TELEPHONE	2,359	315	945	1,414	40%	(356)
COURT REPORTERS	60,000	4,893	11,784	48,216	20%	3,216
OUTSIDE COUNSEL/AIC	1,500	-	-	1,500	0%	375
LITIGATION EXPENSES	25,000	705	2,492	22,508	10%	3,758
DISABILITY EXPENSES	9,000	-	-	9,000	0%	2,250
TRANSLATION SERVICES	1,200	-	-	1,200	0%	300
STAFF CONFERENCE & TRAINING	33,295	(60)	1,452	31,843	4%	6,872
PRACTICE MONITOR EXPENSE	1,000	-	-	1,000	0%	250
TOTAL DIRECT EXPENSES:	206,999	6,767	19,711	187,288	10%	32,038
INDIRECT EXPENSES:						
SALARY EXPENSE (37.80 FTE)	3,764,781	316,670	875,908	2,888,873	23%	65,287
BENEFITS EXPENSE	1,073,208	86,452	250,240	822,968	23%	18,062
OTHER INDIRECT EXPENSE	1,169,740	80,932	263,881	905,859	23%	28,554
TOTAL INDIRECT EXPENSES:	6,007,729	484,054	1,390,029	4,617,700	23%	111,903
TOTAL ALL EXPENSES:	6,214,728	490,820	1,409,741	4,804,987	23%	143,941
NET INCOME (LOSS):	(6,095,728)	(485,890)	(1,391,911)	(4,703,817)	23%	132,021

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
DIVERSITY						
REVENUE:						
DONATIONS	135,000	135,000	135,000	-	100%	101,250
TOTAL REVENUE:	135,000	135,000	135,000	-	100%	101,250
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	2,000	-	-	2,000	0%	500
STAFF MEMBERSHIP DUES	360	-	90	270	25%	-
COMMITTEE FOR DIVERSITY	3,800	-	-	3,800	0%	950
DIVERSITY EVENTS & PROJECTS	39,250	-	80	39,170	0%	9,733
SURVEYS	16,500	-	-	16,500	0%	4,125
STAFF CONFERENCE & TRAINING	5,000	-	100	4,900	2%	1,150
CONSULTING SERVICES	54,625	-	5,400	49,225	10%	8,256
TOTAL DIRECT EXPENSE:	121,535	-	5,670	115,865	5%	24,714
INDIRECT EXPENSES:						
SALARY EXPENSE (2.69 FTE)	222,707	6,586	17,316	205,391	8%	38,361
BENEFITS EXPENSE	67,741	5,352	15,451	52,291	23%	1,485
OTHER INDIRECT EXPENSE	83,243	5,770	18,813	64,430	23%	1,997
TOTAL INDIRECT EXPENSES:	373,692	17,708	51,580	322,112	14%	41,843
TOTAL ALL EXPENSES:	495,227	17,708	57,250	437,977	12%	66,557
NET INCOME (LOSS):	(360,227)	117,292	77,750	(437,977)	-22%	167,807

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
FINANCE						
(Previously ADMINISTRATION cost center)						
REVENUE:						
INTEREST INCOME	26,000	42,861	114,332	(88,332)	440%	107,832
TOTAL REVENUE:	26,000	42,861	114,332	(88,332)	440%	107,832
DIRECT EXPENSES:						
CONSULTING SERVICES	10,000	-	-	10,000	0%	2,500
STAFF TRAVEL/PARKING	3,000	90	126	2,874	4%	624
STAFF CONFERENCE & TRAINING	500	-	-	500	0%	125
STAFF MEMBERSHIP DUES	-	455	455	(455)		(455)
MISCELLANEOUS	-	67	427	(427)		(427)
TOTAL DIRECT EXPENSES:	13,500	612	1,008	12,492	7%	2,367
INDIRECT EXPENSES:						
SALARY EXPENSE (6.92 FTE)	661,642	61,680	148,197	513,445	22%	17,213
BENEFITS EXPENSE	205,235	16,309	47,323	157,911	23%	3,985
OTHER INDIRECT EXPENSE	213,844	14,863	48,462	165,382	23%	4,999
TOTAL INDIRECT EXPENSES:	1,080,720	92,852	243,983	836,738	23%	26,198
TOTAL ALL EXPENSES:	1,094,220	93,464	244,991	849,230	22%	28,564
NET INCOME (LOSS):	(1,068,220)	(50,603)	(130,659)	(937,562)	12%	136,396

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
FOUNDATION						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
CONSULTING SERVICES	3,000	3,000	3,000	-	100%	(2,250)
PRINTING & COPYING	450	-	-	450	0%	113
STAFF TRAVEL/PARKING	700	-	-	700	0%	175
SUPPLIES	150	-	24	126	16%	13
BOARD OF TRUSTEES	750	25	25	725	3%	163
POSTAGE	300	-	-	300	0%	75
STAFF CONFERENCE & TRAINING	300	-	-	300	0%	75
TOTAL DIRECT EXPENSES:	5,650	3,025	3,049	2,601	54%	(1,637)
INDIRECT EXPENSES:						
SALARY EXPENSE (1.05 FTE)	96,359	8,364	24,056	72,303	25%	34
BENEFITS EXPENSE	18,295	1,445	4,088	14,207	22%	486
OTHER INDIRECT EXPENSE	32,493	2,236	7,289	25,204	22%	834
TOTAL INDIRECT EXPENSES:	147,147	12,044	35,433	111,714	24%	1,354
TOTAL ALL EXPENSES:	152,797	15,069	38,482	114,315	25%	(283)
NET INCOME (LOSS):	(152,797)	(15,069)	(38,482)	(114,315)	25%	(283)

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
HUMAN RESOURCES						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	700	-	-	700	0%	175
STAFF MEMBERSHIP DUES	800	458	458	342	57%	(258)
SUBSCRIPTIONS	500	1,119	1,348	(848)	270%	(1,223)
STAFF TRAINING- GENERAL	15,000	1,348	1,348	13,652	9%	2,402
RECRUITING AND ADVERTISING	6,600	161	955	5,645	14%	695
PAYROLL PROCESSING	50,000	3,794	10,983	39,017	22%	1,517
SALARY SURVEYS	1,500	-	-	1,500	0%	375
CONSULTING SERVICES	2,000	-	-	2,000	0%	500
TRANSFER TO INDIRECT EXPENSE	(77,100)	(6,880)	(15,091)	(62,009)	20%	(4,184)
TOTAL DIRECT EXPENSES:	-	-	-	-		-
INDIRECT EXPENSES:						
SALARY EXPENSE (3.00 FTE)	302,788	32,701	96,131	206,656	32%	(20,434)
ALLOWANCE FOR OPEN POSITIONS	(200,000)	-	-	(200,000)	0%	(50,000)
BENEFITS EXPENSE	96,043	7,595	22,062	73,980	23%	1,948
OTHER INDIRECT EXPENSE	92,837	6,435	20,981	71,856	23%	2,229
TOTAL INDIRECT EXPENSES:	291,667	46,731	139,174	152,493	48%	(66,257)
TOTAL ALL EXPENSES:	291,667	46,731	139,174	152,493	48%	(66,257)
NET INCOME (LOSS):	(291,667)	(46,731)	(139,174)	(152,493)	48%	(66,257)

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For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LEGISLATIVE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	3,133	-	-	3,133	0%	783
STAFF MEMBERSHIP DUES	450	-	-	450	0%	113
JUD RECOMMEND COMMITTEE	2,250	-	-	2,250	0%	563
SUBSCRIPTIONS	2,000	1,985	1,985	16	99%	(1,485)
TELEPHONE	-	47	142	(142)		(142)
CONTRACT LOBBYIST	15,000	-	-	15,000	0%	3,750
LEGISLATIVE COMMITTEE	1,250	-	-	1,250	0%	313
BOG LEGISLATIVE COMMITTEE	300	-	-	300	0%	75
STAFF CONFERENCE & TRAINING	2,400	1,091	1,842	558	77%	(1,242)
TOTAL DIRECT EXPENSES:	26,783	3,122	3,968	22,815	15%	2,728
INDIRECT EXPENSES:						
SALARY EXPENSE (1.70 FTE)	147,316	13,226	32,729	114,587	22%	4,100
BENEFITS EXPENSE	42,758	3,366	9,710	33,048	23%	980
OTHER INDIRECT EXPENSE	52,607	3,625	11,820	40,787	22%	1,332
TOTAL INDIRECT EXPENSES:	242,681	20,217	54,259	188,422	22%	6,412
TOTAL ALL EXPENSES:	269,464	23,339	58,227	211,237	22%	9,139
NET INCOME (LOSS):	(269,464)	(23,339)	(58,227)	(211,237)	22%	9,139

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LICENSING & MEMBERSHIP RECORDS						
REVENUE:						
STATUS CERTIFICATE FEES	27,000	2,075	6,725	20,275	25%	(25)
INVESTIGATION FEES	21,000	2,700	6,500	14,500	31%	1,250
PRO HAC VICE	400,000	23,358	73,738	326,262	18%	(26,262)
MEMBER CONTACT INFORMATION	4,000	-	950	3,050	24%	(50)
PHOTO BAR CARD SALES	200	72	120	80	60%	70
TOTAL REVENUE:	452,200	28,205	88,033	364,167	19%	(25,017)
DIRECT EXPENSES:						
DEPRECIATION	1,151	-	-	1,151	0%	288
POSTAGE	16,500	-	2,407	14,093	15%	1,718
LICENSING FORMS	2,000	-	2,401	(401)	120%	(1,901)
TOTAL DIRECT EXPENSES:	19,651	-	4,808	14,843	24%	105
INDIRECT EXPENSES:						
SALARY EXPENSE (3.83 FTE)	379,520	34,723	97,496	282,024	26%	(2,616)
BENEFITS EXPENSE	124,269	9,819	28,550	95,719	23%	2,517
OTHER INDIRECT EXPENSE	118,521	8,187	26,693	91,828	23%	2,937
TOTAL INDIRECT EXPENSES:	622,311	52,729	152,740	469,570	25%	2,837
TOTAL ALL EXPENSES:	641,962	52,729	157,548	484,413	25%	2,942
NET INCOME (LOSS):	(189,762)	(24,524)	(69,515)	(120,246)	37%	(22,075)

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LEGAL LUNCHBOX						
REVENUE:						
SPONSORSHIPS	9,000	-	-	9,000	0%	(2,250)
DIGITAL VIDEO SALES	14,000	10,339	16,415	(2,415)	117%	12,915
TOTAL REVENUE:	23,000	10,339	16,415	6,585	71%	10,665
DIRECT EXPENSES:						
SPEAKERS & DEVELOPMENT	1,500	-	551	949	37%	(176)
TOTAL DIRECT EXPENSES:	1,500	-	551	949	37%	(176)
INDIRECT EXPENSES:						
SALARY EXPENSE (0.43 FTE)	27,897	2,329	6,715	21,182	24%	259
BENEFITS EXPENSE	10,037	717	2,066	7,971	21%	443
OTHER INDIRECT EXPENSE	13,183	906	2,955	10,228	22%	341
TOTAL INDIRECT EXPENSES:	51,117	3,953	11,736	39,381	23%	1,043
TOTAL ALL EXPENSES:	52,617	3,953	12,287	40,329	23%	867
NET INCOME (LOSS):	(29,617)	6,386	4,128	(33,744)	-14%	11,532

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LIMITED LICENSE LEGAL TECHNICIAN PROGRAM						
REVENUE:						
SEMINAR REGISTRATIONS	12,000	-	-	12,000	0%	(3,000)
LLLT LICENSE FEES	16,622	946	2,964	13,658	18%	(1,191)
LLLT LATE LICENSE FEES	1,100	-	-	1,100	0%	(275)
INVESTIGATION FEES	-	-	100	(100)		100
TOTAL REVENUE:	29,722	946	3,064	26,658	10%	(4,366)
DIRECT EXPENSES:						
LLLT BOARD	15,000	265	1,131	13,869	8%	2,619
LLLT EDUCATION	500	-	-	500	0%	125
TOTAL DIRECT EXPENSES:	15,500	265	1,131	14,369	7%	2,744
INDIRECT EXPENSES:						
SALARY EXPENSE (0.53 FTE)	51,548	4,560	12,556	38,992	24%	331
BENEFITS EXPENSE	17,299	1,301	3,780	13,520	22%	545
OTHER INDIRECT EXPENSE	16,401	1,148	3,743	12,658	23%	357
TOTAL INDIRECT EXPENSES:	85,248	7,010	20,078	65,170	24%	1,234
TOTAL ALL EXPENSES:	100,748	7,275	21,209	79,539	21%	3,978
NET INCOME (LOSS):	(71,026)	(6,329)	(18,145)	79,539	26%	(388)

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LIMITED PRACTICE OFFICERS						
REVENUE:						
INVESTIGATION FEES	500	-	-	500	0%	(125)
LPO EXAMINATION FEES	28,300	-	14,500	13,800	51%	7,425
LPO LICENSE FEES	164,750	13,607	41,149	123,601	25%	(39)
LPO LATE LICENSE FEES	988	-	-	988	0%	(247)
LPO LICENSE FEES - REINSTATES	550	-	-	550	0%	(138)
TOTAL REVENUE:	195,088	13,607	55,649	139,439	29%	6,877
DIRECT EXPENSES:						
FACILITY, PARKING, FOOD	9,000	-	-	9,000	0%	2,250
EXAM WRITING	9,000	-	-	9,000	0%	2,250
LPO BOARD	1,792	-	-	1,792	0%	448
LPO OUTREACH	1,000	-	-	1,000	0%	250
PRINTING & COPYING	250	-	-	250	0%	63
TOTAL DIRECT EXPENSES:	21,042	-	-	21,042	0%	5,261
INDIRECT EXPENSES:						
SALARY EXPENSE (0.68 FTE)	57,874	5,089	14,072	43,802	24%	396
BENEFITS EXPENSE	20,388	1,537	4,460	15,928	22%	637
OTHER INDIRECT EXPENSE	21,043	1,450	4,728	16,315	22%	533
TOTAL INDIRECT EXPENSES:	99,305	8,076	23,261	76,045	23%	1,566
TOTAL ALL EXPENSES:	120,347	8,076	23,261	97,087	19%	6,826
NET INCOME (LOSS):	74,741	5,530	32,388	42,352	43%	13,703

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MANDATORY CONTINUING LEGAL EDUCATION						
REVENUE:						
ACCREDITED PROGRAM FEES	550,000	56,500	165,000	385,000	30%	27,500
FORM 1 LATE FEES	220,000	22,500	66,900	153,100	30%	11,900
MEMBER LATE FEES	190,000	150	1,350	188,650	1%	(46,150)
ANNUAL ACCREDITED SPONSOR FEES	38,250	38,250	38,250	-	100%	28,688
ATTENDANCE LATE FEES	98,000	17,850	36,800	61,200	38%	12,300
COMITY CERTIFICATES	29,000	8,925	16,100	12,900	56%	8,850
TOTAL REVENUE:	1,125,250	144,175	324,400	800,850	29%	43,088
DIRECT EXPENSES:						
DEPRECIATION	59,565	595	2,870	56,695	5%	12,021
STAFF MEMBERSHIP DUES	500	-	-	500	0%	125
MCLE BOARD	2,000	-	-	2,000	0%	500
STAFF TRAVEL/PARKING	50	-	-	50	0%	13
STAFF CONFERENCE & TRAINING	4,900	-	-	4,900	0%	1,225
TOTAL DIRECT EXPENSES:	67,015	595	2,870	64,145	4%	13,884
INDIRECT EXPENSES:						
SALARY EXPENSE (4.88 FTE)	437,860	45,068	133,910	303,950	31%	(24,445)
BENEFITS EXPENSE	125,455	9,853	28,533	96,922	23%	2,831
OTHER INDIRECT EXPENSE	151,014	10,453	34,081	116,933	23%	3,673
TOTAL INDIRECT EXPENSES:	714,329	65,374	196,524	517,805	28%	(17,942)
TOTAL ALL EXPENSES:	781,344	65,969	199,394	581,950	26%	(4,058)
NET INCOME (LOSS):	343,906	78,206	125,006	218,900	36%	39,029

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MINI CLE						
INDIRECT EXPENSES:	64,627	5,624	16,189	48,438	25%	16,137
SALARY EXPENSE (0.92 FTE)	21,315	1,621	4,669	16,645	22%	659
BENEFITS EXPENSE	28,470	1,964	6,403	22,067	22%	715
OTHER INDIRECT EXPENSE						
TOTAL INDIRECT EXPENSES:	114,412	9,208	27,261	87,151	24%	17,511
NET INCOME (LOSS):	(114,412)	(9,208)	(27,261)	(87,151)	24%	1,342

Washington State Bar Association
Statement of Activities
For the Period from December 1, 2022 to December 31, 2022
25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MEMBER SERVICES & ENGAGEMENT						
REVENUE:						
ROYALTIES	10,800	(13,378)	2,400	8,400	22%	(300)
SPONSORSHIPS	1,000	-	-	1,000	0%	(250)
TOTAL REVENUE:	11,800	(13,378)	2,400	9,400	20%	(550)
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	1,700	-	-	1,700	0%	425
STAFF CONFERENCE & TRAINING	250	65	164	86	66%	(102)
SMALL TOWN AND RURAL COMMITTEE	3,000	-	-	3,000	0%	750
PRINTING & COPYING	1,200	-	1,300	(100)	108%	(1,000)
NEW LAWYER OUTREACH	1,000	-	-	1,000	0%	250
YLL SECTION PROGRAM	1,500	145	145	1,355	10%	230
WYLC CLE COMPS	1,000	-	-	1,000	0%	250
WYLC OUTREACH EVENTS	1,500	-	-	1,500	0%	375
WYL COMMITTEE	12,000	-	-	12,000	0%	3,000
OPEN SECTIONS NIGHT	3,500	-	-	3,500	0%	875
RECEPTION/FORUM EXPENSE	3,000	-	-	3,000	0%	750
WYLC SCHOLARSHIPS/DONATIONS/GRANT	5,000	-	-	5,000	0%	1,250
STAFF MEMBERSHIP DUES	850	-	150	700	18%	63
LENDING LIBRARY	4,000	10	30	3,970	1%	970
TOTAL DIRECT EXPENSES:	39,500	220	1,789	37,711	5%	8,086
INDIRECT EXPENSES:						
SALARY EXPENSE (2.51 FTE)	165,522	13,968	40,100	125,422	24%	1,280
BENEFITS EXPENSE	59,907	4,675	13,503	46,404	23%	1,474
OTHER INDIRECT EXPENSE	77,549	5,377	17,533	60,016	23%	1,854
TOTAL INDIRECT EXPENSES:	302,978	24,020	71,136	231,842	23%	4,609
TOTAL ALL EXPENSES:	342,478	24,240	72,924	269,553	21%	12,695
NET INCOME (LOSS):	(330,678)	(37,618)	(70,524)	(260,153)	21%	12,145

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MEMBER SERVICES & ENGAGEMENT (COMBINED)						
REVENUE:						
ROYALTIES	10,800	(13,378)	2,400	8,400	22%	(300)
NMP PRODUCT SALES	65,000	6,526	10,456	54,544	16%	(5,794)
DIGITAL VIDEO SALES	14,000	10,339	16,415	(2,415)	117%	12,915
SPONSORSHIPS	10,000	-	-	10,000	0%	(2,500)
SEMINAR REGISTRATIONS	8,000	-	62,221	(54,221)	778%	60,221
TRIAL ADVOCACY PROGRAM	12,000	-	-	12,000	0%	(3,000)
TOTAL REVENUE:	119,800	3,487	91,492	28,308	76%	61,542
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	1,700	-	-	1,700	0%	425
STAFF CONFERENCE & TRAINING	250	65	164	86	66%	(102)
SMALL TOWN AND RURAL COMMITTEE	3,000	-	-	3,000	0%	750
PRINTING & COPYING	1,200	-	1,300	(100)	108%	(1,000)
NEW LAWYER OUTREACH	1,000	-	-	1,000	0%	250
YLL SECTION PROGRAM	1,500	145	145	1,355	10%	230
WYLC CLE COMPS	1,000	-	-	1,000	0%	250
WYLC OUTREACH EVENTS	1,500	-	-	1,500	0%	375
SPEAKERS & PROGRAM DEVELOP	1,500	-	551	949	37%	(176)
WYL COMMITTEE	12,000	-	-	12,000	0%	3,000
OPEN SECTIONS NIGHT	3,500	-	-	3,500	0%	875
TRIAL ADVOCACY EXPENSES	1,500	-	-	1,500	0%	375
RECEPTION/FORUM EXPENSE	3,000	-	-	3,000	0%	750
WYLC SCHOLARSHIPS/DONATIONS/GRANT	5,000	-	-	5,000	0%	1,250
STAFF MEMBERSHIP DUES	850	-	150	700	18%	63
LENDING LIBRARY	4,000	10	30	3,970	1%	970
NMP SPEAKERS & PROGRAM DEVELOPMENT	100	-	-	100	0%	25
TOTAL DIRECT EXPENSES:	42,600	220	2,340	40,260	5%	8,310
INDIRECT EXPENSES:						
SALARY EXPENSE (4.64 FTE)	311,600	26,579	76,422	235,178	25%	1,478
BENEFITS EXPENSE	108,835	8,326	24,012	84,823	22%	3,197
OTHER INDIRECT EXPENSE	143,340	9,909	32,308	111,032	23%	3,527
TOTAL INDIRECT EXPENSES:	563,775	44,814	132,742	431,033	24%	8,202
TOTAL ALL EXPENSES:	606,375	45,034	135,082	471,293	22%	16,511
NET INCOME (LOSS):	(486,575)	(41,547)	(43,590)	(442,985)	9%	78,053

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MEMBER WELLNESS PROGRAM						
REVENUE:						
DIVERSIONS	7,500	-	-	7,500	0%	(1,875)
TOTAL REVENUE:	7,500	-	-	7,500	0%	(1,875)
DIRECT EXPENSES:						
STAFF MEMBERSHIP DUES	500	-	-	500	0%	125
MEMBER WELLNESS COUNCIL	800	-	-	800	0%	200
STAFF CONFERENCE & TRAINING	300	-	-	300	0%	75
SUBSCRIPTIONS	1,200	100	300	900	25%	-
TOTAL DIRECT EXPENSES:	2,800	100	300	2,500	11%	400
INDIRECT EXPENSES:						
SALARY EXPENSE (1.48 FTE)	133,673	7,133	20,177	113,496	15%	13,241
BENEFITS EXPENSE	55,402	4,270	12,473	42,929	23%	1,378
OTHER INDIRECT EXPENSE	45,645	3,172	10,342	35,302	23%	1,069
TOTAL INDIRECT EXPENSES:	234,719	14,574	42,992	191,727	18%	15,688
TOTAL ALL EXPENSES:	237,519	14,674	43,292	194,227	18%	16,088
NET INCOME (LOSS):	(230,019)	(14,674)	(43,292)	(186,727)	19%	14,213

Washington State Bar Association

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For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
NEW MEMBER EDUCATION						
REVENUE:						
NMP PRODUCT SALES	65,000	6,526	10,456	54,544	16%	(5,794)
SEMINAR REGISTRATIONS	8,000	-	62,221	(54,221)	778%	60,221
TRIAL ADVOCACY PROGRAM	12,000	-	-	12,000	0%	(3,000)
TOTAL REVENUE:	85,000	6,526	72,677	12,323	86%	51,427
DIRECT EXPENSES:						
TRIAL ADVOCACY EXPENSES	1,500	-	-	1,500	0%	375
SPEAKERS & PROGRAM DEVELOPMENT	100	-	-	100	0%	25
TOTAL DIRECT EXPENSES:	1,600	-	-	1,600	0%	400
INDIRECT EXPENSES:						
SALARY EXPENSE (0.78 FTE)	53,555	4,659	13,418	40,137	25%	(29)
BENEFITS EXPENSE	17,577	1,312	3,774	13,802	21%	620
OTHER INDIRECT EXPENSE	24,137	1,662	5,417	18,720	22%	617
TOTAL INDIRECT EXPENSES:	95,269	7,632	22,610	72,659	24%	1,208
TOTAL ALL EXPENSES:	96,869	7,632	22,610	74,259	23%	1,608
NET INCOME (LOSS):	(11,869)	(1,106)	50,067	(61,936)	-422%	53,035

Washington State Bar Association

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For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
OFFICE OF THE EXECUTIVE DIRECTOR						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
LEADERSHIP TRAINING	20,000	-	-	20,000	0%	5,000
WASHINGTON LEADERSHIP INSTITUTE	80,000	-	-	80,000	0%	20,000
ED TRAVEL & OUTREACH	5,000	556	847	4,153	17%	403
BAR LEADERS CONFERENCE	12,000	-	8,114	3,886	68%	(5,114)
STAFF TRAVEL/PARKING	1,500	78	267	1,233	18%	108
STAFF CONFERENCE & TRAINING	8,925	-	-	8,925	0%	2,231
STAFF MEMBERSHIP DUES	1,000	-	335	665	34%	(85)
SURVEY	350	350	350	-	100%	(263)
TOTAL DIRECT EXPENSES:	128,775	984	9,914	118,861	8%	22,280
INDIRECT EXPENSES:						
SALARY EXPENSE (2.00 FTE)	402,379	36,211	89,441	312,938	22%	11,154
BENEFITS EXPENSE	103,989	8,306	24,258	79,731	23%	1,739
OTHER INDIRECT EXPENSE	61,891	4,290	13,987	47,904	23%	1,486
TOTAL INDIRECT EXPENSES:	568,259	48,807	127,686	440,573	22%	14,379
TOTAL ALL EXPENSES:	697,034	49,791	137,599	559,435	20%	36,659
NET INCOME (LOSS):	(697,034)	(49,791)	(137,599)	559,435	20%	36,659

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
OFFICE OF GENERAL COUNSEL						
REVENUE:						
RECORDS REQUEST FEES	963	-	-	963	0%	(241)
TOTAL REVENUE:	963	-	-	963	0%	(241)
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	500	-	28	472	6%	97
STAFF MEMBERSHIP DUES	1,150	25	1,200	(50)	104%	(913)
COURT RULES COMMITTEE	1,000	-	-	1,000	0%	250
CUSTODIANSHIPS	8,150	-	-	8,150	0%	2,038
WILLS	2,000	-	-	2,000	0%	500
LITIGATION EXPENSES	200	-	-	200	0%	50
STAFF CONFERENCE & TRAINING	6,400	-	-	6,400	0%	1,600
TOTAL DIRECT EXPENSES:	19,400	25	1,228	18,172	6%	3,622
INDIRECT EXPENSES:						
SALARY EXPENSE (6.17 FTE)	656,837	49,884	142,371	514,466	22%	21,839
BENEFITS EXPENSE	188,816	15,136	43,874	144,942	23%	3,330
OTHER INDIRECT EXPENSE	192,481	13,292	43,340	149,141	23%	4,780
TOTAL INDIRECT EXPENSES:	1,038,134	78,313	229,585	808,549	22%	29,949
TOTAL ALL EXPENSES:	1,057,534	78,338	230,813	826,721	22%	33,571
NET INCOME (LOSS):	(1,056,571)	(78,338)	(230,813)	(825,758)	22%	33,330

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For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSE:						
STAFF MEMBERSHIP DUES	100	-	250	(150)	250%	(225)
DISCIPLINARY BOARD EXPENSES	4,000	-	-	4,000	0%	1,000
CHIEF HEARING OFFICER	30,000	2,500	7,500	22,500	25%	-
HEARING OFFICER EXPENSES	17,500	891	891	16,609	5%	3,484
HEARING OFFICER TRAINING	400	-	-	400	0%	100
OUTSIDE COUNSEL	60,000	4,000	12,000	48,000	20%	3,000
TOTAL DIRECT EXPENSES:	112,000	7,391	20,641	91,359	18%	7,359
INDIRECT EXPENSES:						
SALARY EXPENSE (1.40 FTE)	133,790	11,756	33,816	99,973	25%	(369)
BENEFITS EXPENSE	40,026	3,133	9,067	30,959	23%	939
OTHER INDIRECT EXPENSE	43,324	2,991	9,751	33,572	23%	1,079
TOTAL INDIRECT EXPENSES:	217,139	17,880	52,635	164,504	24%	1,650
TOTAL ALL EXPENSES:	329,139	25,271	73,276	255,863	22%	9,009
NET INCOME (LOSS):	(329,139)	(25,271)	(73,276)	(255,863)	22%	9,009

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PRACTICE OF LAW BOARD						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
PRACTICE OF LAW BOARD	12,000	-	-	12,000	0%	3,000
TOTAL DIRECT EXPENSES:	<u>12,000</u>	<u>-</u>	<u>-</u>	<u>12,000</u>	<u>0%</u>	<u>3,000</u>
INDIRECT EXPENSES:						
SALARY EXPENSE (0.45 FTE)	35,965	3,148	9,081	26,884	25%	(89)
BENEFITS EXPENSE	13,465	984	2,854	10,611	21%	513
OTHER INDIRECT EXPENSE	13,925	997	3,250	10,675	23%	231
TOTAL INDIRECT EXPENSES:	<u>63,355</u>	<u>5,129</u>	<u>15,185</u>	<u>48,170</u>	<u>24%</u>	<u>654</u>
TOTAL ALL EXPENSES:	<u>75,355</u>	<u>5,129</u>	<u>15,185</u>	<u>60,170</u>	<u>20%</u>	<u>3,654</u>
NET INCOME (LOSS):	<u>(75,355)</u>	<u>(5,129)</u>	<u>(15,185)</u>	<u>(60,170)</u>	<u>20%</u>	<u>3,654</u>

Washington State Bar Association

Statement of Activities

For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PRACTICE MANAGEMENT ASSISTANCE						
REVENUE:						
ROYALTIES	50,000	13,378	13,378	36,622	27%	878
TOTAL REVENUE:	50,000	13,378	13,378	36,622	27%	878
DIRECT EXPENSE:						
STAFF MEMBERSHIP DUES	150	-	-	150	0%	38
FASTCASE	73,000	-	-	73,000	0%	18,250
STAFF CONFERENCE & TRAINING	250	-	-	250	0%	63
TOTAL DIRECT EXPENSES:	73,400	-	-	73,400	0%	18,350
INDIRECT EXPENSES:						
SALARY EXPENSE (0.95 FTE)	80,135	7,022	20,211	59,925	25%	(177)
BENEFITS EXPENSE	23,499	1,819	5,244	18,255	22%	631
OTHER INDIRECT EXPENSE	29,398	2,024	6,600	22,799	22%	750
TOTAL INDIRECT EXPENSES:	133,033	10,865	32,054	100,979	24%	1,204
TOTAL ALL EXPENSES:	206,433	10,865	32,054	174,379	16%	19,554
NET INCOME (LOSS):	(156,433)	2,513	(18,676)	(137,757)	12%	20,432

Washington State Bar Association

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PROFESSIONAL RESPONSIBILITY PROGRAM						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	750	354	354	396	47%	(166)
STAFF MEMBERSHIP DUES	500	-	-	500	0%	125
CPE COMMITTEE	1,000	-	267	733	27%	(17)
TOTAL DIRECT EXPENSES:	2,250	354	621	1,629	28%	(58)
INDIRECT EXPENSES:						
SALARY EXPENSE (1.10 FTE)	91,667	12,036	34,625	57,042	38%	(11,708)
BENEFITS EXPENSE	37,219	4,459	13,095	24,125	35%	(3,790)
OTHER INDIRECT EXPENSE	22,435	2,356	7,683	14,752	34%	(2,074)
TOTAL INDIRECT EXPENSES:	151,321	18,851	55,402	95,919	37%	(17,572)
TOTAL ALL EXPENSES:	153,571	19,205	56,023	97,548	36%	(17,630)
NET INCOME (LOSS):	(153,571)	(19,205)	(56,023)	(97,548)	36%	(17,630)

Washington State Bar Association

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For the Period from December 1, 2022 to December 31, 2022

25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PUBLIC SERVICE PROGRAMS						
REVENUE:						
DONATIONS & GRANTS	130,000	130,000	130,000	-	100%	97,500
TOTAL REVENUE:	130,000	130,000	130,000	-	100%	97,500
DIRECT EXPENSES:						
DONATIONS/SPONSORSHIPS/GRANTS	260,828	-	-	260,828	0%	65,207
STAFF TRAVEL/PARKING	1,500	-	-	1,500	0%	375
SURVEYS	100	-	-	100	0%	25
PRO BONO & PUBLIC SERVICE COMMITTEE	1,500	-	-	1,500	0%	375
STAFF CONFERENCE & TRAINING	1,000	-	-	1,000	0%	250
PRO BONO CERTIFICATES	2,000	-	457	1,543	23%	43
TOTAL DIRECT EXPENSES:	266,928	-	457	266,471	0%	66,275
INDIRECT EXPENSES:						
SALARY EXPENSE (1.62 FTE)	128,588	11,162	32,092	96,496	25%	55
BENEFITS EXPENSE	40,609	3,165	9,138	31,471	23%	1,014
OTHER INDIRECT EXPENSE	50,132	3,474	11,327	38,804	23%	1,205
TOTAL INDIRECT EXPENSES:	219,329	17,801	52,557	166,772	24%	2,275
TOTAL ALL EXPENSES:	486,257	17,801	53,014	433,243	11%	68,550
NET INCOME (LOSS):	(356,257)	112,199	76,986	(433,243)	-22%	166,050

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PUBLICATION & DESIGN SERVICES						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF CONFERENCE & TRAINING	350	-	-	350	0%	88
SUBSCRIPTIONS	162	20	20	142	12%	21
IMAGE LIBRARY	4,100	-	4,100	-	100%	(3,075)
TOTAL DIRECT EXPENSES:	4,612	20	4,120	492	89%	(2,967)
INDIRECT EXPENSES:						
SALARY EXPENSE (0.89 FTE)	72,143	6,339	18,252	53,891	25%	(216)
BENEFITS EXPENSE	19,491	1,489	4,270	15,221	22%	603
OTHER INDIRECT EXPENSE	27,542	1,903	6,206	21,336	23%	680
TOTAL INDIRECT EXPENSES:	119,175	9,732	28,727	90,448	24%	1,067
TOTAL ALL EXPENSES:	123,787	9,752	32,847	90,940	27%	(1,900)
NET INCOME (LOSS):	(123,787)	(9,752)	(32,847)	(90,940)	27%	(1,900)

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
REGULATORY SERVICES FTE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF CONFERENCE & TRAINING	23,550	-	-	23,550	0%	5,888
TOTAL DIRECT EXPENSES:	23,550	-	-	23,550	0%	5,888
INDIRECT EXPENSES:						
SALARY EXPENSE (2.70 FTE)	349,467	32,386	77,418	272,049	22%	9,949
BENEFITS EXPENSE	103,888	8,253	24,038	79,850	23%	1,934
OTHER INDIRECT EXPENSE	83,553	5,770	18,813	64,739	23%	2,075
TOTAL INDIRECT EXPENSES:	536,908	46,409	120,270	416,638	22%	13,957
TOTAL ALL EXPENSES:	560,458	46,409	120,270	440,188	21%	19,845
NET INCOME (LOSS):	(560,458)	(46,409)	(120,270)	(440,188)	21%	19,845

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
SERVICE CENTER						
REVENUE:						
	_____	_____	_____	_____	_____	_____
TOTAL REVENUE:	-	-	-	-	-	-
DIRECT EXPENSES:						
	_____	_____	_____	_____	_____	_____
TRANSLATION SERVICES	8,200	269	881	7,319	11%	1,169
STAFF CONFERENCE & TRAINING	2,100	-	-	2,100	0%	525
TOTAL DIRECT EXPENSES:	10,300	269	881	9,419	9%	1,694
INDIRECT EXPENSES:						
SALARY EXPENSE (5.71 FTE)	383,690	34,196	97,230	286,460	25%	(1,308)
BENEFITS EXPENSE	142,992	11,260	32,579	110,413	23%	3,169
OTHER INDIRECT EXPENSE	176,699	12,235	39,892	136,806	23%	4,282
TOTAL INDIRECT EXPENSES:	703,381	57,691	169,702	533,679	24%	6,143
TOTAL ALL EXPENSES:	713,681	57,959	170,583	543,098	24%	7,838
NET INCOME (LOSS):	(713,681)	(57,959)	(170,583)	(543,098)	24%	7,838

Washington State Bar Association

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
SECTIONS ADMINISTRATION						
REVENUE:						
REIMBURSEMENTS FROM SECTIONS	290,543	-	93,155	197,388	32%	20,520
TOTAL REVENUE:	290,543	-	93,155	197,388	32%	20,520
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	750	-	14	736	2%	174
SUBSCRIPTIONS	350	-	-	350	0%	88
SECTION/COMMITTEE CHAIR MTGS	1,000	-	456	544	46%	(206)
DUES STATEMENTS	5,000	-	-	5,000	0%	1,250
STAFF CONFERENCE & TRAINING	500	-	-	500	0%	125
STAFF MEMBERSHIP DUES	250	-	-	250	0%	63
TOTAL DIRECT EXPENSES:	7,850	-	470	7,380	6%	1,493
INDIRECT EXPENSES:						
SALARY EXPENSE (2.58 FTE)	149,581	13,289	37,265	112,316	25%	130
BENEFITS EXPENSE	61,326	4,755	13,748	47,578	22%	1,584
OTHER INDIRECT EXPENSE	79,839	5,528	18,025	61,814	23%	1,934
TOTAL INDIRECT EXPENSES:	290,746	23,573	69,038	221,708	24%	3,648
TOTAL ALL EXPENSES:	298,596	23,573	69,508	229,088	23%	5,141
NET INCOME (LOSS):	(8,053)	(23,573)	23,647	(31,701)	-294%	25,661

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
SECTIONS OPERATIONS						
REVENUE:						
SECTION DUES	440,225	-	141,980	298,245	32%	31,924
SEMINAR PROFIT SHARE	147,470	-	-	147,470	0%	(36,868)
INTEREST INCOME	13,120	-	-	13,120	0%	(3,280)
PUBLICATIONS REVENUE	2,000	-	-	2,000	0%	(500)
OTHER	46,880	3,540	7,225	39,655	15%	(4,495)
TOTAL REVENUE:	649,695	3,540	149,205	500,490	23%	(13,219)
DIRECT EXPENSES:						
DIRECT EXPENSES OF SECTION ACTIVITIES	632,503	9,670	35,301	597,202	6%	122,825
REIMBURSEMENT TO WSBA FOR INDIRECT EXPENSES	272,143	-	93,155	178,987	34%	(25,120)
TOTAL DIRECT EXPENSES:	904,646	9,670	128,457	776,189	14%	97,705
NET INCOME (LOSS):	(254,951)	(6,130)	20,749	(275,699)	-8%	84,486

Washington State Bar Association

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25% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
TECHNOLOGY						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
CONSULTING SERVICES	110,000	11,680	32,197	77,804	29%	(4,697)
STAFF TRAVEL/PARKING	2,000	-	76	1,924	4%	424
STAFF MEMBERSHIP DUES	450	-	-	450	0%	113
TELEPHONE	95,000	6,185	19,074	75,926	20%	4,676
COMPUTER HARDWARE	65,000	1,329	16,873	48,127	26%	(623)
COMPUTER SOFTWARE	310,000	5,216	48,996	261,004	16%	28,504
HARDWARE SERVICE & WARRANTIES	60,000	6,802	38,008	21,992	63%	(23,008)
SOFTWARE MAINTENANCE & LICENSING	380,000	21,540	122,546	257,454	32%	(27,546)
COMPUTER SUPPLIES	2,000	-	-	2,000	0%	500
THIRD PARTY SERVICES	40,000	2,333	5,313	34,687	13%	4,687
STAFF CONFERENCE & TRAINING	10,000	-	-	10,000	0%	2,500
TRANSFER TO INDIRECT EXPENSES	(1,074,450)	(55,086)	(283,083)	(791,367)	26%	14,471
TOTAL DIRECT EXPENSES:	-	-	-	-		-
INDIRECT EXPENSES:						
SALARY EXPENSE (13.00 FTE)	1,434,416	127,209	364,268	1,070,149	25%	(5,664)
BENEFITS EXPENSE	439,894	35,171	102,263	337,631	23%	7,711
CAPITAL LABOR & OVERHEAD	(280,000)	(22,071)	(91,657)	(188,343)	33%	(21,657)
OTHER INDIRECT EXPENSE	402,292	27,823	90,718	311,573	23%	9,855
TOTAL INDIRECT EXPENSES:	1,996,602	168,132	465,592	1,531,010	23%	(9,756)
TOTAL ALL EXPENSES:	1,996,602	168,132	465,592	1,531,010	23%	(9,756)
NET INCOME (LOSS):	(1,996,602)	(168,132)	(465,592)	(1,531,010)	23%	33,558

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
VOLUNTEER ENGAGEMENT						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF MEMBERSHIP DUES	350	-	140	210	40%	(53)
STAFF CONFERENCE & TRAINING	2,500	-	450	2,050	18%	175
ABA DELEGATES	15,000	2,383	2,383	12,617	16%	1,367
TOTAL DIRECT EXPENSES:	17,850	2,383	2,973	14,877	17%	1,490
INDIRECT EXPENSES:						
SALARY EXPENSE (0.60 FTE)	59,415	6,370	16,215	43,200	27%	(1,361)
BENEFITS EXPENSE	19,657	1,483	4,308	15,350	22%	607
OTHER INDIRECT EXPENSE	18,567	1,299	4,235	14,332	23%	406
TOTAL INDIRECT EXPENSES:	97,639	9,153	24,758	72,881	25%	(348)
TOTAL ALL EXPENSES:	115,489	11,536	27,731	87,758	24%	(348)
NET INCOME (LOSS):	(115,489)	(11,536)	(27,731)	(87,758)	24%	1,142

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
INDIRECT EXPENSES:						
SALARIES	13,113,765	1,135,994	3,151,052	9,962,713	24%	127,389
ALLOWANCE FOR OPEN POSITIONS	(200,000)	-	-	(200,000)	0%	(50,000)
TEMPORARY SALARIES	200,627	23,086	64,382	136,245	32%	(14,225)
CAPITAL LABOR & OVERHEAD	(280,000)	(22,071)	(91,657)	(188,343)	33%	(21,657)
EMPLOYEE ASSISTANCE PLAN	4,800	-	1,600	3,200	33%	(400)
EMPLOYEE SERVICE AWARDS	2,038	280	800	1,238	39%	(290)
FICA (EMPLOYER PORTION)	806,675	74,052	218,913	587,762	27%	(17,244)
L&I INSURANCE	62,000	13,790	13,790	48,210	22%	1,710
WA STATE FAMILY MEDICAL LEAVE (EMPI	18,000	1,526	4,561	13,439	25%	(61)
MEDICAL (EMPLOYER PORTION)	1,701,951	126,379	379,768	1,322,183	22%	45,720
RETIREMENT (EMPLOYER PORTION)	1,356,286	109,055	317,936	1,038,350	23%	21,135
TRANSPORTATION ALLOWANCE	65,045	-	3,433	61,612	5%	12,828
UNEMPLOYMENT INSURANCE	65,206	2,249	8,019	57,187	12%	8,282
TOTAL SALARY & BENEFITS EXPENSE:	16,916,394	1,464,340	4,072,597	12,843,797	24%	113,188
WORKPLACE BENEFITS	45,980	371	9,812	36,168	21%	1,683
HUMAN RESOURCES POOLED EXP	77,100	6,880	15,091	62,009	20%	4,184
MEETING SUPPORT EXPENSES	10,000	126	600	9,400	6%	1,900
RENT	2,131,247	159,794	472,970	1,658,277	22%	59,842
PERSONAL PROP TAXES-WSBA	6,650	472	1,417	5,233	21%	245
FURNITURE, MAINT, LH IMP	25,300	-	873	24,427	3%	5,452
OFFICE SUPPLIES & EQUIPMENT	18,000	1,634	5,256	12,744	29%	(756)
FURN & OFFICE EQUIP DEPRECIATION	96,357	5,227	15,680	80,677	16%	8,409
COMPUTER HARDWARE DEPRECIATION	45,354	2,626	10,499	34,855	23%	839
COMPUTER SOFTWARE DEPRECIATION	99,251	2,805	18,449	80,802	19%	6,364
INSURANCE	272,643	22,025	66,076	206,567	24%	2,085
WORK HOME FURNITURE & EQUIP	14,000	660	1,335	12,665	10%	2,165
PROFESSIONAL FEES-AUDIT	50,000	26,550	26,550	23,450	53%	(14,050)
PROFESSIONAL FEES-LEGAL	250,000	5,114	16,466	233,534	7%	46,034
ONLINE LEGAL RESEARCH	-	3,105	11,932	(11,932)		(11,932)
TELEPHONE & INTERNET	33,600	1,000	1,570	32,030	5%	6,830
POSTAGE - GENERAL	24,000	885	2,644	21,356	11%	3,356
RECORDS STORAGE	30,000	1,962	7,756	22,244	26%	(256)
BANK FEES	51,000	5,781	13,441	37,559	26%	(691)
PRODUCTION MAINTENANCE & SUPPLIES	15,340	(7)	3,497	11,843	23%	338
COMPUTER POOLED EXPENSES	1,074,450	55,086	283,083	791,367	26%	(14,471)
TOTAL OTHER INDIRECT EXPENSES:	4,370,272	302,097	984,998	3,385,274	23%	107,570
TOTAL INDIRECT EXPENSES:	21,286,666	1,766,436	5,057,595	16,229,071	24%	264,072

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SUMMARY PAGE	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE
ACCESS TO JUSTICE	(358,902)	(19,550)	(70,727)	(288,175)
ADMISSIONS/BAR EXAM	59,088	(45,935)	184,054	(124,966)
ADVANCEMENT FTE	(362,565)	(29,036)	(85,101)	(277,465)
BAR NEWS	(93,267)	(7,021)	(38,115)	(55,153)
BOARD OF GOVERNORS	(563,600)	(18,745)	(92,555)	(471,045)
CLE - PRODUCTS	686,086	271,613	410,327	275,758
CLE - SEMINARS	(419,115)	6,439	(30,757)	(388,358)
CLIENT PROTECTION FUND	45,788	152,653	248,779	(202,991)
CHARACTER & FITNESS BOARD	(166,623)	(12,443)	(34,848)	(131,775)
COMMUNICATIONS	(787,329)	(56,097)	(166,598)	(620,731)
COMMUNICATIONS FTE	(243,400)	(20,543)	(60,044)	(183,356)
DESKBOOKS	(49,735)	(18,158)	(36,215)	(13,520)
DISCIPLINE	(6,095,728)	(485,890)	(1,391,911)	(4,703,817)
DIVERSITY	(360,227)	117,292	77,750	(437,977)
FINANCE	(1,068,220)	(50,603)	(130,659)	(937,562)
FOUNDATION	(152,797)	(15,069)	(38,482)	(114,315)
HUMAN RESOURCES	(291,667)	(46,731)	(139,174)	(152,493)
LAW CLERK PROGRAM	41,201	26,123	4,818	36,383
LEGISLATIVE	(269,464)	(23,339)	(58,227)	(211,237)
LEGAL LUNCHBOX	(29,617)	6,386	4,128	(33,744)
LICENSE FEES	17,053,467	1,339,238	4,088,159	12,965,307
LICENSING AND MEMBERSHIP	(189,762)	(24,524)	(69,515)	(120,246)
LIMITED LICENSE LEGAL TECHNICIAN	(71,026)	(6,329)	(18,145)	(52,882)
LIMITED PRACTICE OFFICERS	74,741	5,530	32,388	42,352
MANDATORY CLE ADMINISTRATION	343,906	78,206	125,006	218,900
MEMBER WELLNESS PROGRAM	(230,019)	(14,674)	(43,292)	(186,727)
MINI CLE	(114,412)	(9,208)	(27,261)	(87,151)
MEMBER SERVICES & ENGAGEMENT	(330,678)	(37,618)	(70,524)	(260,153)
NEW MEMBER EDUCATION	(11,869)	(1,106)	50,067	(61,936)
OFFICE OF GENERAL COUNSEL	(1,056,571)	(78,338)	(230,813)	(825,758)
OFFICE OF THE EXECUTIVE DIRECTOR	(697,034)	(49,791)	(137,599)	(559,435)
OGC-DISCIPLINARY BOARD	(329,139)	(25,271)	(73,276)	(255,863)
PRACTICE OF LAW BOARD	(75,355)	(5,129)	(15,185)	(60,170)
PRACTICE MANAGEMENT ASSISTANCE	(156,433)	2,513	(18,676)	(137,757)
PROFESSIONAL RESPONSIBILITY PROGRAM	(153,571)	(19,205)	(56,023)	(97,548)
PUBLIC SERVICE PROGRAMS	(356,257)	112,199	76,986	(433,243)
PUBLICATION & DESIGN SERVICES	(123,787)	(9,752)	(32,847)	(90,940)
REGULATORY SERVICES FTE	(560,458)	(46,409)	(120,270)	(440,188)
SECTIONS ADMINISTRATION	(8,053)	(23,573)	23,647	(31,701)
SECTIONS OPERATIONS	(254,951)	(6,130)	20,749	(275,699)
SERVICE CENTER	(713,681)	(57,959)	(170,583)	(543,098)
TECHNOLOGY	(1,996,602)	(168,132)	(465,592)	(1,531,010)
VOLUNTEER EDUCATION	(115,489)	(11,536)	(27,731)	(87,758)
INDIRECT EXPENSES	21,286,666	1,766,436	5,057,595	16,229,071
TOTAL OF ALL	(20,733,539)	(2,440,782)	(6,453,710)	(14,279,829)
NET INCOME (LOSS)	(553,127)	674,346	1,396,115	(1,949,242)

**Washington State Bar Association
Analysis of Cash Investments As
of December 31, 2022**

Checking & Savings Accounts

General Fund

Checking

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
Wells Fargo	General	\$ 1,359,086

Total

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.19%	\$ 9,307,873
UBS Financial Money Market	0.17%	\$ 1,090,449
Morgan Stanley Money Market	0.33%	\$ 3,406,912
Merrill Lynch Money Market	0.34%	\$ 2,009,636
CDs/Treasuries	see list	\$ 1,994,271

General Fund Total \$ 19,168,227

Client Protection Fund

Checking

<u>Bank</u>	<u>Amount</u>
Wells Fargo	\$ 135,390

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.33%	\$ 4,468,906
Morgan Stanley Money Market	0.00%	\$ 108,014

Client Protection Fund Total \$ 4,712,310

Grand Total Cash & Investments \$ 23,880,536

**Washington State Bar Association
Analysis of Cash Investments As
of December 31, 2022**

General Fund

<u>Bank</u>	<u>Yield</u>	<u>Term</u>	<u>Trade Date</u>	<u>Settle Date</u>	<u>Maturity Date</u>	<u>Amount</u>
US Treasury Bill	2.90%	4m	9/7/2022	9/13/2022	1/10/2023	247,653
Silvergate Bank CD	2.90%	4m	9/7/2022	9/14/2022	1/17/2023	250,000
US Treasury Bill	2.75%	6m	7/28/2022	7/28/2022	2/3/2023	246,618
Bank Baroda NY CD	3.00%	5m	9/7/2022	9/16/2022	2/16/2023	250,000
Beal Bank USA CD	2.80%	9m	7/28/2022	8/10/2022	5/10/2023	250,000
State Bank of India NY CD	3.10%	1y	7/28/2022	8/8/2022	8/8/2023	250,000
Ally bank	4.50%	6m	12/5/2022	12/8/2022	6/8/2023	250,000
Wells Fargo bank	4.70%	9m	12/15/2022	12/23/2022	9/25/2023	250,000

Total **1,994,271**

WASHINGTON STATE
B A R A S S O C I A T I O N

Financial Reports

(Unaudited)

Year to Date January 31, 2023

Prepared by

Maggie Yu, Controller & Darshita Patel, Accountant

Submitted by

Tiffany Lynch, Director of Finance

February 16, 2023

WASHINGTON STATE BAR ASSOCIATION

To: Board of Governors
Budget and Audit Committee

From: Terra Nevitt, Executive Director; Tiffany Lynch, Director of Finance; Maggie Yu, Controller

Re: Key Financial Benchmarks for the Preliminary Fiscal Year to Date (YTD) through January 31, 2023
As % of Completion to Annual Budget

	% of Year	Current Year % YTD	Current Year \$ Difference Favorable/(Unfavorable)	Prior Year YTD	Comments
Total Salaries & Benefits	33%	32%	\$150,951	34%	Favorable to budget due to timing of transportation payment and higher capital labor.
Other Indirect Expenses*	33%	29%	\$188,891	29%	Favorable to budget due to timing of payments.
Total Indirect Expenses	33%	32%	\$339,842	33%	Favorable to budget resulting from a combination of reasons described above.

General Fund Revenues	33%	35%	\$426,006	35%	Favorable to budget due to interest income, new member program seminar registrations, MCLE payments, and timing of collection of law clerk fees.
General Fund Indirect Expenses	33%	32%	\$309,256	33%	Favorable to budget as described under indirect expenses above.
General Fund Direct Expenses	33%	17%	\$440,745	13%	Favorable to budget due to timing of program activities and meetings/events.
General Fund Net	33%	176%	\$1,176,007	1,127%	Favorable to budget for the reasons described above.

CLE Revenue	33%	40%	\$131,954	55%	Favorable to budget due to higher product sales.
CLE Direct Expenses	33%	11%	\$83,568	6%	Favorable to budget due to timing of scheduled seminar expense payments.
CLE Indirect Expenses	33%	31%	\$27,461	32%	Favorable to budget as described under indirect expenses above
CLE Net	33%	145%	\$242,982	228%	Favorable to budget for the reasons described above.

*Workplace benefits, Human Resources, meeting support, rent, taxes, furniture & maintenance, office supplies, depreciation, insurance, equipment, professional fees (legal & audit), internet & telephone, postage, storage, bank fees, Technology

**Washington State Bar Association Financial Summary
Compared to Fiscal Year 2023 Budget
For the Period from January 1, 2023 to January 31, 2023**

Category	Actual Revenues	Budgeted Revenues	Actual Indirect Expenses	Budgeted Indirect Expenses	Actual Direct Expenses	Budgeted Direct Expenses	Actual Total Expenses	Budgeted Total Expenses	Actual Net Result	Budgeted Net Result
Access to Justice	-	-	76,111	237,082	19,283	121,820	95,394	358,902	(95,394)	(358,902)
Admissions/Bar Exam	454,660	1,362,940	295,897	892,773	14,714	411,079	310,611	1,303,852	144,049	59,088
Advancement FTE	-	-	112,938	354,465	198	8,100	113,136	362,565	(113,136)	(362,565)
Bar News	162,161	602,700	106,942	332,507	108,257	363,460	215,199	695,967	(53,037)	(93,267)
Board of Governors	-	-	64,246	191,700	71,999	371,900	136,244	563,600	(136,244)	(563,600)
Character & Fitness Board	-	-	45,006	139,623	869	27,000	45,875	166,623	(45,875)	(166,623)
Communications Strategies	113	3,500	215,723	674,814	3,890	116,015	219,613	790,829	(219,500)	(787,329)
Communications Strategies FTE	-	-	79,604	243,400	-	-	79,604	243,400	(79,604)	(243,400)
Discipline	23,392	119,000	1,837,510	6,007,729	32,021	206,999	1,869,531	6,214,728	(1,846,139)	(6,095,728)
Diversity	135,000	135,000	63,728	240,734	11,020	121,535	74,747	362,269	60,253	(227,269)
Finance	166,643	26,000	338,943	1,080,720	883	13,500	339,826	1,094,220	(173,182)	(1,068,220)
Foundation	-	-	46,752	147,147	3,049	5,650	49,801	152,797	(49,801)	(152,797)
Human Resources	-	-	188,167	424,625	-	-	188,167	424,625	(188,167)	(424,625)
Law Clerk Program	148,366	188,200	43,481	138,099	1,601	8,900	45,083	146,999	103,284	41,201
Legislative	-	-	73,504	242,681	6,515	26,783	80,019	269,464	(80,019)	(269,464)
Legal Lunchbox	18,424	23,000	15,622	51,117	551	1,500	16,173	52,617	2,251	(29,617)
Licensing and Membership Records	125,006	452,200	204,043	622,311	6,558	19,651	210,601	641,962	(85,595)	(189,762)
Licensing Fees	5,347,085	17,053,467	-	-	-	-	0	-	5,347,085	17,053,467
Limited License Legal Technician	4,127	29,722	27,223	85,248	1,131	15,500	28,354	100,748	(24,228)	(71,026)
Limited Practice Officers	68,705	195,088	31,340	99,305	-	21,042	31,340	120,347	37,365	74,741
Mandatory CLE	495,975	1,125,250	262,303	714,329	3,966	67,015	266,269	781,344	229,706	343,906
Member Wellness Program	3,000	7,500	61,066	234,719	685	2,800	61,752	237,519	(58,752)	(230,019)
Member Services & Engagement	14,800	11,800	94,218	302,978	1,755	39,500	95,973	342,478	(81,173)	(330,678)
Mini CLE	-	-	36,337	114,412	-	-	36,337	114,412	(36,337)	(114,412)
New Member Education	76,180	85,000	30,097	95,269	-	1,600	30,097	96,869	46,083	(11,869)
Office of General Counsel	-	963	305,976	1,038,134	1,088	19,400	307,064	1,057,534	(307,064)	(1,056,571)
Office of the Executive Director	-	-	174,456	568,259	10,103	128,775	184,559	697,034	(184,559)	(697,034)
OGC-Disciplinary Board	-	-	69,673	217,139	26,891	112,000	96,564	329,139	(96,564)	(329,139)
Practice of Law Board	-	-	20,110	63,355	909	12,000	21,019	75,355	(21,019)	(75,355)
Practice Management Assistance	16,547	50,000	42,395	133,033	72,966	73,400	115,361	206,433	(98,815)	(156,433)
Professional Responsibility Program	-	-	73,643	151,321	1,121	2,250	74,764	153,571	(74,764)	(153,571)
Public Service Programs	130,000	130,000	69,520	219,329	31,624	266,928	101,145	486,257	28,855	(356,257)
Publication and Design Services	-	-	38,420	119,175	4,200	4,612	42,620	123,787	(42,620)	(123,787)
Regulatory Services FTE	-	-	164,348	536,908	-	23,550	164,348	560,458	(164,348)	(560,458)
Sections Administration	333,112	290,543	91,741	290,746	470	7,850	92,211	298,596	240,902	(8,053)
Service Center	-	-	227,146	703,381	1,386	10,300	228,533	713,681	(228,533)	(713,681)
Volunteer Engagement	-	-	33,567	97,639	36,540	17,850	36,540	115,489.27	(36,540)	(115,489)
Technology	-	-	629,883	1,996,602	-	-	629,883	1,996,602	(629,883)	(1,996,602)
Subtotal General Fund	7,723,297	21,891,872	6,291,679	19,802,808	442,676	2,650,264	6,734,355	22,453,072	988,941	(561,199)
Expenses using reserve funds									-	-
Total General Fund - Net Result from Operations									988,941	(561,199)
Percentage of Budget	35%		32%		17%		30%			
CLE-Seminars and Products	746,213	1,653,725	335,660	1,079,536	41,613	307,219	377,273	1,386,755	368,939	266,970
CLE - Deskbooks	17,316	241,000	70,861	222,410	-	68,325	70,861	290,735	(53,545)	(49,735)
Total CLE	763,529	1,894,725	406,521	1,301,946	41,613	375,544	448,135	1,677,490	315,394	217,235
Percentage of Budget	40%		31%		11%		27%			
Total All Sections	537,493	649,695	-	-	378,110	904,646	378,110	904,646	159,384	(254,951)
Client Protection Fund-Restricted	704,924	730,000	57,512	181,912	15,649	502,300	73,162	684,212	631,762	45,788
Totals	9,729,243	25,166,292	6,755,713	21,286,666	878,049	4,432,754	7,633,762	25,719,419	2,095,481	(553,127)
Percentage of Budget	39%		32%		20%		30%			

Summary of Fund Balances:	Fund Balances Sept. 30, 2022	2023 Budgeted Fund Balances	Fund Balances Year to date
Restricted Funds:			
Client Protection Fund	4,063,501	4,109,289	4,695,264
Board-Designated Funds (Non-General Fund):			
CLE Fund Balance	1,042,049	1,259,284	1,357,443
Section Funds	1,802,650	1,547,699	1,962,033
Board-Designated Funds (General Fund):			
Operating Reserve Fund	2,000,000	2,000,000	2,000,000
Facilities Reserve Fund	1,000,000	1,000,000	2,700,000
Unrestricted Funds (General Fund):			
Unrestricted General Fund	5,713,268	5,152,068	5,002,209
Total General Fund Balance	8,713,268	8,152,068	9,702,209
Net Change in Total General Fund Balance		(561,199)	988,941
Total Fund Balance	15,621,468	15,068,341	17,716,949
Net Change In Fund Balance		(553,127)	2,095,481

**Washington State Bar Association
Analysis of Cash Investments
As of January 31, 2023**

Checking & Savings Accounts

General Fund

Checking

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
Wells Fargo	General	\$ 1,921,039

Total

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.28%	\$ 17,339,528
UBS Financial Money Market	0.21%	\$ 1,092,729
Morgan Stanley Money Market	0.35%	\$ 3,418,967
Merrill Lynch Money Market	0.36%	\$ 2,016,924
CDs/Treasuries	see list	\$ 1,990,949

General Fund Total \$ 27,780,136

Client Protection Fund

Checking

<u>Bank</u>	<u>Amount</u>
Wells Fargo	\$ 164,317

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.39%	\$ 4,485,555
Morgan Stanley Money Market	0.65%	\$ 108,720

Client Protection Fund Total \$ 4,758,592

Grand Total Cash & Investments \$ 32,538,728

**Washington State Bar Association
Analysis of Cash Investments
As of January 31, 2023**

General Fund

<u>Bank</u>	<u>Yield</u>	<u>Term Months</u>	<u>Trade Date</u>	<u>Settle Date</u>	<u>Maturity Date</u>	<u>Amount</u>
US Treasury Bill	2.75%	6	7/28/2022	7/28/2022	2/3/2023	246,618
Bank Baroda NY CD	3.00%	5	9/7/2022	9/16/2022	2/16/2023	250,000
Beal Bank USA CD	2.80%	9	7/28/2022	8/10/2022	5/10/2023	250,000
State Bank of India NY CD	3.10%	12	7/28/2022	8/8/2022	8/8/2023	250,000
Ally bank	4.50%	6	12/5/2022	12/8/2022	6/8/2023	250,000
Wells Fargo bank	4.70%	9	12/15/2022	12/23/2022	9/25/2023	250,000
US Treasury Bill	4.65%	6	1/11/2023	1/12/2023	7/13/2023	244,331
SOFI Bank	4.55%	9	1/13/2023	1/23/2023	10/23/2023	250,000

Total 1,990,949

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LICENSE FEES						
REVENUE:						
LICENSE FEES	17,053,467	1,258,926	5,347,085	11,706,381	31%	337,404
TOTAL REVENUE:	<u>17,053,467</u>	<u>1,258,926</u>	<u>5,347,085</u>	<u>11,706,381</u>	<u>31%</u>	<u>(337,404)</u>

Washington State Bar Association
Statement of Activities
For the Period from January 1, 2023 to January 31, 2023
33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ACCESS TO JUSTICE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
SURVEYS	100	-	-	100	0%	33
ATJ BOARD RETREAT	2,000	-	2,130	(130)	107%	(1,464)
LEADERSHIP TRAINING	2,000	-	-	2,000	0%	667
ATJ BOARD EXPENSE	78,400	4,717	15,717	62,683	20%	10,417
STAFF TRAVEL/PARKING	3,000	-	50	2,950	2%	950
STAFF CONFERENCE & TRAINING	1,675	-	75	1,600	4%	483
PUBLIC DEFENSE	4,000	810	810	3,190	20%	523
CONFERENCE/INSTITUTE EXPENSE	23,145	-	-	23,145	0%	7,715
RECEPTION/FORUM EXPENSE	7,500	500	500	7,000	7%	2,000
TOTAL DIRECT EXPENSES:	121,820	6,027	19,283	102,537	16%	21,324
INDIRECT EXPENSES:						
SALARY EXPENSE (1.64 FTE)	138,139	11,463	46,601	91,539	34%	(554)
BENEFITS EXPENSE	48,192	3,890	14,769	33,423	31%	1,295
OTHER INDIRECT EXPENSE	50,751	3,287	14,742	36,008	29%	2,175
TOTAL INDIRECT EXPENSES:	237,082	18,640	76,111	160,970	32%	2,916
TOTAL ALL EXPENSES:	358,902	24,667	95,394	263,507	27%	24,240
NET INCOME (LOSS):	(358,902)	(24,667)	(95,394)	(263,507)	27%	24,240

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ADMISSIONS						
REVENUE:						
EXAM SOFTWARE REVENUE	27,000	-	-	27,000	0%	(9,000)
BAR EXAM FEES	1,253,000	33,345	441,665	811,335	35%	23,998
RULE 9/LEGAL INTERN FEES	12,000	350	1,450	10,550	12%	(2,550)
SPECIAL ADMISSIONS	70,940	3,665	11,545	59,395	16%	(12,102)
TOTAL REVENUE:	1,362,940	37,360	454,660	908,280	33%	347
DIRECT EXPENSES:						
POSTAGE	750	-	245	505	33%	5
STAFF TRAVEL/PARKING	23,000	11	28	22,972	0%	7,638
STAFF MEMBERSHIP DUES	600	-	150	450	25%	50
SUPPLIES	2,750	169	169	2,581	6%	747
FACILITY, PARKING, FOOD	101,000	-	-	101,000	0%	33,667
EXAMINER FEES	36,000	-	2,500	33,500	7%	9,500
UBE EXMINATIONS	123,000	-	-	123,000	0%	41,000
BOARD OF BAR EXAMINERS	18,850	-	-	18,850	0%	6,283
BAR EXAM PROCTORS	39,000	-	-	39,000	0%	13,000
DISABILITY ACCOMMODATIONS	27,000	1,250	2,000	25,000	7%	7,000
CHARACTER & FITNESS INVESTIGATIONS	2,000	-	-	2,000	0%	667
LAW SCHOOL VISITS	1,700	-	206	1,494	12%	361
DEPRECIATION-SOFTWARE	24,929	2,037	8,150	16,779	33%	160
STAFF CONFERENCE & TRAINING	10,500	-	1,266	9,234	12%	2,234
TOTAL DIRECT EXPENSES:	411,079	3,468	14,714	396,365	4%	122,312
INDIRECT EXPENSES:						
SALARY EXPENSE (6.75 FTE)	512,745	44,307	174,081	338,664	34%	(3,166)
BENEFITS EXPENSE	171,146	16,069	61,212	109,934	36%	(4,163)
OTHER INDIRECT EXPENSE	208,882	13,521	60,604	148,278	29%	9,023
TOTAL INDIRECT EXPENSES:	892,773	73,897	295,897	596,876	33%	1,694
TOTAL ALL EXPENSES:	1,303,852	77,365	310,611	993,241	24%	124,006
NET INCOME (LOSS):	59,088	(40,005)	144,049	(84,961)	244%	124,353

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
ADVANCEMENT FTE						
REVENUE:	_____	_____	_____	_____	_____	_____
TOTAL REVENUE:	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>		<u>-</u>
DIRECT EXPENSES:	_____	_____	_____	_____	_____	_____
STAFF CONFERENCE & TRAINING	8,100	-	198	7,902	2%	2,502
TOTAL DIRECT EXPENSES:	<u>8,100</u>	<u>-</u>	<u>198</u>	<u>7,902</u>	<u>2%</u>	<u>2,502</u>
INDIRECT EXPENSES:	_____	_____	_____	_____	_____	_____
SALARY EXPENSE (1.88 FTE)	233,777	19,208	76,583	157,194	33%	1,342
BENEFITS EXPENSE	62,511	5,072	19,528	42,983	31%	1,309
OTHER INDIRECT EXPENSE	58,178	3,756	16,827	41,350	29%	2,565
TOTAL INDIRECT EXPENSES:	<u>354,465</u>	<u>28,036</u>	<u>112,938</u>	<u>241,527</u>	<u>32%</u>	<u>5,217</u>
TOTAL ALL EXPENSES:	<u>362,565</u>	<u>28,036</u>	<u>113,136</u>	<u>249,429</u>	<u>31%</u>	<u>7,719</u>
NET INCOME (LOSS):	<u>(362,565)</u>	<u>(28,036)</u>	<u>(113,136)</u>	<u>(249,429)</u>	<u>31%</u>	<u>7,719</u>

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
BAR NEWS						
REVENUE:						
ROYALTIES	-	24	24	(24)		24
DISPLAY ADVERTISING	400,000	-	129,000	271,000	32%	(4,333)
SUBSCRIPT/SINGLE ISSUES	200	-	-	200	0%	(67)
CLASSIFIED ADVERTISING	2,500	727	4,154	(1,654)	166%	3,320
JOB TARGET ADVERTISING	200,000	11,028	28,984	171,016	14%	(37,683)
TOTAL REVENUE:	602,700	11,778	162,161	440,539	27%	(38,739)
DIRECT EXPENSES:						
POSTAGE	110,000	-	34,804	75,196	32%	1,862
PRINTING, COPYING & MAILING	250,000	-	73,250	176,750	29%	10,084
DIGITAL/ONLINE DEVELOPMENT	1,000	-	-	1,000	0%	333
GRAPHICS/ARTWORK	100	-	-	100	0%	33
STAFF CONFERENCE & TRAINING	2,000	-	-	2,000	0%	667
STAFF MEMBERSHIP DUES	135	-	-	135	0%	45
SUBSCRIPTIONS	225	203	203	22	90%	(128)
TOTAL DIRECT EXPENSES:	363,460	203	108,257	255,203	30%	12,896
INDIRECT EXPENSES:						
SALARY EXPENSE (2.23 FTE)	209,396	17,690	70,155	139,241	34%	(357)
BENEFITS EXPENSE	54,103	4,339	16,754	37,349	31%	1,280
OTHER INDIRECT EXPENSE	69,008	4,469	20,032	48,976	29%	2,971
TOTAL INDIRECT EXPENSES:	332,507	26,498	106,942	225,566	32%	3,894
TOTAL ALL EXPENSES:	695,967	26,701	215,199	480,769	31%	16,790
NET INCOME (LOSS):	(93,267)	(14,923)	(53,037)	(40,230)	57%	(21,948)

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
BOARD OF GOVERNORS						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
BOG MEETINGS	205,000	14,718	37,123	167,877	18%	31,210
BOG COMMITTEES' EXPENSES	3,000	5	5	2,995	0%	995
BOG RETREAT	50,000	6,594	19,542	30,458	39%	(2,875)
BOG CONFERENCE ATTENDANCE	43,000	-	-	43,000	0%	14,333
BOG TRAVEL & OUTREACH	14,000	1,174	6,623	7,377	47%	(1,957)
LEADERSHIP TRAINING	20,000	4,367	4,367	15,633	22%	2,300
BOG ELECTIONS	26,900	-	-	26,900	0%	8,967
PRESIDENT'S DINNER	10,000	-	-	10,000	0%	3,333
CONSULTING SERVICES	-	1,121	4,339	(4,339)		(4,339)
TOTAL DIRECT EXPENSES:	371,900	27,980	71,999	299,901	19%	51,968
INDIRECT EXPENSES:						
SALARY EXPENSE (1.40 FTE)	112,271	10,037	40,743	71,528	36%	(3,319)
BENEFITS EXPENSE	36,105	2,872	10,951	25,155	30%	1,084
OTHER INDIRECT EXPENSE	43,324	2,800	12,552	30,772	29%	1,889
TOTAL INDIRECT EXPENSES:	191,700	15,709	64,246	127,454	34%	(346)
TOTAL ALL EXPENSES:	563,600	43,689	136,244	427,356	24%	51,623
NET INCOME (LOSS):	(563,600)	(43,689)	(136,244)	(427,356)	24%	51,623

Washington State Bar Association
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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CHARACTER & FITNESS BOARD						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
CHARACTER & FITNESS BOARD EXP	12,000	-	-	12,000	0%	4,000
COURT REPORTERS	15,000	-	869	14,131	6%	4,131
TOTAL DIRECT EXPENSES:	27,000	-	869.00	26,131	3%	8,131
INDIRECT EXPENSES:						
SALARY EXPENSE (0.75 FTE)	90,551	7,462	30,335	60,216	34%	(151)
BENEFITS EXPENSE	25,863	2,051	7,870	17,993	30%	751
OTHER INDIRECT EXPENSE	23,209	1,513	6,800	16,409	29%	936
TOTAL INDIRECT EXPENSES:	139,623	11,027	45,006	94,617	32%	1,535
TOTAL ALL EXPENSES:	166,623	11,027	45,875	120,748	28%	9,666
NET INCOME (LOSS):	(166,623)	(11,027)	(45,875)	(120,748)	28%	9,666

Washington State Bar Association

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LAW CLERK PROGRAM						
REVENUE:						
LAW CLERK FEES	185,000	109,333	147,666	37,334	80%	86,000
LAW CLERK APPLICATION FEES	3,200	200	700	2,500	22%	(367)
TOTAL REVENUE:	188,200	109,533	148,366	39,834	79%	85,633
DIRECT EXPENSES:						
SUBSCRIPTIONS	250	-	-	250	0%	83
CHARACTER & FITNESS INVESTIGATIONS	100	-	-	100	0%	33
LAW CLERK BOARD EXPENSE	8,000	-	1,601	6,399	20%	1,065
LAW CLERK OUTREACH	550	-	-	550	0%	183
TOTAL DIRECT EXPENSES:	8,900	-	1,601	7,299	18%	1,365
INDIRECT EXPENSES:						
SALARY EXPENSE (0.98 FTE)	82,442	7,121	27,108	55,334	33%	373
BENEFITS EXPENSE	25,330	1,995	7,625	17,705	30%	818
OTHER INDIRECT EXPENSE	30,327	1,952	8,748	21,578	29%	1,361
TOTAL INDIRECT EXPENSES:	138,099	11,068	43,481	94,617	31%	2,552
TOTAL ALL EXPENSES:	146,999	11,068	45,083	101,916	31%	3,917
NET INCOME (LOSS):	41,201	98,465	103,284	(62,082)	251%	89,550

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CONTINUING LEGAL EDUCATION (CLE)						
REVENUE:						
SEMINAR REGISTRATIONS	850,000	5,028	214,147	635,853	25%	(69,186)
SEMINAR REVENUE-OTHER	20,000	1,500	1,500	18,500	8%	(5,167)
SEMINAR SPLITS W/ CLE	(133,375)	-	-	(133,375)	0%	44,458
SHIPPING & HANDLING	100	-	54	46	54%	21
COURSEBOOK SALES	7,000	-	490	6,510	7%	(1,843)
MP3 AND VIDEO SALES	910,000	77,156	530,021	379,979	58%	226,688
TOTAL REVENUE:	1,653,725	83,683	746,213	907,512	45%	(29,894)
DIRECT EXPENSES:						
COURSEBOOK PRODUCTION	1,000	-	-	1,000	0%	333
POSTAGE - FLIERS/CATALOGS	5,000	-	-	5,000	0%	1,667
DEPRECIATION	1,309	279	1,116	193	85%	(680)
ONLINE EXPENSES	53,000	4,887	15,413	37,587	29%	2,253
ACCREDITATION FEES	3,000	(12)	2,844	156	95%	(1,844)
SEMINAR BROCHURES	20,000	-	-	20,000	0%	6,667
FACILITIES	165,200	5,275	19,185	146,015	12%	35,882
DISABILITY ACCOMMODATIONS	4,000	-	-	4,000	0%	1,333
SPEAKERS & PROGRAM DEVELOP	32,000	-	2,877	29,123	9%	7,790
HONORARIA	1,200	-	-	1,200	0%	400
CLE SEMINAR COMMITTEE	200	-	-	200	0%	67
STAFF TRAVEL/PARKING	15,000	-	104	14,896	1%	4,896
STAFF CONFERENCE & TRAINING	2,370	-	-	2,370	0%	790
STAFF MEMBERSHIP DUES	1,700	-	-	1,700	0%	567
COST OF SALES - COURSEBOOKS	690	-	40	650	6%	190
A/V DEVELOP COSTS (RECORDING)	1,250	-	-	1,250	0%	417
POSTAGE & DELIVERY-COURSEBOOKS	-	-	34	(34)		(34)
STAFF TRAVEL/PARKING	300	-	-	300	0%	100
TOTAL DIRECT EXPENSES:	307,219	10,429	41,613	265,606	14%	60,793
INDIRECT EXPENSES:						
SALARY EXPENSE (8.13 FTE)	596,422	49,623	194,610	401,811	33%	4,197
BENEFITS EXPENSE	220,069	17,983	68,101	151,968	31%	5,255
OTHER INDIRECT EXPENSE	263,045	16,279	72,948	190,097	28%	14,733
TOTAL INDIRECT EXPENSES:	1,079,536	83,885	335,660	743,876	31%	24,185
TOTAL ALL EXPENSES:	1,386,755	94,314	377,273	1,009,481	27%	84,978
NET INCOME (LOSS):	266,970	(10,631)	368,939	(101,969)	138%	279,949

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
COMMUNICATION STRATEGIES FTE						
INDIRECT EXPENSES:						
SALARY EXPENSE (1.00 FTE)	168,213	13,983	56,850	111,363	34%	(779)
BENEFITS EXPENSE	44,241	3,570	13,753	30,488	31%	994
OTHER INDIRECT EXPENSE	30,946	2,008	9,002	21,944	29%	1,313
TOTAL INDIRECT EXPENSES:	<u>243,400</u>	<u>19,560</u>	<u>79,604</u>	<u>163,795</u>	<u>33%</u>	<u>1,529</u>
NET INCOME (LOSS):	<u>(243,400)</u>	<u>(19,560)</u>	<u>(79,604)</u>	<u>(163,795)</u>	<u>33%</u>	<u>1,529</u>

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
COMMUNICATION STRATEGIES						
REVENUE:						
SPONSORSHIPS	1,000	-	-	1,000	0%	(333)
50 YEAR MEMBER PLAQUE	2,500	-	113	2,387	5%	(720)
TOTAL REVENUE:	3,500	-	113	3,387	3%	(1,053)
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	3,395	-	396	2,999	12%	736
STAFF MEMBERSHIP DUES	1,120	-	-	1,120	0%	373
SUBSCRIPTIONS	4,000	139	556	3,444	14%	777
APEX DINNER	47,000	-	-	47,000	0%	15,667
50 YEAR MEMBER TRIBUTE LUNCH	20,000	-	-	20,000	0%	6,667
BAR OUTREACH	18,000	-	-	18,000	0%	6,000
COMMUNICATIONS OUTREACH	15,000	136	1,121	13,879	7%	3,879
STAFF CONFERENCE & TRAINING	7,500	-	1,817	5,683	24%	683
TOTAL DIRECT EXPENSES:	116,015	275	3,890	112,125	3%	34,782
INDIRECT EXPENSES:						
SALARY EXPENSE (5.20 FTE)	387,612	31,891	129,700	257,913	33%	(495)
BENEFITS EXPENSE	126,285	10,299	39,239	87,046	31%	2,856
OTHER INDIRECT EXPENSE	160,917	10,438	46,784	114,132	29%	6,855
TOTAL INDIRECT EXPENSES:	674,814	52,627	215,723	459,091	32%	9,215
TOTAL ALL EXPENSES:	790,829	52,902	219,613	571,216	28%	43,997
NET INCOME (LOSS):	(787,329)	(52,902)	(219,500)	(567,829)	28%	42,943

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
CLIENT PROTECTION FUND						
REVENUE:						
CPF RESTITUTION	40,000	537	2,720	37,280	7%	(10,614)
CPF MEMBER ASSESSMENTS	690,000	385,980	636,320	53,680	92%	406,320
INTEREST INCOME	-	20,835	65,884	(65,884)		65,884
TOTAL REVENUE:	730,000	407,352	704,924	25,076	97%	461,591
DIRECT EXPENSES:						
BANK FEES - WELLS FARGO	2,100	202	771	1,329	37%	(71)
GIFTS TO INJURED CLIENTS	500,000	10,000	14,623	485,377	3%	152,044
CPF BOARD EXPENSES	-	72	256	(256)		(256)
STAFF MEMBERSHIP DUES	200	-	-	200	0%	67
TOTAL DIRECT EXPENSES:	502,300	10,273	15,649	486,651	3%	151,784
INDIRECT EXPENSES:						
SALARY EXPENSE (1.23 FTE)	104,797	8,667	35,232	69,565	34%	(300)
BENEFITS EXPENSE	37,207	2,968	11,249	25,958	30%	1,153
OTHER INDIRECT EXPENSE	39,907	2,461	11,030	28,877	28%	2,272
TOTAL INDIRECT EXPENSES:	181,912	14,096	57,512	124,400	32%	3,125
TOTAL ALL EXPENSES:	684,212	24,369	73,162	611,051	11%	154,909
NET INCOME (LOSS):	45,788	382,983	631,762	(585,974)	1380%	616,500

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DESKBOOKS						
REVENUE:						
DESKBOOK SALES	150,000	-	6,456	143,544	4%	(43,544)
LEXIS/NEXIS ROYALTIES	35,000	-	3,803	31,197	11%	(7,864)
SECTION PUBLICATION SALES	6,000	-	495	5,505	8%	(1,505)
FASTCASE ROYALTIES	50,000	-	6,563	43,438	13%	(10,104)
TOTAL REVENUE:	241,000	-	17,316	223,684	7%	(63,017)
DIRECT EXPENSES:						
COST OF SALES - DESKBOOKS	65,000	-	-	65,000	0%	21,667
COST OF SALES - SECTION PUBLICATION	1,500	-	-	1,500	0%	500
SPLITS TO SECTIONS	300	-	-	300	0%	100
DESKBOOK ROYALTIES	300	-	-	300	0%	100
STAFF CONFRENCES & TRAINING	1,000	-	-	1,000	0%	333
STAFF MEMBERSHIP DUES	225	-	-	225	0%	75
TOTAL DIRECT EXPENSES:	68,325	-	-	68,325	0%	22,775
INDIRECT EXPENSES:						
SALARY EXPENSE (1.50 FTE)	132,287	10,971	44,601	87,686	34%	(506)
BENEFITS EXPENSE	41,948	3,361	12,821	29,127	31%	1,162
OTHER INDIRECT EXPENSE	48,175	2,998	13,439	34,736	28%	2,619
TOTAL INDIRECT EXPENSES:	222,410	17,330	70,861	151,549	32%	3,275
TOTAL ALL EXPENSES:	290,735	17,330	70,861	219,874	24%	26,050
NET INCOME (LOSS):	(49,735)	(17,330)	(53,545)	3,810	108%	(36,967)

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
DISCIPLINE						
REVENUE:						
AUDIT REVENUE	1,000	43	404	596	40%	70
RECOVERY OF DISCIPLINE COSTS	100,000	3,480	16,479	83,521	16%	(16,854)
DISCIPLINE HISTORY SUMMARY	18,000	2,040	6,509	11,491	36%	509
TOTAL REVENUE:	119,000	5,563	23,392	95,608	20%	(16,275)
DIRECT EXPENSES:						
DEPRECIATION-SOFTWARE	45,835	-	-	45,835	0%	15,278
PUBLICATIONS PRODUCTION	200	-	169	31	84%	(102)
STAFF TRAVEL/PARKING	20,000	27	1,503	18,497	8%	5,164
STAFF MEMBERSHIP DUES	7,610	-	1,395	6,215	18%	1,142
TELEPHONE	2,359	314	1,259	1,100	53%	(472)
COURT REPORTERS	60,000	10,656	22,439	37,561	37%	(2,439)
OUTSIDE COUNSEL/AIC	1,500	-	-	1,500	0%	500
LITIGATION EXPENSES	25,000	1,313	3,805	21,195	15%	4,529
DISABILITY EXPENSES	9,000	-	-	9,000	0%	3,000
TRANSLATION SERVICES	1,200	-	-	1,200	0%	400
STAFF CONFERENCE & TRAINING	33,295	-	1,452	31,843	4%	9,647
PRACTICE MONITOR EXPENSE	1,000	-	-	1,000	0%	333
TOTAL DIRECT EXPENSES:	206,999	12,309	32,021	174,978	15%	36,979
INDIRECT EXPENSES:						
SALARY EXPENSE (37.80 FTE)	3,764,781	283,402	1,159,310	2,605,471	31%	95,617
BENEFITS EXPENSE	1,073,208	88,299	338,539	734,669	32%	19,197
OTHER INDIRECT EXPENSE	1,169,740	75,780	339,661	830,079	29%	50,252
TOTAL INDIRECT EXPENSES:	6,007,729	447,481	1,837,510	4,170,219	31%	165,066
TOTAL ALL EXPENSES:	6,214,728	459,791	1,869,531	4,345,197	30%	202,045
NET INCOME (LOSS):	(6,095,728)	(454,228)	(1,846,139)	(4,249,589)	30%	185,770

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DIVERSITY						
REVENUE:						
DONATIONS	135,000	-	135,000	-	100%	90,000
TOTAL REVENUE:	135,000	-	135,000	-	100%	90,000
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	2,000	-	-	2,000	0%	667
STAFF MEMBERSHIP DUES	360	-	90	270	25%	30
COMMITTEE FOR DIVERSITY	3,800	500	500	3,300	13%	767
DIVERSITY EVENTS & PROJECTS	39,250	875	955	38,295	2%	12,128
SURVEYS	16,500	-	-	16,500	0%	5,500
STAFF CONFERENCE & TRAINING	5,000	-	100	4,900	2%	1,567
CONSULTING SERVICES	54,625	3,975	9,375	45,250	17%	8,833
TOTAL DIRECT EXPENSE:	121,535	5,350	11,020	110,515	9%	29,492
INDIRECT EXPENSES:						
SALARY EXPENSE (1.69 FTE)	144,941	5,365	22,681	122,260	16%	25,633
BENEFITS EXPENSE	43,533	3,388	18,839	24,694	43%	(4,328)
OTHER INDIRECT EXPENSE	52,260	3,394	22,208	30,052	42%	(4,788)
TOTAL INDIRECT EXPENSES:	240,734	12,147	63,728	177,006	26%	16,517
TOTAL ALL EXPENSES:	362,269	17,497	74,747	287,521	21%	46,009
NET INCOME (LOSS):	(227,269)	(17,497)	60,253	(287,521)	-27%	136,009

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FINANCE						
(Previously ADMINISTRATION cost center)						
REVENUE:						
INTEREST INCOME	26,000	52,311	166,643	(140,643)	641%	157,977
TOTAL REVENUE:	26,000	52,311	166,643	(140,643)	641%	157,977
DIRECT EXPENSES:						
CONSULTING SERVICES	10,000	-	-	10,000	0%	3,333
STAFF TRAVEL/PARKING	3,000	72	198	2,802	7%	802
STAFF CONFERENCE & TRAINING	500	-	-	500	0%	167
STAFF MEMBERSHIP DUES	-	230	685	(685)		(685)
MISCELLANEOUS	-	(427)	-	-		-
TOTAL DIRECT EXPENSES:	13,500	(125)	883	12,617	7%	3,617
INDIRECT EXPENSES:						
SALARY EXPENSE (6.92 FTE)	661,642	64,177	212,374	449,268	32%	8,174
BENEFITS EXPENSE	205,235	16,866	64,190	141,045	31%	4,222
OTHER INDIRECT EXPENSE	213,844	13,917	62,379	151,465	29%	8,902
TOTAL INDIRECT EXPENSES:	1,080,720	94,960	338,943	741,778	31%	21,298
TOTAL ALL EXPENSES:	1,094,220	94,835	339,826	754,395	31%	24,915
NET INCOME (LOSS):	(1,068,220)	(42,524)	(173,182)	(895,038)	16%	182,891

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Statement of Activities

For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
FOUNDATION						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
CONSULTING SERVICES	3,000	-	3,000	-	100%	(2,000)
PRINTING & COPYING	450	-	-	450	0%	150
STAFF TRAVEL/PARKING	700	-	-	700	0%	233
SUPPLIES	150	-	24	126	16%	26
BOARD OF TRUSTEES	750	-	25	725	3%	225
POSTAGE	300	-	-	300	0%	100
STAFF CONFERENCE & TRAINING	300	-	-	300	0%	100
TOTAL DIRECT EXPENSES:	5,650	-	3,049	2,601	54%	(1,166)
INDIRECT EXPENSES:						
SALARY EXPENSE (1.05 FTE)	96,359	7,846	31,902	64,457	33%	217
BENEFITS EXPENSE	18,295	1,380	5,468	12,827	30%	631
OTHER INDIRECT EXPENSE	32,493	2,093	9,382	23,111	29%	1,449
TOTAL INDIRECT EXPENSES:	147,147	11,319	46,752	100,395	32%	2,297
TOTAL ALL EXPENSES:	152,797	11,319	49,801	102,996	33%	1,131
NET INCOME (LOSS):	(152,797)	(11,319)	(49,801)	(102,996)	33%	1,131

Washington State Bar Association

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For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
HUMAN RESOURCES						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	700	-	-	700	0%	233
STAFF MEMBERSHIP DUES	800	-	458	342	57%	(191)
SUBSCRIPTIONS	500	-	1,348	(848)	270%	(1,181)
STAFF TRAINING- GENERAL	15,000	448	1,796	13,204	12%	3,204
RECRUITING AND ADVERTISING	6,600	1,129	2,084	4,516	32%	116
PAYROLL PROCESSING	50,000	5,503	16,486	33,514	33%	180
SALARY SURVEYS	1,500	-	-	1,500	0%	500
CONSULTING SERVICES	2,000	-	-	2,000	0%	667
TRANSFER TO INDIRECT EXPENSE	(77,100)	(7,080)	(22,172)	(54,928)	29%	(3,528)
TOTAL DIRECT EXPENSES:	-	-	-	-		-
INDIRECT EXPENSES:						
SALARY EXPENSE (4.00 FTE)	380,554	31,033	127,164	253,389	33%	(313)
ALLOWANCE FOR OPEN POSITIONS	(200,000)	-	-	(200,000)	0%	(66,667)
BENEFITS EXPENSE	120,251	9,926	31,988	88,263	27%	8,095
OTHER INDIRECT EXPENSE	123,820	8,034	29,014	94,806	23%	12,259
TOTAL INDIRECT EXPENSES:	424,625	48,992	188,167	236,459	44%	(46,625)
TOTAL ALL EXPENSES:	424,625	48,992	188,167	236,459	44%	(46,625)
NET INCOME (LOSS):	(424,625)	(48,992)	(188,167)	(236,459)	44%	(46,625)

Washington State Bar Association

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For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LEGISLATIVE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	3,133	-	-	3,133	0%	1,044
STAFF MEMBERSHIP DUES	450	-	-	450	0%	150
JUD RECOMMEND COMMITTEE	2,250	-	-	2,250	0%	750
SUBSCRIPTIONS	2,000	-	1,985	16	99%	(1,318)
TELEPHONE	-	47	189	(189)		(189)
CONTRACT LOBBYIST	15,000	2,500	2,500	12,500	17%	2,500
LEGISLATIVE COMMITTEE	1,250	-	-	1,250	0%	417
BOG LEGISLATIVE COMMITTEE	300	-	-	300	0%	100
STAFF CONFERENCE & TRAINING	2,400	-	1,842	558	77%	(1,042)
TOTAL DIRECT EXPENSES:	26,783	2,547	6,515	20,268	24%	2,412
INDIRECT EXPENSES:						
SALARY EXPENSE (1.70 FTE)	147,316	12,424	45,153	102,162	31%	3,952
BENEFITS EXPENSE	42,758	3,427	13,136	29,621	31%	1,116
OTHER INDIRECT EXPENSE	52,607	3,394	15,214	37,393	29%	2,321
TOTAL INDIRECT EXPENSES:	242,681	19,245	73,504	169,177	30%	7,390
TOTAL ALL EXPENSES:	269,464	21,793	80,019	189,445	30%	9,802
NET INCOME (LOSS):	(269,464)	(21,793)	(80,019)	(189,445)	30%	9,802

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LICENSING & MEMBERSHIP RECORDS						
REVENUE:						
STATUS CERTIFICATE FEES	27,000	3,075	9,800	17,200	36%	800
INVESTIGATION FEES	21,000	3,200	9,700	11,300	46%	2,700
PRO HAC VICE	400,000	30,686	104,424	295,576	26%	(28,909)
MEMBER CONTACT INFORMATION	4,000	-	950	3,050	24%	(383)
PHOTO BAR CARD SALES	200	12	132	68	66%	65
TOTAL REVENUE:	452,200	36,973	125,006	327,194	28%	(25,727)
DIRECT EXPENSES:						
DEPRECIATION	1,151	-	-	1,151	0%	384
POSTAGE	16,500	-	2,407	14,093	15%	3,093
LICENSING FORMS	2,000	-	2,401	(401)	120%	(1,735)
SUPPLIES - BAR CARDS	-	1,750	1,750	(1,750)		(1,750)
TOTAL DIRECT EXPENSES:	19,651	1,750	6,558	13,093	33%	(8)
INDIRECT EXPENSES:						
SALARY EXPENSE (3.83 FTE)	379,520	33,453	130,949	248,571	35%	(4,443)
BENEFITS EXPENSE	124,269	10,184	38,734	85,535	31%	2,689
OTHER INDIRECT EXPENSE	118,521	7,666	34,359	84,162	29%	5,148
TOTAL INDIRECT EXPENSES:	622,311	51,303	204,043	418,268	33%	3,394
TOTAL ALL EXPENSES:	641,962	53,053	210,601	431,361	33%	3,386
NET INCOME (LOSS):	(189,762)	(16,080)	(85,595)	(104,167)	45%	(22,341)

Washington State Bar Association

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LEGAL LUNCHBOX						
REVENUE:						
SPONSORSHIPS	9,000	-	-	9,000	0%	(3,000)
DIGITAL VIDEO SALES	14,000	2,009	18,424	(4,424)	132%	13,757
TOTAL REVENUE:	23,000	2,009	18,424	4,576	80%	10,757
DIRECT EXPENSES:						
SPEAKERS & DEVELOPMENT	1,500	-	551	949	37%	(51)
TOTAL DIRECT EXPENSES:	1,500	-	551	949	37%	(51)
INDIRECT EXPENSES:						
SALARY EXPENSE (0.43 FTE)	27,897	2,297	9,012	18,885	32%	287
BENEFITS EXPENSE	10,037	740	2,806	7,231	28%	540
OTHER INDIRECT EXPENSE	13,183	849	3,804	9,379	29%	591
TOTAL INDIRECT EXPENSES:	51,117	3,886	15,622	35,495	31%	1,417
TOTAL ALL EXPENSES:	52,617	3,886	16,173	36,444	31%	1,366
NET INCOME (LOSS):	(29,617)	(1,877)	2,251	(31,868)	-8%	12,123

Washington State Bar Association

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LIMITED LICENSE LEGAL TECHNICIAN PROGRAM						
REVENUE:						
SEMINAR REGISTRATIONS	12,000	-	-	12,000	0%	(4,000)
LLLT LICENSE FEES	16,622	1,062	4,027	12,595	24%	(1,514)
LLLT LATE LICENSE FEES	1,100	-	-	1,100	0%	(367)
INVESTIGATION FEES	-	-	100	(100)		100
TOTAL REVENUE:	29,722	1,062	4,127	25,595	14%	(5,781)
DIRECT EXPENSES:						
LLLT BOARD	15,000	-	1,131	13,869	8%	3,869
LLLT EDUCATION	500	-	-	500	0%	167
TOTAL DIRECT EXPENSES:	15,500	-	1,131	14,369	7%	4,036
INDIRECT EXPENSES:						
SALARY EXPENSE (0.53 FTE)	51,548	4,721	17,277	34,271	34%	(94)
BENEFITS EXPENSE	17,299	1,349	5,129	12,171	30%	638
OTHER INDIRECT EXPENSE	16,401	1,075	4,818	11,583	29%	649
TOTAL INDIRECT EXPENSES:	85,248	7,145	27,223	58,025	32%	1,193
TOTAL ALL EXPENSES:	100,748	7,145	28,354	72,394	28%	5,229
NET INCOME (LOSS):	(71,026)	(6,083)	(24,228)	72,394	34%	(552)

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
LIMITED PRACTICE OFFICERS						
REVENUE:						
INVESTIGATION FEES	500	100	100	400	20%	(67)
MEMBER LATE FEES	-	1,200	1,200	(1,200)		1,200
LPO EXAMINATION FEES	28,300	(600)	13,900	14,400	49%	4,467
LPO LICENSE FEES	164,750	12,356	53,505	111,245	32%	(1,412)
LPO LATE LICENSE FEES	988	-	-	988	0%	(329)
LPO LICENSE FEES - REINSTATES	550	-	-	550	0%	(183)
TOTAL REVENUE:	195,088	13,056	68,705	126,383	35%	3,676
DIRECT EXPENSES:						
FACILITY, PARKING, FOOD	9,000	-	-	9,000	0%	3,000
EXAM WRITING	9,000	-	-	9,000	0%	3,000
LPO BOARD	1,792	-	-	1,792	0%	597
LPO OUTREACH	1,000	-	-	1,000	0%	333
PRINTING & COPYING	250	-	-	250	0%	83
TOTAL DIRECT EXPENSES:	21,042	-	-	21,042	0%	7,014
INDIRECT EXPENSES:						
SALARY EXPENSE (0.68 FTE)	57,874	5,126	19,199	38,676	33%	93
BENEFITS EXPENSE	20,388	1,596	6,056	14,332	30%	740
OTHER INDIRECT EXPENSE	21,043	1,358	6,086	14,957	29%	929
TOTAL INDIRECT EXPENSES:	99,305	8,079	31,340	67,965	32%	1,762
TOTAL ALL EXPENSES:	120,347	8,079	31,340	89,007	26%	8,776
NET INCOME (LOSS):	74,741	4,977	37,365	37,376	50%	12,451

Washington State Bar Association

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MANDATORY CONTINUING LEGAL EDUCATION						
REVENUE:						
ACCREDITED PROGRAM FEES	550,000	53,100	218,100	331,900	40%	34,767
FORM 1 LATE FEES	220,000	21,750	88,650	131,350	40%	15,317
MEMBER LATE FEES	190,000	72,600	73,950	116,050	39%	10,617
ANNUAL ACCREDITED SPONSOR FEES	38,250	-	38,250	-	100%	25,500
ATTENDANCE LATE FEES	98,000	16,150	52,950	45,050	54%	20,283
COMITY CERTIFICATES	29,000	7,975	24,075	4,925	83%	14,408
TOTAL REVENUE:	1,125,250	171,575	495,975	629,275	44%	120,891
DIRECT EXPENSES:						
DEPRECIATION	59,565	596	3,466	56,099	6%	16,389
STAFF MEMBERSHIP DUES	500	500	500	-	100%	(333)
MCLE BOARD	2,000	-	-	2,000	0%	667
STAFF TRAVEL/PARKING	50	-	-	50	0%	17
STAFF CONFERENCE & TRAINING	4,900	-	-	4,900	0%	1,633
TOTAL DIRECT EXPENSES:	67,015	1,096	3,966	63,049	6%	18,372
INDIRECT EXPENSES:						
SALARY EXPENSE (4.88 FTE)	437,860	45,736	179,646	258,214	41%	(33,693)
BENEFITS EXPENSE	125,455	10,255	38,788	86,667	31%	3,030
OTHER INDIRECT EXPENSE	151,014	9,787	43,868	107,146	29%	6,470
TOTAL INDIRECT EXPENSES:	714,329	65,778	262,303	452,026	37%	(24,193)
TOTAL ALL EXPENSES:	781,344	66,874	266,269	515,075	34%	(5,821)
NET INCOME (LOSS):	343,906	104,700	229,706	114,200	67%	115,071

Washington State Bar Association

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MINI CLE						
INDIRECT EXPENSES:	64,627	5,575	21,764	42,864	34%	21,522
SALARY EXPENSE (0.92 FTE)	21,315	1,662	6,332	14,983	30%	773
BENEFITS EXPENSE	28,470	1,839	8,241	20,229	29%	1,249
OTHER INDIRECT EXPENSE						
TOTAL INDIRECT EXPENSES:	114,412	9,075	36,337	78,075	32%	23,545
NET INCOME (LOSS):	(114,412)	(9,075)	(36,337)	(78,075)	32%	1,801

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MEMBER SERVICES & ENGAGEMENT						
REVENUE:						
ROYALTIES	10,800	2,400	4,800	6,000	44%	1,200
SPONSORSHIPS	1,000	10,000	10,000	(9,000)	1000%	9,667
TOTAL REVENUE:	11,800	12,400	14,800	(3,000)	125%	10,867
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	1,700	-	-	1,700	0%	567
STAFF CONFERENCE & TRAINING	250	-	164	86	66%	(81)
SMALL TOWN AND RURAL COMMITTEE	3,000	-	-	3,000	0%	1,000
PRINTING & COPYING	1,200	-	1,300	(100)	108%	(900)
NEW LAWYER OUTREACH	1,000	-	-	1,000	0%	333
YLL SECTION PROGRAM	1,500	(65)	80	1,420	5%	420
WYLC CLE COMPS	1,000	-	-	1,000	0%	333
WYLC OUTREACH EVENTS	1,500	-	-	1,500	0%	500
WYL COMMITTEE	12,000	-	-	12,000	0%	4,000
OPEN SECTIONS NIGHT	3,500	-	-	3,500	0%	1,167
RECEPTION/FORUM EXPENSE	3,000	-	-	3,000	0%	1,000
WYLC SCHOLARSHIPS/DONATIONS/GRANT	5,000	-	-	5,000	0%	1,667
STAFF MEMBERSHIP DUES	850	-	150	700	18%	133
LENDING LIBRARY	4,000	31	61	3,939	2%	1,272
TOTAL DIRECT EXPENSES:	39,500	(34)	1,755	37,745	4%	11,412
INDIRECT EXPENSES:						
SALARY EXPENSE (2.51 FTE)	165,522	13,209	53,309	112,213	32%	1,865
BENEFITS EXPENSE	59,907	4,838	18,341	41,566	31%	1,628
OTHER INDIRECT EXPENSE	77,549	5,035	22,568	54,981	29%	3,282
TOTAL INDIRECT EXPENSES:	302,978	23,082	94,218	208,760	31%	6,775
TOTAL ALL EXPENSES:	342,478	23,048	95,973	246,505	28%	18,187
NET INCOME (LOSS):	(330,678)	(10,648)	(81,173)	(249,505)	25%	29,053

Washington State Bar Association

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MEMBER SERVICES & ENGAGEMENT (COMBINED)						
REVENUE:						
ROYALTIES	10,800	2,400	4,800	6,000	44%	1,200
NMP PRODUCT SALES	65,000	3,503	13,959	51,041	21%	(7,708)
DIGITAL VIDEO SALES	14,000	2,009	18,424	(4,424)	132%	13,757
SPONSORSHIPS	10,000	10,000	10,000	-	100%	6,667
SEMINAR REGISTRATIONS	8,000	-	62,221	(54,221)	778%	59,554
TRIAL ADVOCACY PROGRAM	12,000	-	-	12,000	0%	(4,000)
TOTAL REVENUE:	119,800	17,912	109,404	10,396	91%	69,471
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	1,700	-	-	1,700	0%	567
STAFF CONFERENCE & TRAINING	250	-	164	86	66%	(81)
SMALL TOWN AND RURAL COMMITTEE	3,000	-	-	3,000	0%	1,000
PRINTING & COPYING	1,200	-	1,300	(100)	108%	(900)
NEW LAWYER OUTREACH	1,000	-	-	1,000	0%	333
YLL SECTION PROGRAM	1,500	(65)	80	1,420	5%	420
WYLC CLE COMPS	1,000	-	-	1,000	0%	333
WYLC OUTREACH EVENTS	1,500	-	-	1,500	0%	500
SPEAKERS & PROGRAM DEVELOP	1,500	-	551	949	37%	(51)
WYL COMMITTEE	12,000	-	-	12,000	0%	4,000
OPEN SECTIONS NIGHT	3,500	-	-	3,500	0%	1,167
TRIAL ADVOCACY EXPENSES	1,500	-	-	1,500	0%	500
RECEPTION/FORUM EXPENSE	3,000	-	-	3,000	0%	1,000
WYLC SCHOLARSHIPS/DONATIONS/GRANT	5,000	-	-	5,000	0%	1,667
STAFF MEMBERSHIP DUES	850	-	150	700	18%	133
LENDING LIBRARY	4,000	31	61	3,939	2%	1,272
NMP SPEAKERS & PROGRAM DEVELOPMENT	100	-	-	100	0%	33
TOTAL DIRECT EXPENSES:	42,600	(34)	2,306	40,294	5%	11,894
INDIRECT EXPENSES:						
SALARY EXPENSE (4.64 FTE)	311,600	25,668	102,091	209,510	33%	1,776
BENEFITS EXPENSE	108,835	8,584	32,596	76,239	30%	3,682
OTHER INDIRECT EXPENSE	143,340	9,278	41,586	101,754	29%	6,194
TOTAL INDIRECT EXPENSES:	563,775	43,530	176,273	387,502	31%	11,652
TOTAL ALL EXPENSES:	606,375	43,496	178,579	427,796	29%	23,546
NET INCOME (LOSS):	(486,575)	(25,584)	(69,175)	(417,400)	14%	93,017

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
MEMBER WELLNESS PROGRAM						
REVENUE:						
DIVERSIONS	7,500	3,000	3,000	4,500	40%	500
TOTAL REVENUE:	7,500	3,000	3,000	4,500	40%	500
DIRECT EXPENSES:						
STAFF MEMBERSHIP DUES	500	-	-	500	0%	167
MEMBER WELLNESS COUNCIL	800	-	-	800	0%	267
STAFF CONFERENCE & TRAINING	300	275	275	25	92%	(175)
SUBSCRIPTIONS	1,200	110	410	790	34%	(10)
TOTAL DIRECT EXPENSES:	2,800	385	685	2,115	24%	248
INDIRECT EXPENSES:						
SALARY EXPENSE (1.48 FTE)	133,673	10,596	30,773	102,900	23%	13,785
BENEFITS EXPENSE	55,402	4,508	16,981	38,421	31%	1,486
OTHER INDIRECT EXPENSE	45,645	2,970	13,313	32,332	29%	1,902
TOTAL INDIRECT EXPENSES:	234,719	18,074	61,066	173,653	26%	17,173
TOTAL ALL EXPENSES:	237,519	18,460	61,752	175,767	26%	17,421
NET INCOME (LOSS):	(230,019)	(15,460)	(58,752)	(171,267)	26%	17,921

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
NEW MEMBER EDUCATION						
REVENUE:						
NMP PRODUCT SALES	65,000	3,503	13,959	51,041	21%	(7,708)
SEMINAR REGISTRATIONS	8,000	-	62,221	(54,221)	778%	59,554
TRIAL ADVOCACY PROGRAM	12,000	-	-	12,000	0%	(4,000)
TOTAL REVENUE:	85,000	3,503	76,180	8,820	90%	47,847
DIRECT EXPENSES:						
TRIAL ADVOCACY EXPENSES	1,500	-	-	1,500	0%	500
SPEAKERS & PROGRAM DEVELOPMENT	100	-	-	100	0%	33
TOTAL DIRECT EXPENSES:	1,600	-	-	1,600	0%	533
INDIRECT EXPENSES:						
SALARY EXPENSE (0.78 FTE)	53,555	4,588	18,006	35,549	34%	(154)
BENEFITS EXPENSE	17,577	1,343	5,118	12,459	29%	741
OTHER INDIRECT EXPENSE	24,137	1,556	6,973	17,164	29%	1,073
TOTAL INDIRECT EXPENSES:	95,269	7,487	30,097	65,172	32%	1,659
TOTAL ALL EXPENSES:	96,869	7,487	30,097	66,772	31%	2,193
NET INCOME (LOSS):	(11,869)	(3,984)	46,083	(57,952)	-388%	50,039

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
OFFICE OF THE EXECUTIVE DIRECTOR						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
LEADERSHIP TRAINING	20,000	-	-	20,000	0%	6,667
WASHINGTON LEADERSHIP INSTITUTE	80,000	-	-	80,000	0%	26,667
ED TRAVEL & OUTREACH	5,000	75	922	4,078	18%	744
NW BAR LEADERS CONFERENCE	12,000	-	8,114	3,886	68%	(4,114)
STAFF TRAVEL/PARKING	1,500	114	381	1,119	25%	119
STAFF CONFERENCE & TRAINING	8,925	-	-	8,925	0%	2,975
STAFF MEMBERSHIP DUES	1,000	-	335	665	34%	(2)
SURVEY	350	-	350	-	100%	(233)
TOTAL DIRECT EXPENSES:	128,775	189	10,103	118,672	8%	32,822
INDIRECT EXPENSES:						
SALARY EXPENSE (2.00 FTE)	402,379	34,224	123,665	278,714	31%	10,462
BENEFITS EXPENSE	103,989	8,530	32,788	71,201	32%	1,875
OTHER INDIRECT EXPENSE	61,891	4,017	18,004	43,887	29%	2,627
TOTAL INDIRECT EXPENSES:	568,259	46,771	174,456	393,803	31%	14,963
TOTAL ALL EXPENSES:	697,034	46,960	184,559	512,475	26%	47,786
NET INCOME (LOSS):	(697,034)	(46,960)	(184,559)	512,475	26%	47,786

Washington State Bar Association

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For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
OFFICE OF GENERAL COUNSEL						
REVENUE:						
RECORDS REQUEST FEES	963	-	-	963	0%	(321)
TOTAL REVENUE:	963	-	-	963	0%	(321)
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	500	-	28	472	6%	139
STAFF MEMBERSHIP DUES	1,150	(150)	1,050	100	91%	(667)
COURT RULES COMMITTEE	1,000	-	-	1,000	0%	333
CUSTODIANSHIPS	8,150	10	10	8,140	0%	2,707
WILLS	2,000	-	-	2,000	0%	667
LITIGATION EXPENSES	200	-	-	200	0%	67
STAFF CONFERENCE & TRAINING	6,400	-	-	6,400	0%	2,133
TOTAL DIRECT EXPENSES:	19,400	(140)	1,088	18,312	6%	5,379
INDIRECT EXPENSES:						
SALARY EXPENSE (6.17 FTE)	656,837	48,463	190,834	466,003	29%	28,111
BENEFITS EXPENSE	188,816	15,482	59,356	129,460	31%	3,583
OTHER INDIRECT EXPENSE	192,481	12,446	55,786	136,695	29%	8,374
TOTAL INDIRECT EXPENSES:	1,038,134	76,391	305,976	732,158	29%	40,069
TOTAL ALL EXPENSES:	1,057,534	76,251	307,064	750,470	29%	45,447
NET INCOME (LOSS):	(1,056,571)	(76,251)	(307,064)	(749,507)	29%	45,126

Washington State Bar Association

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSE:						
STAFF MEMBERSHIP DUES	100	(250)	-	100	0%	33
DISCIPLINARY BOARD EXPENSES	4,000	-	-	4,000	0%	1,333
CHIEF HEARING OFFICER	30,000	2,500	10,000	20,000	33%	-
HEARING OFFICER EXPENSES	17,500	-	891	16,609	5%	4,942
HEARING OFFICER TRAINING	400	-	-	400	0%	133
OUTSIDE COUNSEL	60,000	4,000	16,000	44,000	27%	4,000
TOTAL DIRECT EXPENSES:	112,000	6,250	26,891	85,109	24%	10,442
INDIRECT EXPENSES:						
SALARY EXPENSE (1.40 FTE)	133,790	11,030	44,846	88,944	34%	(250)
BENEFITS EXPENSE	40,026	3,207	12,275	27,751	31%	1,067
OTHER INDIRECT EXPENSE	43,324	2,800	12,552	30,772	29%	1,889
TOTAL INDIRECT EXPENSES:	217,139	17,038	69,673	147,467	32%	2,707
TOTAL ALL EXPENSES:	329,139	23,288	96,564	232,576	29%	13,149
NET INCOME (LOSS):	(329,139)	(23,288)	(96,564)	(232,576)	29%	13,149

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PRACTICE OF LAW BOARD						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
PRACTICE OF LAW BOARD	12,000	909	909	11,091	8%	3,091
TOTAL DIRECT EXPENSES:	12,000	909	909	11,091	8%	3,091
INDIRECT EXPENSES:						
SALARY EXPENSE (0.45 FTE)	35,965	2,966	12,047	23,918	33%	(59)
BENEFITS EXPENSE	13,465	1,025	3,879	9,586	29%	609
OTHER INDIRECT EXPENSE	13,925	933	4,184	9,742	30%	458
TOTAL INDIRECT EXPENSES:	63,355	4,925	20,110	43,245	32%	1,008
TOTAL ALL EXPENSES:	75,355	5,834	21,019	54,336	28%	4,100
NET INCOME (LOSS):	(75,355)	(5,834)	(21,019)	(54,336)	28%	4,100

Washington State Bar Association

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PRACTICE MANAGEMENT ASSISTANCE						
REVENUE:						
ROYALTIES	50,000	3,169	16,547	33,453	33%	(120)
TOTAL REVENUE:	50,000	3,169	16,547	33,453	33%	(120)
DIRECT EXPENSE:						
STAFF MEMBERSHIP DUES	150	-	-	150	0%	50
FASTCASE	73,000	72,966	72,966	34	100%	(48,633)
STAFF CONFERENCE & TRAINING	250	-	-	250	0%	83
TOTAL DIRECT EXPENSES:	73,400	72,966	72,966	434	99%	(48,500)
INDIRECT EXPENSES:						
SALARY EXPENSE (0.95 FTE)	80,135	6,594	26,805	53,331	33%	(93)
BENEFITS EXPENSE	23,499	1,852	7,096	16,404	30%	738
OTHER INDIRECT EXPENSE	29,398	1,895	8,495	20,904	29%	1,305
TOTAL INDIRECT EXPENSES:	133,033	10,341	42,395	90,638	32%	1,949
TOTAL ALL EXPENSES:	206,433	83,307	115,361	91,072	56%	(46,550)
NET INCOME (LOSS):	(156,433)	(80,139)	(98,815)	(57,618)	63%	(46,670)

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PROFESSIONAL RESPONSIBILITY PROGRAM						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	750	-	354	396	47%	(104)
STAFF MEMBERSHIP DUES	500	500	500	-	100%	(333)
CPE COMMITTEE	1,000	-	267	733	27%	66
TOTAL DIRECT EXPENSES:	2,250	500	1,121	1,129	50%	(371)
INDIRECT EXPENSES:						
SALARY EXPENSE (1.10 FTE)	91,667	11,294	45,919	45,748	50%	(15,363)
BENEFITS EXPENSE	37,219	4,741	17,835	19,384	48%	(5,429)
OTHER INDIRECT EXPENSE	22,435	2,206	9,889	12,546	44%	(2,411)
TOTAL INDIRECT EXPENSES:	151,321	18,241	73,643	77,678	49%	(23,203)
TOTAL ALL EXPENSES:	153,571	18,741	74,764	78,807	49%	(23,574)
NET INCOME (LOSS):	(153,571)	(18,741)	(74,764)	(78,807)	49%	(23,574)

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PUBLIC SERVICE PROGRAMS						
REVENUE:						
DONATIONS & GRANTS	130,000	-	130,000	-	100%	86,667
TOTAL REVENUE:	130,000	-	130,000	-	100%	86,667
DIRECT EXPENSES:						
DONATIONS/SPONSORSHIPS/GRANTS	260,828	31,168	31,168	229,661	12%	55,775
STAFF TRAVEL/PARKING	1,500	-	-	1,500	0%	500
SURVEYS	100	-	-	100	0%	33
PRO BONO & PUBLIC SERVICE COMMITTEE	1,500	-	-	1,500	0%	500
STAFF CONFERENCE & TRAINING	1,000	-	-	1,000	0%	333
PRO BONO CERTIFICATES	2,000	-	457	1,543	23%	210
TOTAL DIRECT EXPENSES:	266,928	31,168	31,624	235,304	12%	57,352
INDIRECT EXPENSES:						
SALARY EXPENSE (1.62 FTE)	128,588	10,465	42,557	86,031	33%	306
BENEFITS EXPENSE	40,609	3,245	12,383	28,226	30%	1,154
OTHER INDIRECT EXPENSE	50,132	3,253	14,580	35,551	29%	2,130
TOTAL INDIRECT EXPENSES:	219,329	16,963	69,520	149,809	32%	3,589
TOTAL ALL EXPENSES:	486,257	48,130	101,145	385,112	21%	60,941
NET INCOME (LOSS):	(356,257)	(48,130)	28,855	(385,112)	-8%	147,608

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
PUBLICATION & DESIGN SERVICES						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF CONFERENCE & TRAINING	350	-	-	350	0%	117
SUBSCRIPTIONS	162	80	100	62	62%	(46)
IMAGE LIBRARY	4,100	-	4,100	-	100%	(2,733)
TOTAL DIRECT EXPENSES:	4,612	80	4,200	412	91%	(2,663)
INDIRECT EXPENSES:						
SALARY EXPENSE (0.89 FTE)	72,143	6,415	24,667	47,476	34%	(620)
BENEFITS EXPENSE	19,491	1,496	5,766	13,725	30%	731
OTHER INDIRECT EXPENSE	27,542	1,782	7,988	19,554	29%	1,193
TOTAL INDIRECT EXPENSES:	119,175	9,693	38,420	80,755	32%	1,305
TOTAL ALL EXPENSES:	123,787	9,773	42,620	81,167	34%	(1,358)
NET INCOME (LOSS):	(123,787)	(9,773)	(42,620)	(81,167)	34%	(1,358)

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
REGULATORY SERVICES FTE						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF CONFERENCE & TRAINING	23,550	-	-	23,550	0%	7,850
TOTAL DIRECT EXPENSES:	23,550	-	-	23,550	0%	7,850
INDIRECT EXPENSES:						
SALARY EXPENSE (2.70 FTE)	349,467	30,168	107,586	241,881	31%	8,903
BENEFITS EXPENSE	103,888	8,508	32,546	71,342	31%	2,084
OTHER INDIRECT EXPENSE	83,553	5,403	24,216	59,337	29%	3,635
TOTAL INDIRECT EXPENSES:	536,908	44,078	164,348	372,560	31%	14,621
TOTAL ALL EXPENSES:	560,458	44,078	164,348	396,110	29%	22,471
NET INCOME (LOSS):	(560,458)	(44,078)	(164,348)	(396,110)	29%	22,471

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
SERVICE CENTER						
REVENUE:						
	_____	_____	_____	_____	_____	_____
TOTAL REVENUE:	-	-	-	-	-	-
DIRECT EXPENSES:						
	_____	_____	_____	_____	_____	_____
TRANSLATION SERVICES	8,200	506	1,386	6,814	17%	1,347
STAFF CONFERENCE & TRAINING	2,100	-	-	2,100	0%	700
TOTAL DIRECT EXPENSES:	10,300	506	1,386	8,914	13%	2,047
INDIRECT EXPENSES:						
SALARY EXPENSE (5.71 FTE)	383,690	34,295	131,525	252,165	34%	(3,628)
BENEFITS EXPENSE	142,992	11,694	44,273	98,719	31%	3,391
OTHER INDIRECT EXPENSE	176,699	11,456	51,349	125,350	29%	7,551
TOTAL INDIRECT EXPENSES:	703,381	57,445	227,146	476,234	32%	7,314
TOTAL ALL EXPENSES:	713,681	57,950	228,533	485,148	32%	9,361
NET INCOME (LOSS):	(713,681)	(57,950)	(228,533)	(485,148)	32%	9,361

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
SECTIONS ADMINISTRATION						
REVENUE:						
REIMBURSEMENTS FROM SECTIONS	290,543	239,957	333,112	(42,569)	115%	236,265
TOTAL REVENUE:	290,543	239,957	333,112	(42,569)	115%	236,265
DIRECT EXPENSES:						
STAFF TRAVEL/PARKING	750	-	14	736	2%	236
SUBSCRIPTIONS	350	-	-	350	0%	117
SECTION/COMMITTEE CHAIR MTGS	1,000	-	456	544	46%	(123)
DUES STATEMENTS	5,000	-	-	5,000	0%	1,667
STAFF CONFERENCE & TRAINING	500	-	-	500	0%	167
STAFF MEMBERSHIP DUES	250	-	-	250	0%	83
TOTAL DIRECT EXPENSES:	7,850	-	470	7,380	6%	2,147
INDIRECT EXPENSES:						
SALARY EXPENSE (2.58 FTE)	149,581	12,564	49,829	99,751	33%	31
BENEFITS EXPENSE	61,326	4,962	18,710	42,617	31%	1,733
OTHER INDIRECT EXPENSE	79,839	5,176	23,202	56,638	29%	3,411
TOTAL INDIRECT EXPENSES:	290,746	22,703	91,741	199,006	32%	5,175
TOTAL ALL EXPENSES:	298,596	22,703	92,211	206,386	31%	7,322
NET INCOME (LOSS):	(8,053)	217,254	240,902	(248,955)	-2991%	243,586

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33% OF YEAR COMPLETE

	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
SECTIONS OPERATIONS						
REVENUE:						
SECTION DUES	440,225	388,288	530,268	(90,043)	120%	383,527
SEMINAR PROFIT SHARE	147,470	-	-	147,470	0%	(49,157)
INTEREST INCOME	13,120	-	-	13,120	0%	(4,373)
PUBLICATIONS REVENUE	2,000	-	-	2,000	0%	(667)
OTHER	46,880	-	7,225	39,655	15%	(8,402)
TOTAL REVENUE:	649,695	388,288	537,493	112,202	83%	320,928
DIRECT EXPENSES:						
DIRECT EXPENSES OF SECTION ACTIVITIES	632,503	9,696	44,997	587,506	7%	165,837
REIMBURSEMENT TO WSBA FOR INDIRECT EXPENSES	272,143	239,957	333,112	(60,969)	122%	(242,398)
TOTAL DIRECT EXPENSES:	904,646	249,653	378,110	526,536	42%	(76,561)
NET INCOME (LOSS):	(254,951)	138,635	159,384	(414,334)	-63%	244,367

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
TECHNOLOGY						
REVENUE:						
TOTAL REVENUE:	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>		<u>-</u>
DIRECT EXPENSES:						
CONSULTING SERVICES	110,000	6,300	38,497	71,504	35%	(1,830)
STAFF TRAVEL/PARKING	2,000	28	104	1,896	5%	563
STAFF MEMBERSHIP DUES	450	-	-	450	0%	150
TELEPHONE	95,000	7,203	26,278	68,722	28%	5,389
COMPUTER HARDWARE	65,000	16,061	32,934	32,066	51%	(11,268)
COMPUTER SOFTWARE	310,000	5,203	54,199	255,801	17%	49,134
HARDWARE SERVICE & WARRANTIES	60,000	369	38,377	21,623	64%	(18,377)
SOFTWARE MAINTENANCE & LICENSING	380,000	18,168	140,714	239,286	37%	(14,047)
COMPUTER SUPPLIES	2,000	-	-	2,000	0%	667
THIRD PARTY SERVICES	40,000	1,764	7,077	32,923	18%	6,256
STAFF CONFERENCE & TRAINING	10,000	-	-	10,000	0%	3,333
TRANSFER TO INDIRECT EXPENSES	(1,074,450)	(55,096)	(338,180)	(736,270)	31%	(19,970)
TOTAL DIRECT EXPENSES:	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>		<u>-</u>
INDIRECT EXPENSES:						
SALARY EXPENSE (13.00 FTE)	1,434,416	128,269	492,537	941,880	34%	(14,398)
BENEFITS EXPENSE	439,894	36,286	138,549	301,345	31%	8,083
CAPITAL LABOR & OVERHEAD	(280,000)	(26,316)	(117,973)	(162,027)	42%	(24,640)
OTHER INDIRECT EXPENSE	402,292	26,052	116,771	285,521	29%	17,327
TOTAL INDIRECT EXPENSES:	<u>1,996,602</u>	<u>164,291</u>	<u>629,883</u>	<u>1,366,719</u>	<u>32%</u>	<u>(13,628)</u>
TOTAL ALL EXPENSES:	<u>1,996,602</u>	<u>164,291</u>	<u>629,883</u>	<u>1,366,719</u>	<u>32%</u>	<u>(13,628)</u>
NET INCOME (LOSS):	<u>(1,996,602)</u>	<u>(164,291)</u>	<u>(629,883)</u>	<u>(1,366,719)</u>	<u>32%</u>	<u>35,651</u>

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
VOLUNTEER ENGAGEMENT						
REVENUE:						
TOTAL REVENUE:	-	-	-	-		-
DIRECT EXPENSES:						
STAFF MEMBERSHIP DUES	350	-	140	210	40%	(23)
STAFF CONFERENCE & TRAINING	2,500	-	450	2,050	18%	383
ABA DELEGATES	15,000	-	2,383	12,617	16%	2,617
TOTAL DIRECT EXPENSES:	17,850	-	2,973	14,877	17%	2,977
INDIRECT EXPENSES:						
SALARY EXPENSE (0.60 FTE)	59,415	6,058	22,273	37,142	37%	(2,468)
BENEFITS EXPENSE	19,657	1,535	5,843	13,814	30%	709
OTHER INDIRECT EXPENSE	18,567	1,216	5,452	13,116	29%	737
TOTAL INDIRECT EXPENSES:	97,639	8,809	33,567	64,072	34%	(1,021)
TOTAL ALL EXPENSES:	115,489	8,809	36,540	78,949	32%	(1,021)
NET INCOME (LOSS):	(115,489)	(8,809)	(36,540)	(78,949)	32%	1,956

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	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE	% USED OF BUDGET	YEAR TO DATE VARIANCE FAVORABLE/(UNFAVORABLE)
INDIRECT EXPENSES:						
SALARIES	13,113,765	1,076,784	4,227,836	8,885,929	32%	143,419
ALLOWANCE FOR OPEN POSITIONS	(200,000)	-	-	(200,000)	0%	(66,667)
TEMPORARY SALARIES	200,627	27,990	92,372	108,255	46%	(25,496)
CAPITAL LABOR & OVERHEAD	(280,000)	(26,316)	(117,973)	(162,027)	42%	(24,640)
EMPLOYEE ASSISTANCE PLAN	4,800	-	1,600	3,200	33%	-
EMPLOYEE SERVICE AWARDS	2,038	100	900	1,138	44%	(221)
FICA (EMPLOYER PORTION)	806,675	71,776	290,689	515,986	36%	(21,797)
L&I INSURANCE	62,000	-	13,790	48,210	22%	6,876
WA STATE FAMILY MEDICAL LEAVE (EMPI)	18,000	2,354	6,915	11,085	38%	(915)
MEDICAL (EMPLOYER PORTION)	1,701,951	144,975	524,743	1,177,208	31%	42,574
RETIREMENT (EMPLOYER PORTION)	1,356,286	108,189	426,125	930,161	31%	25,971
TRANSPORTATION ALLOWANCE	65,045	-	3,433	61,612	5%	18,249
UNEMPLOYMENT INSURANCE	65,206	9,398	17,417	47,789	27%	4,318
TOTAL SALARY & BENEFITS EXPENSE:	16,916,394	1,415,250	5,487,847	11,428,547	32%	101,672
WORKPLACE BENEFITS	45,980	652	10,464	35,516	23%	4,863
HUMAN RESOURCES POOLED EXP	77,100	7,080	22,172	54,928	29%	3,528
MEETING SUPPORT EXPENSES	10,000	304	904	9,096	9%	2,429
RENT	2,131,247	159,767	632,737	1,498,510	30%	77,679
PERSONAL PROP TAXES-WSBA	6,650	472	1,890	4,760	28%	327
FURNITURE, MAINT, LH IMP	25,300	-	873	24,427	3%	7,561
OFFICE SUPPLIES & EQUIPMENT	18,000	1,090	6,346	11,654	35%	(346)
FURN & OFFICE EQUIP DEPRECIATION	96,357	5,225	20,905	75,453	22%	11,215
COMPUTER HARDWARE DEPRECIATION	45,354	2,955	13,454	31,900	30%	1,664
COMPUTER SOFTWARE DEPRECIATION	99,251	2,805	21,254	77,997	21%	11,830
INSURANCE	272,643	22,025	88,101	184,542	32%	2,780
WORK HOME FURNITURE & EQUIP	14,000	528	1,863	12,137	13%	2,804
PROFESSIONAL FEES-AUDIT	50,000	-	26,550	23,450	53%	(9,883)
PROFESSIONAL FEES-LEGAL	200,000	3,315	19,781	180,219	10%	46,886
ONLINE LEGAL RESEARCH	50,000	7,733	19,665	30,335	39%	(2,999)
TELEPHONE & INTERNET	33,600	1,451	3,021	30,579	9%	8,179
POSTAGE - GENERAL	24,000	1,213	3,857	20,143	16%	4,143
RECORDS STORAGE	30,000	1,949	9,706	20,294	32%	294
BANK FEES	51,000	8,899	22,340	28,660	44%	(5,340)
PRODUCTION MAINTENANCE & SUPPLIES	15,340	308	3,804	11,536	25%	1,309
COMPUTER POOLED EXPENSES	1,074,450	55,096	338,180	736,270	31%	19,970
TOTAL OTHER INDIRECT EXPENSES:	4,370,272	282,868	1,267,866	3,102,406	29%	188,892
TOTAL INDIRECT EXPENSES:	21,286,666	1,698,118	6,755,713	14,530,953	32%	339,842

Washington State Bar Association

Statement of Activities

For the Period from January 1, 2023 to January 31, 2023

33% OF YEAR COMPLETE

SUMMARY PAGE	FISCAL 2023 BUDGET	CURRENT MONTH	YEAR TO DATE	REMAINING BALANCE
ACCESS TO JUSTICE	(358,902)	(24,667)	(95,394)	(263,507)
ADMISSIONS/BAR EXAM	59,088	(40,005)	144,049	(84,961)
ADVANCEMENT FTE	(362,565)	(28,036)	(113,136)	(249,429)
BAR NEWS	(93,267)	(14,923)	(53,037)	(40,230)
BOARD OF GOVERNORS	(563,600)	(43,689)	(136,244)	(427,356)
CLE - PRODUCTS	686,086	59,378	469,705	216,380
CLE - SEMINARS	(419,115)	(70,009)	(100,766)	(318,349)
CLIENT PROTECTION FUND	45,788	382,983	631,762	(585,974)
CHARACTER & FITNESS BOARD	(166,623)	(11,027)	(45,875)	(120,748)
COMMUNICATIONS	(787,329)	(52,902)	(219,500)	(567,829)
COMMUNICATIONS FTE	(243,400)	(19,560)	(79,604)	(163,795)
DESKBOOKS	(49,735)	(17,330)	(53,545)	3,810
DISCIPLINE	(6,095,728)	(454,228)	(1,846,139)	(4,249,589)
DIVERSITY	(227,269)	(17,497)	60,253	(287,521)
FINANCE	(1,068,220)	(42,524)	(173,182)	(895,038)
FOUNDATION	(152,797)	(11,319)	(49,801)	(102,996)
HUMAN RESOURCES	(424,625)	(48,992)	(188,167)	(236,459)
LAW CLERK PROGRAM	41,201	98,465	103,284	(62,082)
LEGISLATIVE	(269,464)	(21,793)	(80,019)	(189,445)
LEGAL LUNCHBOX	(29,617)	(1,877)	2,251	(31,868)
LICENSE FEES	17,053,467	1,258,926	5,347,085	11,706,381
LICENSING AND MEMBERSHIP	(189,762)	(16,080)	(85,595)	(104,167)
LIMITED LICENSE LEGAL TECHNICIAN	(71,026)	(6,083)	(24,228)	(46,799)
LIMITED PRACTICE OFFICERS	74,741	4,977	37,365	37,376
MANDATORY CLE ADMINISTRATION	343,906	104,700	229,706	114,200
MEMBER WELLNESS PROGRAM	(230,019)	(15,460)	(58,752)	(171,267)
MINI CLE	(114,412)	(9,075)	(36,337)	(78,075)
MEMBER SERVICES & ENGAGEMENT	(330,678)	(10,648)	(81,173)	(249,505)
NEW MEMBER EDUCATION	(11,869)	(3,984)	46,083	(57,952)
OFFICE OF GENERAL COUNSEL	(1,056,571)	(76,251)	(307,064)	(749,507)
OFFICE OF THE EXECUTIVE DIRECTOR	(697,034)	(46,960)	(184,559)	(512,475)
OGC-DISCIPLINARY BOARD	(329,139)	(23,288)	(96,564)	(232,576)
PRACTICE OF LAW BOARD	(75,355)	(5,834)	(21,019)	(54,336)
PRACTICE MANAGEMENT ASSISTANCE	(156,433)	(80,139)	(98,815)	(57,618)
PROFESSIONAL RESPONSIBILITY PROGRAM	(153,571)	(18,741)	(74,764)	(78,807)
PUBLIC SERVICE PROGRAMS	(356,257)	(48,130)	28,855	(385,112)
PUBLICATION & DESIGN SERVICES	(123,787)	(9,773)	(42,620)	(81,167)
REGULATORY SERVICES FTE	(560,458)	(44,078)	(164,348)	(396,110)
SECTIONS ADMINISTRATION	(8,053)	217,254	240,902	(248,955)
SECTIONS OPERATIONS	(254,951)	138,635	159,384	(414,334)
SERVICE CENTER	(713,681)	(57,950)	(228,533)	(485,148)
TECHNOLOGY	(1,996,602)	(164,291)	(629,883)	(1,366,719)
VOLUNTEER EDUCATION	(115,489)	(8,809)	(36,540)	(78,949)
INDIRECT EXPENSES	21,286,666	1,698,118	6,755,713	14,530,953
TOTAL OF ALL	(20,733,539)	(2,397,484)	(8,851,194)	(11,882,345)
NET INCOME (LOSS)	(553,127)	699,366	2,095,481	(2,648,608)

WASHINGTON STATE BAR ASSOCIATION

WSBA MISSION

The Washington State Bar Association’s mission is to serve the public and the members of the Bar, to ensure the integrity of the legal profession, and to champion justice.

WSBA GUIDING PRINCIPLES

The WSBA will operate a well-managed association that supports its members and advances and promotes:

- **Access to the justice system.**
Focus: Provide training and leverage community partnerships in order to enhance a culture of service for legal professionals to give back to their communities, with a particular focus on services to underserved low and moderate income people.
- **Diversity, equality, and cultural understanding throughout the legal community.**
Focus: Work to understand the lay of the land of our legal community and provide tools to members and employers in order to enhance the retention of minority legal professionals in our community.
- **The public’s understanding of the rule of law and its confidence in the legal system.**
Focus: Educate youth and adult audiences about the importance of the three branches of government and how they work together.
- **A fair and impartial judiciary.**
- **The ethics, civility, professionalism, and competence of the Bar.**

MISSION FOCUS AREAS

Ensuring Competent and Qualified Legal Professionals

- Cradle to Grave
- Regulation and Assistance

Promoting the Role of Legal Professionals in Society

- Service
- Professionalism

PROGRAM CRITERIA

- Does the Program further either or both of WSBA’s mission-focus areas?
- Does WSBA have the competency to operate the Program?
- As the mandatory bar, how is WSBA uniquely positioned to successfully operate the Program?
- Is statewide leadership required in order to achieve the mission of the Program?
- Does the Program’s design optimize the expenditure of WSBA resources devoted to the Program, including the balance between volunteer and staff involvement, the number of people served, the cost per person, etc?

2016 – 2018 STRATEGIC GOALS

- **Equip members with skills for the changing profession**
- **Promote equitable conditions for members from historically marginalized or underrepresented backgrounds to enter, stay and thrive in the profession**
- **Explore and pursue regulatory innovation and advocate to enhance the public’s access to legal services**

GR 12
REGULATION OF THE PRACTICE OF LAW

The Washington Supreme Court has inherent and plenary authority to regulate the practice of law in Washington. The legal profession serves clients, courts, and the public, and has special responsibilities for the quality of justice administered in our legal system. The Court ensures the integrity of the legal profession and protects the public by adopting rules for the regulation of the practice of law and actively supervising persons and entities acting under the Supreme Court's authority.

[Adopted effective September 1, 2017.]

GR 12.1
REGULATORY OBJECTIVES

Legal services providers must be regulated in the public interest. In regulating the practice of law in Washington, the Washington Supreme Court's objectives include: protection of the public; advancement of the administration of justice and the rule of law; meaningful access to justice and information about the law, legal issues, and the civil and criminal justice systems;

- (a) transparency regarding the nature and scope of legal services To be provided, the credentials of those who provide them, and the availability of regulatory protections;
- (b) delivery of affordable and accessible legal services;
- (c) efficient, competent, and ethical delivery of legal services;
- (d) protection of privileged and confidential information;
- (e) independence of professional judgment;
- (f) Accessible civil remedies for negligence and breach of other duties owed, disciplinary sanctions for misconduct, and advancement of appropriate preventive or wellness programs;
- (g) Diversity and inclusion among legal services providers and freedom from discrimination for those receiving legal services and in the justice system.

[Adopted effective September 1, 2017.]

GR 12.2
**WASHINGTON STATE BAR ASSOCIATION: PURPOSES, AUTHORIZED
ACTIVITIES, AND PROHIBITED ACTIVITIES**

In the exercise of its inherent and plenary authority to regulate the practice of law in Washington, the Supreme Court authorizes and supervises the Washington State Bar Association's activities. The Washington State Bar Association carries out the administrative responsibilities and functions expressly delegated to it by this rule and other Supreme Court rules and orders enacted or adopted to regulate the practice of law, including the purposes and authorized activities set forth below.

- (a) Purposes: In General. In general, the Washington State Bar Association strives to:

- (1) Promote independence of the judiciary and the legal profession.
- (2) Promote an effective legal system, accessible to all.
- (3) Provide services to its members and the public.
- (4) Foster and maintain high standards of competence, professionalism, and ethics among its members.
- (5) Foster collegiality among its members and goodwill between the legal profession and the public.
- (6) Promote diversity and equality in the courts and the legal profession.
- (7) Administer admission, regulation, and discipline of its members in a manner that protects the public and respects the rights of the applicant or member.
- (8) Administer programs of legal education.
- (9) Promote understanding of and respect for our legal system and the law.
- (10) Operate a well-managed and financially sound association, with a positive work environment for its employees.
- (11) Serve as a statewide voice to the public and to the branches of government on matters relating to these purposes and the activities of the association and the legal profession.

(b) Specific Activities Authorized. In pursuit of these purposes, the Washington State Bar Association may:

- (1) Sponsor and maintain committees and sections, whose activities further these purposes;
- (2) Support the judiciary in maintaining the integrity and fiscal stability of an independent and effective judicial system;
- (3) Provide periodic reviews and recommendations concerning court rules and procedures;
- (4) Administer examinations and review applicants' character and fitness to practice law;
- (5) Inform and advise its members regarding their ethical obligations;
- (6) Administer an effective system of discipline of its members, including receiving and investigating complaints of misconduct by legal professionals, taking and recommending appropriate punitive and remedial measures, and diverting less serious misconduct to alternatives outside the formal discipline system;
- (7) Maintain a program, pursuant to court rule, requiring members to submit fee disputes to arbitration;
- (8) Maintain a program for mediation of disputes between members and others;
- (9) Maintain a program for legal professional practice assistance;
- (10) Sponsor, conduct, and assist in producing programs and products of continuing legal education;

- (11) Maintain a system for accrediting programs of continuing legal education;
- (12) Conduct examinations of legal professionals' trust accounts;
- (13) Maintain a fund for client protection in accordance with the Admission and Practice Rules;
- (14) Maintain a program for the aid and rehabilitation of impaired members;
- (15) Disseminate information about the organization's activities, interests, and positions;
- (16) Monitor, report on, and advise public officials about matters of interest to the organization and the legal profession;
- (17) Maintain a legislative presence to inform members of new and proposed laws and to inform public officials about the organization's positions and concerns;
- (18) Encourage public service by members and support programs providing legal services to those in need;
- (19) Maintain and foster programs of public information and education about the law and the legal system;
- (20) Provide, sponsor, and participate in services to its members;
- (21) Hire and retain employees to facilitate and support its mission, purposes, and activities, including in the organization's discretion, authorizing collective bargaining;
- (22) Establish the amount of all license, application, investigation, and other related fees, as well as charges for services provided by the Washington State Bar Association, and collect, allocate, invest, and disburse funds so that its mission, purposes, and activities may be effectively and efficiently discharged. The amount of any license fee is subject to review by the Supreme Court for reasonableness and may be modified by order of the Court if the Court determines that it is not reasonable;
- (23) Administer Supreme-Court-created boards in accordance with General Rule 12.3.

(c) Activities Not Authorized. The Washington State Bar Association will not:

- (1) Take positions on issues concerning the politics or social positions of foreign nations;
- (2) Take positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or
- (3) Support or oppose, in an election, candidates for public office.

[Adopted effective July 17, 1987; amended effective December 10, 1993; September 1, 1997; September 1, 2007; September 1, 2013; September 1, 2017.]

GR 12.3
WASHINGTON STATE BAR ASSOCIATION ADMINISTRATION
OF SUPREME COURT-CREATED BOARDS AND COMMITTEES

The Supreme Court has delegated to the Washington State Bar Association the authority and responsibility to administer certain boards and committees established by court rule or order. This delegation of authority includes providing and managing staff, overseeing the boards and committees to monitor their compliance with the rules and orders that authorize and regulate them, paying expenses reasonably and necessarily incurred pursuant to a budget approved by the Board of Governors, performing other functions and taking other actions as provided in court rule or order or delegated by the Supreme Court, or taking other actions as are necessary and proper to enable the board or committee to carry out its duties or functions.

[Adopted effective September 1, 2007; amended effective September 1, 2017.]

GR 12.4
WASHINGTON STATE BAR ASSOCIATION ACCESS TO
RECORDS

(a) Policy and Purpose. It is the policy of the Washington State Bar Association to facilitate access to Bar records. A presumption of public access exists for Bar records, but public access to Bar records is not absolute and shall be consistent with reasonable expectations of personal privacy, restrictions in statutes, restrictions in court rules, or as provided in court orders or protective orders issued under court rules. Access shall not unduly burden the business of the Bar.

(b) Scope. This rule governs the right of public access to Bar records. This rule applies to the Washington State Bar Association and its subgroups operated by the Bar including the Board of Governors, committees, task forces, commissions, boards, offices, councils, divisions, sections, and departments. This rule also applies to boards and committees under GR 12.3 administered by the Bar. A person or entity entrusted by the Bar with the storage and maintenance of Bar records is not subject to this rule and may not respond to a request for access to Bar records, absent express written authority from the Bar or separate authority in rule or statute to grant access to the documents.

(c) Definitions.

(1) "Access" means the ability to view or obtain a copy of a Bar record.

(2) "Bar record" means any writing containing information relating to the conduct of any Bar function prepared, owned, used, or retained by the Bar regardless of physical form or characteristics. Bar records include only those records in the possession of the Bar and its staff or stored under Bar ownership and control in facilities or servers. Records solely in the possession of hearing officers, non-Bar staff members of boards, committees, task forces, commissions, sections, councils, or divisions that were prepared by the hearing officers or the members and in their sole possession, including private notes and working papers, are not Bar records and are not subject to public access under this rule. Nothing in this rule requires the Bar to create a record that is not currently in possession of the Bar at the time of the request.

(3) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation in paper, digital, or other format.

(d) Bar Records--Right of Access.

(1) The Bar shall make available for inspection and copying all Bar records, unless the record falls within the specific exemptions of this rule, or any other state statute (including the Public Records Act, chapter 42.56 RCW) or federal statute or rule as they would be applied to a public agency, or is made confidential by the Rules of Professional Conduct, the Rules for Enforcement of Lawyer Conduct, the Admission to Practice Rules and associated regulations, the Rules for Enforcement of Limited Practice Officer Conduct, General Rule 25, court orders or protective orders issued under those rules, or any other state or federal statute or rule. To the extent required to prevent an unreasonable invasion of personal privacy interests or threat to safety or by the above-referenced rules, statutes, or orders, the Bar shall delete identifying details in a manner consistent with those rules, statutes, or orders when it makes available or publishes any Bar record; however, in each case, the justification for the deletion shall be explained in writing.

(2) In addition to exemptions referenced above, the following categories of Bar records are exempt from public access except as may expressly be made public by court rule:

(A) Records of the personnel committee, and personal information in Bar records for employees, appointees, members, or volunteers of the Bar to the extent that disclosure would violate their right to privacy, including home contact information (unless such information is their address of record), Social Security numbers, driver's license numbers, identification or security photographs held in Bar records, and personal data including ethnicity, race, disability status, gender, and sexual orientation. Membership class and status, bar number, dates of admission or licensing, addresses of record, and business telephone numbers, facsimile numbers, and electronic mail addresses (unless there has been a request that electronic mail addresses not be made public) shall not be exempt, provided that any such information shall be exempt if the Executive Director approves the confidentiality of that information for reasons of personal security or other compelling reason, which approval must be reviewed annually.

(B) Specific information and records regarding

(i) internal policies, guidelines, procedures, or techniques, the disclosure of which would reasonably be expected to compromise the conduct of disciplinary or regulatory functions, investigations, or examinations;

(ii) application, investigation, and hearing or proceeding records relating to lawyer, Limited Practice Officer, or Limited License Legal Technician admissions, licensing, or discipline, or that relate to the work of ELC 2.5 hearing officers, the Board of Bar Examiners, the Character and Fitness Board, the Law Clerk Board, the Limited Practice Board, the MCLE Board, the Limited License Legal Technician Board, the Practice of Law Board, or the Disciplinary Board in conducting investigations, hearings or proceedings; and

(iii) the work of the Judicial Recommendation Committee and the Hearing Officer selection panel, unless such records are expressly categorized as public information by court rule.

(C) Valuable formulae, designs, drawings, computer source code or object code, and research data created or obtained by the Bar.

(D) Information regarding the infrastructure, integrity, and security of computer and telecommunication networks, databases, and systems.

(E) Applications for licensure by the Bar and annual licensing forms and related records, including applications for license fee hardship waivers and any decision or determinations on the hardship waiver applications.

(F) Requests by members for ethics opinions to the extent that they contain information identifying the member or a party to the inquiry.

Information covered by exemptions will be redacted from the specific records sought. Statistical information not descriptive of any readily identifiable person or persons may be disclosed.

(3) Persons Who Are Subjects of Records.

(A) Unless otherwise required or prohibited by law, the Bar has the option to give notice of any records request to any member or third party whose records would be included in the Bar's response.

(B) Any person who is named in a record, or to whom a record specifically pertains, may present information opposing the disclosure to the applicable decision maker.

(C) If the Bar decides to allow access to a requested record, a person who is named in that record, or to whom the records specifically pertains, has a right to initiate review or to participate as a party to any review initiated by a requester. The deadlines that apply to a requester apply as well to a person who is a subject of a record.

(e) Bar Records--Procedures for Access.

(1) General Procedures. The Bar Executive Director shall appoint a Bar staff member to serve as the public records officer to whom all records requests shall be submitted. Records requests must be in writing and delivered to the Bar public records officer, who shall respond to such requests within 30 days of receipt. The Washington State Bar Association must implement this rule and adopt and publish on its website the public records officer's work mailing address, telephone number, fax number, and e-mail address, and the procedures and fee schedules for accepting and responding to records requests by the effective date of this rule. The Bar shall acknowledge receipt of the request within 14 days of receipt, and shall communicate with the requester as necessary to clarify any ambiguities as to the records being requested. Records requests shall not be directed to other Bar staff or to volunteers serving on boards, committees, task forces, commissions, sections, councils, or divisions.

(2) Charging of Fees.

(A) A fee may not be charged to view Bar records.

(B) A fee may be charged for the photocopying or scanning of Bar records according to the fee schedule established by the Bar and published on its web site.

(C) A fee not to exceed \$30 per hour may be charged for research services required to fulfill a request taking longer than one hour. The fee shall be assessed from the second hour onward.

(f) Extraordinary Requests Limited by Resource Constraints. If a particular request is of a magnitude or burden on resources that the Bar cannot fully comply within 30 days due to constraints on time, resources, and personnel, the Bar shall communicate this information to the requester along with a good faith estimate of the time needed to complete the Bar's response. The Bar must attempt to reach

agreement with the requester as to narrowing the request to a more manageable scope and as to a timeframe for the Bar's response, which may include a schedule of installment responses. If the Bar and requester are unable to reach agreement, the Bar shall respond to the extent practicable, clarify how and why the response differs from the request, and inform the requester that it has completed its response.

(g) Denials. Denials must be in writing and shall identify the applicable exemptions or other bases for denial as well as a written summary of the procedures under which the requesting party may seek further review.

(h) Review of Records Decisions.

(1) Internal Review. A person who objects to a record decision or other action by the Bar's public records officer may request review by the Bar's Executive Director.

(A) A record requester's petition for internal review must be submitted within 90 days of the Bar's public records officer's decision, on such form as the Bar shall designate and make available.

(B) The review proceeding is informal, summary, and on the record.

(C) The review proceeding shall be held within five working days. If that is not reasonably possible, then within five working days the review shall be scheduled for the earliest practical date.

(2) External Review. A person who objects to a records review decision by the Bar's Executive Director may request review by the Records Request Appeals Officer (RRAO) for the Bar.

(A) The requesting party's request for review of the Executive Director's decision must be deposited in the mail and postmarked or delivered to the Bar not later than 30 days after the issuance of the decision, and must be on such form as the Bar shall designate and make available.

(B) The review will be informal and summary, but in the sole discretion of the RRAO may include the submission of briefs no more than 20 pages long and of oral arguments no more than 15 minutes long.

(C) Decisions of the RRAO are final unless, within 30 days of the issuance of the decision, a request for discretionary review of the decision is filed with the Supreme Court. If review is granted, review is conducted by the Chief Justice of the Washington Supreme Court or his or her designee in accordance with procedures established by the Supreme Court. A designee of the Chief Justice shall be a current or former elected judge. The review proceeding shall be on the record, without additional briefing or argument unless such is ordered by the Chief Justice or his or her designee.

(D) The RRAO shall be appointed by the Board of Governors. The Bar may reimburse the RRAO for all necessary and reasonable expenses incurred in the completion of these duties, and may provide compensation for the time necessary for these reviews at a level established by the Board of Governors.

(i) Monetary Awards Not Allowed. Attorney fees, costs, civil penalties, or fines may not be awarded under this rule.

(j) Effective Date of Rule.

(1) This rule goes into effect on July 1, 2014, and applies to records that are created on or after that date.

(2) Public access to records that are created before that date are to be analyzed according to other court rules, applicable statutes, and the common law balancing test; the Public Records Act, chapter 42.56 RCW, does not apply to such Bar records, but it may be used for nonbinding guidance.

[Adopted effective July 1, 2014; amended effective September 1, 2017.]

**GR 12.5
IMMUNITY**

All boards, committees, or other entities, and their members and personnel, and all personnel and employees of the Washington State Bar Association, acting on behalf of the Supreme Court under the Admission and Practice Rules, the Rules for Enforcement of Lawyer Conduct, or the disciplinary rules for limited practice officers and limited license legal technicians, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.

[Adopted effective January 2, 2008; amended effective September 1, 2017.]

2022-2023
WSBA BOARD OF GOVERNORS MEETING SCHEDULE

MEETING DATE	LOCATION	POTENTIAL ISSUES / SOCIAL FUNCTION	AGENDA ITEMS DUE FOR EXEC COMMITTEE MTG	EXECUTIVE COMMITTEE MTG 8:00 am - 9:30 am	BOARD BOOK MATERIALS DEADLINE
October 22, 2022	Virtual Meeting	Goal Setting Retreat	n/a	n/a	n/a
November 5, 2022	Hotel Bellwether Bellingham, WA	BOG Meeting Team Building Retreat Nov. 4	September 30, 2022	October 7, 2022	October 17, 2022
January 13-14, 2023	WSBA Conference Center Seattle, WA	BOG Meeting MLK Luncheon Jan. 13	December 5, 2022	December 12, 2022	December 27, 2022
March 3-4, 2023	Supreme Court Temporary Facility Tumwater, WA Heritage Room Olympia, WA	Meeting w/Supreme Court Mar. 3 Budget and Audit Retreat Mar. 3 BOG Meeting	January 20, 2023	January 27, 2023	February 13, 2023
May 19-20, 2023	Hilton Garden Inn Yakima, WA	BOG Meeting	March 31, 2023	April 7, 2023	April 17, 2023
June 23-24, 2023	Heathman Lodge Vancouver, WA	BOG Meeting Mid-Year Retreat Jun. 22	May 19, 2023	May 24, 2023	June 5, 2023
August 11-12, 2023	Courtyard Columbia Point Richland, WA	BOG Meeting	July 7, 2023	July 14, 2023	July 24, 2023
September 8-9, 2023	Historic Davenport Hotel Spokane, WA	BOG Meeting	August 7, 2023	August 14, 2023	August 21, 2023

The Board Book Material Deadline is the final due date for submission of materials for the respective Board meeting. Please notify the Executive Director's office in advance of possible late materials. Refer to policy 1305 BOG Action Procedure on how to bring agenda items to the Board. This information can be found online at: <https://www.wsba.org/about-wsba/who-we-are/board-of-governors>



WSBA Board of Governors CONGRESSIONAL DISTRICT MAP



Dan Clark
President



Hunter Abell
President-Elect



Brian Tollefson
Immediate Past
President



Francis Adewale
Treasurer



Terra Nevitt
Executive Director
& Secretary

2022-2023



Brett Purtzer
Governor District 6



Matthew Dresden
Governor District 7-North

Serena Sayani
Governor District 7-South



Kevin Fay
Governor District 9



Erik Kaeding
Governor District 8



Nam Nguyen
Governor District 10



Mary Rathbone
Governor District 4



Lauren Boyd
Governor District 3



Jordan Couch
Governor At-Large



Alec Stephens
Governor At-Large



Brent Williams-Ruth
Governor At-Large

BASIC CHARACTERISTICS OF MOTIONS

*From: The Complete Idiot's Guide to Robert's Rules
The Guerilla Guide to Robert's Rules*

MOTION	PURPOSE	INTERRUPT SPEAKER?	SECOND NEEDED?	DEBATABLE?	AMENDABLE?	VOTE NEEDED
1. Fix the time to which to adjourn	Sets the time for a continued meeting	No	Yes	No ¹	Yes	Majority
2. Adjourn	Closes the meeting	No	Yes	No	No	Majority
3. Recess	Establishes a brief break	No	Yes	No ²	Yes	Majority
4. Raise a Question of Privilege	Asks urgent question regarding to rights	Yes	No	No	No	Rules by Chair
5. Call for orders of the day	Requires that the meeting follow the agenda	Yes	No	No	No	One member
6. Lay on the table	Puts the motion aside for later consideration	No	Yes	No	No	Majority
7. Previous question	Ends debate and moves directly to the vote	No	Yes	No	No	Two-thirds
8. Limit or extend limits of debate	Changes the debate limits	No	Yes	No	Yes	Two-thirds
9. Postpone to a certain time	Puts off the motion to a specific time	No	Yes	Yes	Yes	Majority ³
10. Commit or refer	Refers the motion to a committee	No	Yes	Yes	Yes	Majority
11. Amend an amendment (secondary amendment)	Proposes a change to an amendments	No	Yes	Yes ⁴	No	Majority
12. Amend a motion or resolution (primary amendment)	Proposes a change to a main motion	No	Yes	Yes ⁴	Yes	Majority
13. Postpone indefinitely	Kills the motion	No	Yes	Yes	No	Majority
14. Main motion	Brings business before the assembly	No	Yes	Yes	Yes	Majority

1 Is debatable when another meeting is scheduled for the same or next day, or if the motion is made while no question is pending

2 Unless no question is pending

3 Majority, unless it makes question a special order

4 If the motion it is being applied to is debatable



Discussion Protocols Board of Governors Meetings

Philosophical Statement:

“We take serious our representational responsibilities and will try to inform ourselves on the subject matter before us by contact with constituents, stakeholders, WSBA staff and committees when possible and appropriate. In all deliberations and actions we will be courageous and keep in mind the need to represent and lead our membership and safeguard the public. In our actions, we will be mindful of both the call to action and the constraints placed upon the WSBA by GR 12 and other standards.”

Governor’s Commitments:

1. Tackle the problems presented; don’t make up new ones.
2. Keep perspective on long-term goals.
3. Actively listen to understand the issues and perspective of others before making the final decision or lobbying for an absolute.
4. Respect the speaker, the input and the Board’s decision.
5. Collect your thoughts and speak to the point – sparingly!
6. Foster interpersonal relationships between Board members outside Board events.
7. Listen and be courteous to speakers.
8. Speak only if you can shed light on the subject, don’t be repetitive.
9. Consider, respect and trust committee work but exercise the Board’s obligation to establish policy and insure that the committee work is consistent with that policy and the Board’s responsibility to the WSBA’s mission.
10. Seek the best decision through quality discussion and ample time (listen, don’t make assumptions, avoid sidebars, speak frankly, allow time before and during meetings to discuss important matters).
11. Don’t repeat points already made.
12. Everyone should have a chance to weigh in on discussion topics before persons are given a second opportunity.
13. No governor should commit the board to actions, opinions, or projects without consultation with the whole Board.
14. Use caution with e-mail: it can be a useful tool for debating, but e-mail is not confidential and does not easily involve all interests.
15. Maintain the strict confidentiality of executive session discussions and matters.



Discussion Protocols Board of Governors Meetings

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BOARD OF GOVERNORS

WSBA VALUES

Through a collaborative process, the WSBA Board of Governors and Staff have identified these core values that shall be considered by the Board, Staff, and WSBA volunteers (collectively, the “WSBA Community”) in all that we do.

To serve the public and our members and to promote justice, the WSBA Community values the following:

- Trust and respect between and among Board, Staff, Volunteers, Members, and the public
- Open and effective communication
- Individual responsibility, initiative, and creativity
- Teamwork and cooperation
- Ethical and moral principles
- Quality customer-service, with member and public focus
- Confidentiality, where required
- Diversity and inclusion
- Organizational history, knowledge, and context
- Open exchanges of information



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GUIDING COMMUNICATION PRINCIPLES

In each communication, I will assume the good intent of my fellow colleagues; earnestly and actively listen; encourage the expression of and seek to affirm the value of their differing perspectives, even where I may disagree; share my ideas and thoughts with compassion, clarity, and where appropriate confidentiality; and commit myself to the unwavering recognition, appreciation, and celebration of the humanity, skills, and talents that each of my fellow colleagues bring in the spirit and effort to work for the mission of the WSBA. Therefore, I commit myself to operating with the following norms:

- ◆ I will treat each person with courtesy and respect, valuing each individual.
- ◆ I will strive to be nonjudgmental, open-minded, and receptive to the ideas of others.
- ◆ I will assume the good intent of others.
- ◆ I will speak in ways that encourage others to speak.
- ◆ I will respect others' time, workload, and priorities.
- ◆ I will aspire to be honest and open in all communications.
- ◆ I will aim for clarity; be complete, yet concise.
- ◆ I will practice "active" listening and ask questions if I don't understand.
- ◆ I will use the appropriate communication method (face-to-face, email, phone, voicemail) for the message and situation.
- ◆ When dealing with material of a sensitive or confidential nature, I will seek and confirm that there is mutual agreement to the ground rules of confidentiality at the outset of the communication.
- ◆ I will avoid triangulation and go directly to the person with whom I need to communicate. (If there is a problem, I will go to the source for resolution rather than discussing it with or complaining to others.)
- ◆ I will focus on reaching understanding and finding solutions to problems.
- ◆ I will be mindful of information that affects, or might be of interest or value to, others, and pass it along; err on the side of over-communication.
- ◆ I will maintain a sense of perspective and respectful humor.



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President

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November 2014

BEST PRACTICES AND EXPECTATIONS

❖ Attributes of the Board

- Competence
- Respect
- Trust
- Commitment
- Humor

❖ Accountability by Individual Governors

- Assume Good Intent
- Participation/Preparation
- Communication
- Relevancy and Reporting

❖ Team of Professionals

- Foster an atmosphere of teamwork
 - Between Board Members
 - The Board with the Officers
 - The Board and Officers with the Staff
 - The Board, Officers, and Staff with the Volunteers

- We all have common loyalty to the success of WSBA

❖ Work Hard and Have Fun Doing It

Working Together to Champion Justice



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