

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

**Board of Governors Meeting**  
**Meeting Materials**

**September 23-25, 2021**  
**Hilton Vancouver Washington, Vancouver, WA**  
**Zoom and Teleconference**



**Board of Governors Meeting  
Hilton Vancouver Washington, Vancouver, WA  
September 23-25, 2021**

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

**PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE  
ALL ITEMS ON THIS AGENDA ARE POTENTIAL ACTION ITEMS**

**To participate: Join via Zoom or Call 1.888.788.0099**

**Thursday, September 23<sup>rd</sup>, Meeting ID: 862 8683 4920 Passcode: 443922**

<https://wsba.zoom.us/j/86286834920?pwd=NUh1YlZhdW5xeiVrU0lrVmxiUkICUT09>

**Friday, September 24<sup>th</sup>, Meeting ID: 847 9084 7593 Passcode: 322648**

<https://wsba.zoom.us/j/86286834920?pwd=NUh1YlZhdW5xeiVrU0lrVmxiUkICUT09>

**Saturday, September 25<sup>th</sup>, Meeting ID: 848 4639 8899 Passcode: 221806**

<https://wsba.zoom.us/j/84846398899?pwd=cWZNVmdJc0JHdE5ZdEQzV2hxWVcvQT09>

**THURSDAY, SEPTEMBER 23, 2021**

**8:00 AM – CALL TO ORDER & WELCOME**

- MEMBER AND PUBLIC COMMENTS** (30 minutes reserved)

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.

**AGENDA ITEMS & UNFINISHED BUSINESS**

- COURT RULES COMMITTEE PROPOSED RULE CHANGES**, Chair, Court Rules and Procedures Committee Isham Reavis ..... 7
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**DISCUSSION WITH LAW SCHOOL DEANS**

- ANNUAL DISCUSSION WITH DEANS ANNETTE CLARK, MARIO BARNES, AND JACOB ROOKSBY

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- REAFFIRMING THE WSBA COMMITMENT TO DEI: EXPLORING HOW TO STRENGTHEN THE STRUCTURE OF THE DIVERSITY COMMITTEE ..... 68

**11:30 AM – RECESS FOR LUNCH WITH THE OREGON STATE BAR BOARD OF GOVERNORS IN TIGARD**

- PROPOSED AMENDMENTS TO THE LATE FEE WAIVER POLICY, Chief Regulatory Counsel Renata Garcia ..... 83

**SWEARING-IN OF GOVERNORS-ELECT AND WSBA OFFICERS**

- HONORING OF OUTGOING GOVERNORS & OFFICERS, Pres. Kyle Sciuchetti

- Gov. At-Large Russell Knight
- 5<sup>th</sup> Dist. Gov. PJ Grabicki
- 7 Sorth Dist. Gov. Jean Kang
- Past. Pres. Rajeev Majumdar

- SWEARING-IN OF FY22 WSBA TREASURER BRYN PETERSON

- SWEARING-IN OF FY22 WSBA PRESIDENT-ELECT DAN CLARK

- SWEARING-IN OF FY22 WSBA PRESIDENT BRIAN TOLLEFSON

- SWEARING IN OF FY22-FY24 WSBA GOVERNORS

- Francis Adewale
- Sunitha Anjilvel
- Dan Clark
- Jordan Couch
- Serena Sayani
- Alec Stephens (FY21-FY24)

**5:00 PM – RECESS FOR PRESIDENT’S RECEPTION**

**FRIDAY, SEPTEMBER 24, 2021**

**8:00 AM – RESUME MEETING**

**AGENDA ITEMS & UNFINISHED BUSINESS CONTINUED**

- SENIOR LAWYERS PROPOSED CHANGE TO THE WSBA BYLAWS**, Eleanor Doermann, Chair of Senior Lawyers Section Executive Committee, Carole Grayson, Senior Lawyers Section Executive Committee Member, Chair from 2014-2017, Brian Comstock, Senior Lawyers Section Emeritus Executive Committee Member, Chair from 2017-2019, Kevin Plachy, Director of Advancement..... 94

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- ABA ANNUAL MEETING REPORT**, ABA Delegate Jaime Hawk, Past President Rajeev Majumdar

**MEETING WITH THE WASHINGTON STATE SUPREME COURT**

- MEETING WITH THE WASHINGTON STATE SUPREME COURT**, .....123
- ANNOUNCE BASIS FOR MOVING INTO EXECUTIVE SESSION PURSUANT TO THE WSBA BYLAWS ARTICLE VII.B.7.a.4**

**EXECUTIVE SESSION**

- DISCUSSION WITH LEGAL COUNSEL RE LITIGATION AFFECTING INTEGRATED BARS**

**12:00 PM – RECESS FOR LUNCH**

**RETURN TO PUBLIC SESSION**

- REPORT AND POTENTIAL ACTION RE MATTERS DISCUSSED IN EXECUTIVE SESSION**

**AGENDA ITEMS & UNFINISHED BUSINESS CONTINUED**

- REQUEST TO SUPPORT THE LEGAL FOUNDATION OF WASHINGTON’S PROPOSED CHANGES TO RPC 1.15**
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- BUDGET & AUDIT COMMITTEE ITEMS**, Treas. Dan Clark
  - **Keller Deduction Schedule**, General Counsel Julie Shankland..... 200
  - **Fiscal Year 2022 WSBA Budget Presentation**, Treas. Dan Clark and CFO Jorge Perez..... 206

**5:00 PM– RECESS**



**SATURDAY, SEPTEMBER 25, 2021**

**8:00 AM – RESUME MEETING**

- PERSONNEL COMMITTEE ITEMS**, Gov. Alec Stephens ..... LM
- PROPOSAL TO CREATE A TECHNOLOGY COMMITTEE**, Gov. Matthew Dresden ..... LM
- RESOLUTION OF REMEMBRANCE AND THANKS**, Gov. Hunter Abell..... 219
- 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 August 20-21, 2021 Board of Governor Meeting Minutes ..... 220
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  - Approve the recommendations of the WSBA Judicial Recommendation Committee..... 237
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  - Diversity Committee Co-chair appointment..... LM

<b>STANDING REPORTS</b>
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- PRESIDENT’S REPORT**
- EXECUTIVE DIRECTOR’S REPORT** ..... 239
- REPORTS OF STANDING OR ONGOING BOG COMMITTEES**  
Committees may “pass” if they have nothing to report. Related agenda items will be taken up later on the agenda. Each committee is allocated, on average, 3-4 minutes.
  - Executive Committee, Pres. Kyle Sciuchetti, Chair
  - APEX Awards Committee, Gov. Russell Knight, Chair
  - Personnel Committee, Gov. Alec Stephens, Chair
  - Legislative Committee, Gov. PJ Grabicki, Chair
  - Nominations Review Committee, Pres-elect Brian Tollefson, Co-Chair
  - Diversity Committee, Gov. Sunitha Anjilvel, Co-Chair
  - Long-Range Strategic Planning Council, Pres. Kyle Sciuchetti, Chair
  - Member Engagement Workgroup, Gov. Bryn Peterson, Co-Chair
  - Budget & Audit Committee, Treas. Dan Clark, Chair ..... LM
  - Equity & Disparity Workgroup, Gov. Alec Stephens
  - Supreme Court Bar Licensure Task Force, Gov. Williams-Ruth

**NEW BUSINESS**

- GOVERNOR ROUNDTABLE** (Governors’ issues of interest)
  
- CLOSING REMARKS OF OUTGOING PRESIDENT KYLE SCIUCHETTI & PASSING OF THE GAVEL TO INCOMING PRESIDENT BRIAN TOLLEFSON**

**12:00 PM– ADJOURN**

**INFORMATION**

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**TO:** WSBA Board of Governors

**FROM:** Isham Reavis, Chair, Court Rules and Procedures Committee  
Nicole Gustine, Assistant General Counsel

**DATE:** September 13, 2021

**RE:** Court Rules and Procedures Committee Suggested Court Rule Amendments

**ACTION/DISCUSSION:** Approve suggested amendments to the CRLJs, RAPs, and RALJs for submission to the Washington Supreme Court.

As part of the Supreme Court’s rules review cycle, the WSBA Court Rules and Procedures Committee (Committee) reviewed the Rules of Appellate Procedure and the Rules for Appeal of Decisions of Limited Jurisdiction for the 2020–2021 year. The Committee also considers proposed changes to out-of-cycle rules through a separate subcommittee. The Committee recommends the following actions on the below-referenced rules.

For all the suggested amendments, the Committee reached out to a list of stakeholders, which includes (among others) specialty bar associations, minority bar associations, and county bar associations. We anticipate submitting these amendments to the Washington Supreme Court after the BOG has completed its consideration.

The attached materials include redline versions of the suggested rule changes.

#### Rules of Appellate Procedure (RAP)

The RAP Subcommittee reviewed the RAPs with an eye towards correcting errors and updating the rules based on changes to the RCWs, case law, or other court rules.

Based on its review, the RAP Subcommittee recommended the following amendment, which was adopted by the full Committee:

1. RAP 2.2: Recently, in *Denney v. City of Richland*, 195 Wn.2d 649 (2020), the Court noted that although the RAPs clearly differentiate between rulings on the merits of a legal claim and rulings on costs for purposes of the time for appeal, the interaction of CR 54 with the RAPs can create confusion. This proposed amendment adds a comment, taken from the Court’s conclusion in *Denney*, that provides guidance to litigants as to when the notice of appeal from a summary judgment ruling disposing of all claims is due.

#### Rules for Appeal of Decisions of Limited Jurisdiction (RALJ)

The RALJ Subcommittee reviewed the RALJs with an eye towards correcting errors and improving clarity and readability.

Based on its review, the RALJ Subcommittee recommended the following amendments, which were adopted by the full Committee:

1. RALJ 6.2: The Rules of Appellate Procedures [RAP 9.6(c)] currently requires this numbering by the Superior Court clerk before the clerk's papers are sent to the Court of Appeals. This suggested change amends RALJ 6.2(a) to include a similar numbering requirement to assist the court and the parties.
2. RALJ 6.3.1: This suggested amendment makes changes from "urge" to "argue." This clarifies and modernizes the language to make the intent of the rule clear.
3. RALJ 8.1: This suggested amendment would preclude a represented party who has not filed a brief from arguing. This change brings that language and requirements in line with RAP 11.2.
4. RALJ 9.2: This suggested amendment makes the capitalization of "superior court" consistent throughout the rule.
5. RALJ 10.2: This suggested amendment enhances readability of the rule by restructuring a sentence.
6. RALJ 10.3: This suggested amendment makes capitalization consistent throughout the rule and enhances readability and clarity.
7. RALJ 11.1: This suggested amendment enhances readability of the rule by restructuring a sentence.
8. RALJ 11.2: This suggested amendment makes changes from "lawyer's" to "attorney's." This updates the language and makes it consistent with other statutes and rules.
9. RALJ 11.7: These suggested amendments updates rule references to be consistent with rule names, closes parenthesis at the end of the editorial note, and corrects spacing and ordering.

### Subcommittee X

Subcommittee X takes up any out-of-cycle rule proposals and was tasked with reviewing the CRLJs with an eye towards reviewing outdated and gendered language. Based on its review, the subcommittee recommended the following suggested amendments, which were adopted by the full Committee:

1. Amendments to CRLJs: These suggested amendments replace gendered language with gender-neutral terminology. Suggested amendments were made to the following CRLJs: 4, 8, 13, 15, 17, 18, 19, 20, 22, 24, 25, 40, 41, 43, 44.1, 46, 47, 49, 51, 54, 55, 56, 58, 59, 73, and 75.

Enclosures

GR 9 COVER SHEET

Suggested Amendment

RAP 2.2 – DECISIONS OF THE SUPERIOR COURT THAT MAY BE APPEALED

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- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair – WSBA Court Rules and Procedures Committee
- C. Purpose: Recently, in *Denney v. City of Richland*, 195 Wn.2d 649 (2020), the Court noted that although the RAPs clearly differentiate between rulings on the merits of a legal claim and rulings on costs for purposes of the time for appeal, the interaction of CR 54 with the RAPs can create confusion. This proposed amendment adds a comment, taken from the Court’s conclusion in *Denney*, that provides guidance to litigants as to when the notice of appeal from a summary judgment ruling disposing of all claims is due.
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

## SUGGESTED AMENDMENT

### Rule 2.2 Decisions of the Superior Court That May Be Appealed

**(a) Generally.** Unless otherwise prohibited by statute or court rule and except as provided in sections (b) and (c), a party may appeal from only the following superior court decisions:

(1) *Final Judgment.* The final judgment entered in any action or proceeding, regardless of whether the judgment reserves for future determination an award of attorney fees or costs.

(2) [Reserved.]

(3) *Decision Determining Action.* Any written decision affecting a substantial right in a civil case that in effect determines the action and prevents a final judgment or discontinues the action.

(4) *Order of Public Use and Necessity.* An order of public use and necessity in a condemnation case.

(5) *Juvenile Court Disposition.* The disposition decision following a finding of dependency by a juvenile court, or a disposition decision following a finding of guilt in a juvenile offense proceeding.

(6) *Termination of All Parental Rights.* A decision depriving a person of all parental rights with respect to a child.

(7) *Order of Incompetency.* A decision declaring an adult legally incompetent, or an order establishing a conservatorship or guardianship for an adult.

(8) *Order of Commitment.* A decision ordering commitment, entered after a sanity hearing or after a sexual predator hearing.

(9) *Order on Motion for New Trial or Amendment of Judgment.* An order granting or denying a motion for new trial or amendment of judgment.

(10) *Order on Motion for Vacation of Judgment.* An order granting or denying a motion to vacate a judgment.

(11) *Order on Motion for Arrest of Judgment.* An order arresting or denying arrest of a judgment in a criminal case.

(12) *Order Denying Motion to Vacate Order of Arrest of a Person.* An order denying a motion to vacate an order of arrest of a person in a civil case.

(13) *Final Order after Judgment.* Any final order made after judgment that affects a substantial right.

**(b) Appeal by State or a Local Government in Criminal Case.** Except as provided in section (c), the State or a local government may appeal in a criminal case only from the following superior court decisions and only if the appeal will not place the defendant in double jeopardy:

(1) *Final Decision, Except Not Guilty*. A decision that in effect abates, discontinues, or determines the case other than by a judgment or verdict of not guilty, including but not limited to a decision setting aside, quashing, or dismissing an indictment or information, or a decision granting a motion to dismiss under CrR 8.3(c).

(2) *Pretrial Order Suppressing Evidence*. A pretrial order suppressing evidence, if the trial court expressly finds that the practical effect of the order is to terminate the case.

(3) *Arrest or Vacation of Judgment*. An order arresting or vacating a judgment.

(4) *New Trial*. An order granting a new trial.

(5) *Disposition in Juvenile Offense Proceeding*. A disposition in a juvenile offense proceeding that (A) is below the standard range of disposition for the offense, (B) the state or local government believes involves a miscalculation of the standard range, (C) includes provisions that are unauthorized by law, or (D) omits a provision that is required by law.

(6) *Sentence in Criminal Case*. A sentence in a criminal case that (A) is outside the standard range for the offense, (B) the state or local government believes involves a miscalculation of the standard range, (C) includes provisions that are unauthorized by law, or (D) omits a provision that is required by law.

**(c) Superior Court Decision on Review of Decision of Court of Limited Jurisdiction.** If the superior court decision has been entered after a proceeding to review a decision of a court of limited jurisdiction, a party may appeal only if the review proceeding was a trial de novo. Appeal is not available if (1) the final judgment is a finding that a traffic infraction has been committed or (2) the claim originated in a small claims court operating under chapter 12.40 RCW.

**(d) Multiple Parties or Multiple Claims or Counts.** In any case with multiple parties or multiple claims for relief, or in a criminal case with multiple counts, an appeal may be taken from a final judgment that does not dispose of all the claims or counts as to all the parties, but only after an express direction by the trial court for entry of judgment and an express determination in the judgment, supported by written findings, that there is no just reason for delay. The findings may be made at the time of entry of judgment or thereafter on the court's own motion or on motion of any party. The time for filing notice of appeal begins to run from the entry of the required findings. In the absence of the required findings, determination and direction, a judgment that adjudicates less than all the claims or counts, or adjudicates the rights and liabilities of less than all the parties, is subject only to discretionary review until the entry of a final judgment adjudicating all the claims, counts, rights, and liabilities of all the parties.

#### COMMENT

[1] A summary judgment order disposing of all claims constitutes a final judgment, thereby starting the 30-day appeal deadline even if an award of fees and costs is deferred until after the deadline. *Denney v. City of Richland*, 195 Wn.2d 649, 659, 462 P.3d 842 (2020).

## GR 9 COVER SHEET

### Suggested Amendment

#### RALJ 6.2 – TRANSMITTAL OF RECORD OR PROCEEDINGS

- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair - WSBA Court Rules and Procedures Committee
- C. Purpose: Currently, when the record is transmitted from the Court of Limited Jurisdiction, there is no requirement that the clerk **number** the record. This leaves the parties to refer to individual documents which presents a challenge to the Superior Court Judge in review the record. Alternatively, the parties number the pages differently and provide their own copies to the court. These party-numbered pages are not the official record transmitted by the clerk. The Rules of Appellate Procedure [RAP 9.6(c)] currently requires this numbering by the Superior Court clerk before the clerk's papers are sent to the Court of Appeals. This proposal is to amend RALJ 6.2(a) to include a similar numbering requirement to assist the court and the parties.
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

#### SUGGESTED AMENDMENT

##### **RULE 6.2. Transmittal of the Record of Proceedings**

(a) **Transmittal Generally.** The party seeking review shall, within 14 days of filing the notice of appeal, serve on all other parties and file with the clerk of the court of limited jurisdiction a designation of those portions of the record that the party wants the clerk to transmit to the superior court. Any party may supplement the designation of the record prior to or with the party's last brief. Thereafter, a party may supplement the designation only by order of the superior court, upon motion. Each party is encouraged to designate only documents and exhibits needed to review the issues presented to the superior court. Within 14 days after the designation is filed, the clerk of the court of limited jurisdiction shall prepare the record and notify each party that the record is ready to transmit and the amount to be paid by each party. **The trial court clerk shall number the papers sequentially from beginning to end, including any supplemental clerk's papers, regardless of which party designated them.** Each party shall pay the cost of preparing the portion of the record designated by that party within 10 days of the clerk's notification, unless the party has been excused from paying by the court. Promptly after receiving payment, or after preparing the record in cases where payment is excused, the clerk of the court of limited jurisdiction shall certify that the record is true and complete, and transmit it to the superior court, and notify the parties that the record has been transmitted.

(b) **Cumbersome Exhibits.** The clerk of the court of limited jurisdiction shall notify the superior court of exhibits which are difficult or unusually expensive to transmit. The exhibits shall be transmitted only if the superior court directs or if a party makes arrangements with the clerk to transmit the exhibits at the expense of the party requesting the transfer of exhibits.



GR 9 COVER SHEET

Suggested Amendment

RALJ 6.3.1 – TRANSCRIPT OF ELECTRONIC RECORD

- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair - WSBA Court Rules and Procedures Committee
- C. Purpose: Clarify and modernize language to make clear the intent of the rule.
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

SUGGESTED AMENDMENT

**RULE 6.3.1 Transcript of Electronic Record**

**(a) Transcript by Appellant.** Unless the superior court orders otherwise, the appellant shall transcribe the electronic recording of proceedings as provided in section (c) of this rule. The transcript shall be filed and served with the appellant's brief.

**(b) Transcript by Respondent.** If the respondent wishes to add to or challenge the transcript of the recording of proceedings, the respondent shall file and serve an additional transcript with the respondent's brief.

**(c) Content of Transcript.** The transcript shall contain only those portions of the electronic recording necessary to present the issues raised on appeal. If the appellant intends to ~~urge~~ argue that a verdict or finding of fact is not supported by the evidence, the appellant shall include in the transcript all testimony relevant to the disputed verdict or finding. If the appellant intends to ~~urge~~ argue that the court erred in giving or failing to give an instruction, the appellant shall include all objections to the instructions given and refused and the court's rulings.

**(d) Transcript Generally.**

(1) Form. The transcript may be printed, typed, or neatly handwritten, and need not be certified by a notary public.

(2) Certification. The person preparing the transcript shall certify or declare under penalty of perjury that it is true and correct in accordance with GR 13.

(3) Disputes. Disputes concerning the completeness or accuracy of the transcript shall be decided by the superior court.

**(e) Additional Transcript.** The superior court may order a party to prepare an additional transcript.

**(f) No Transcript if Agreed Record.** No transcript shall be required if the parties have agreed on a written form of record approved by the court of limited jurisdiction, pursuant to rule 6.1(b).

**(g) Cost of Transcript.** Any cost or expense in preparing a transcript shall be borne by the party providing it. The expense may be allowed as a cost in accordance with rule 9.3.

GR 9 COVER SHEET

Suggested Amendment

RALJ 8.1 – WHO MAY PRESENT ARGUMENT

- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair - WSBA Court Rules and Procedures Committee
- C. Purpose: Preclude a party who has not filed a brief from arguing. This change brings that language and requirements in line with RAP 11.2.
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

SUGGESTED AMENDMENT

**RULE 8.1 – Who May Present Argument**

A **represented** party of record ~~who has failed to file a brief may present oral argument only with leave of court.~~ may present oral argument only if the party has filed a brief. The Court may, in its discretion, grant a continuance to allow for briefing.

## GR 9 COVER SHEET

### Suggested Amendment

#### RALJ 9.2 – ENTRY OF DECISION, ISSUANCE OF MANDATE, AND ENFORCEMENT OF JUDGMENT

- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair - WSBA Court Rules and Procedures Committee
- C. Purpose: Making capitalization of superior court consistent throughout this rule.
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

### SUGGESTED AMENDMENT

#### **RULE 9.2 Entry of Decision, Issuance of Mandate, and Enforcement of Judgment**

- (a) Entry of Decision in Superior Court.** The decision of the superior court shall be entered immediately after it is signed by the judge, and shall be deemed entered for all procedural purposes from the time of delivery to the superior court clerk for filing.
- (b) Mandate Defined.** A “mandate” is the written notification by the clerk of the ~~s~~Superior ~~c~~Court to the trial court and to the parties of the ~~s~~Superior ~~c~~Court decision.
- (c) Transmittal of Superior Court Mandate.** The clerk of the superior court shall issue the mandate to the court of limited jurisdiction and to each party not earlier than 30 days nor later than 60 days after the filing of the decision in superior court, unless a party files a timely notice for discretionary review.
- (d) Copies Provided in Criminal Case.** When the appellate court remands a criminal case to the trial court, the clerk of the appellate court shall transmit a copy of the mandate to the presiding judge of the trial court, to trial counsel of record, and to the clerk of the trial court.
- (e) Entry of Decision in Court of Limited Jurisdiction.** The court of limited jurisdiction shall comply with the mandate of the superior court and shall enter the judgment for enforcement in the court of limited jurisdiction.
- (f) Enforcement of Judgment in Court of Limited Jurisdiction.** Except as otherwise provided in these rules, enforcement of a judgment following termination of appeal shall be in the court of limited jurisdiction.
- (g) Registration of Judgment in Superior Court.** A judgment entered in the court of limited jurisdiction may be registered and enforced in the superior court as authorized by law

GR 9 COVER SHEET

Suggested Amendment

RALJ 10.2 – DISMISSAL OF APPEAL

- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair - WSBA Court Rules and Procedures Committee
- C. Purpose: Enhance readability..
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

SUGGESTED AMENDMENT

**RULE 10.2 Dismissal of Appeal**

**(a) Involuntary Dismissal.** The superior court will, on motion of a party or on its own motion after 14 days' notice to the parties, dismiss an appeal of the case (1) ~~except as provided in rule 10.3(e)(1)~~, for failure to timely file a notice of appeal **except as provided in rule 10.3(c)(1)**, or (2) for want of prosecution if the party appealing has abandoned the appeal. Unless good cause is shown, an appeal will be deemed abandoned if there has been no action of record for 90 days.

**(b) [Reserved.]**

**(c) Voluntary Withdrawal of Appeal.** The superior court may, in its discretion, dismiss an appeal on stipulation of all the parties and, in criminal cases, the written consent of the defendant. The superior court may, in its discretion, dismiss an appeal on the motion of a party who has filed a notice of appeal.

## GR 9 COVER SHEET

### Suggested Amendment

#### RALJ 10.3 – EXTENSION AND REDUCTION OF TIME

- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair - WSBA Court Rules and Procedures Committee
- C. Purpose: Make capitalization consistent. Enhance readability and clarity.
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

#### SUGGESTED AMENDMENT

##### **RULE 10.3 Extension and Reduction of Time.**

**(a) Generally.** The superior court may, on its own initiative or on motion of a party, enlarge or shorten the time within which an act must be done in a particular case in order to serve the ends of justice, subject to the restrictions in section (c).

**(b) Procedure for Motion.** A party moving to extend or reduce time shall file a written motion with the ~~s~~Superior ~~c~~Court and serve it upon all non-moving parties. The motion shall state (1) the date the act is scheduled or required to occur; (2) the new date requested; and (3) the specific reasons for the motion. The motion shall be considered without oral argument unless ~~called for~~ **ordered** by the superior court. A non-moving party may respond to the motion in writing. A response must be filed with the superior court and served upon the moving party within five days after service of the motion to extend or reduce time.

**(c) Restrictions on Extension of Time.**

(1) The superior court will ~~only in extraordinary circumstances and to prevent a gross miscarriage of justice~~ extend the time within which a party must file a notice of appeal **only in extraordinary circumstances and to prevent a gross miscarriage of justice**. The superior court will ordinarily hold that the desirability of finality of decisions outweighs the privilege of a litigant to obtain an extension of time under this section. A motion to extend time is determined by the superior court to which the untimely notice of appeal is directed.

(2) The superior court will not enlarge the time provided in rule 9.2(a) and (c). ~~within which the superior court enters and transmits its decision.~~

**(d) Terms.** The remedy for violation of these rules is set forth in rule 10.1. The superior court may condition the exercise of its authority under this rule by imposing terms as provided in rule 10.1.

GR 9 COVER SHEET

Suggested Amendment

RALJ 11.1 – REVIEW OF DECISIONS OF A COURT OF LIMITED JURISDICTION ON  
MATTERS OF APPELLATE PROCEDURE

- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair - WSBA Court Rules and Procedures Committee
- C. Purpose: Enhance readability.
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

SUGGESTED AMENDMENT

**RULE 11.1 Review of Decisions of a Court of Limited Jurisdiction on Matters of Appellate  
Procedure**

By motion in the superior court, a party may object to and obtain review of a decision of a court of limited jurisdiction on matters of appellate procedure, including but not limited to enforcement of a judgment or sentence, ~~by motion in the superior court.~~

GR 9 COVER SHEET

Suggested Amendment

RALJ 11.2 – LAWYER’S FEES AND EXPENSES

- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair - WSBA Court Rules and Procedures Committee
- C. Purpose: Update language and make it consistent with other statutes and rules.
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

SUGGESTED AMENDMENT

**RULE 11.2 ~~Lawyer's Attorney's~~ Fees and Expenses**

- (a) Generally.** If applicable law grants to a party the right to recover reasonable ~~lawyer's attorney's~~ fees or expenses, the party should request the fees or expenses as provided in this rule.
- (b) Statutes Control.** If a statute gives a party the right to recover reasonable ~~lawyer's attorney's~~ fees or expenses under certain circumstances for services in a court of limited jurisdiction, a party is entitled to fees and expenses under similar circumstances for services on an appeal to the superior court.
- (c) Argument in Brief.** The party should devote a section of the brief to the request for the fees or expenses.
- (d) Affidavit.** At or before oral argument, the party should serve and file an affidavit in the superior court detailing the expenses incurred and the services performed by counsel.
- (e) Oral Argument.** A party should include in oral argument a request for the fee or expenses and a reference to the affidavit on file.

## GR 9 COVER SHEET

### Suggested Amendment

#### RALJ 11.7 – APPLICATION OF OTHER COURT RULES

- A. Proponent: WSBA Court Rules and Procedures Committee
- B. Spokesperson: Isham Reavis, Chair - WSBA Court Rules and Procedures Committee
- C. Purpose: Update rule references to be consistent with rule names. Close parenthesis at the end of the editorial note. Correct spacing and ordering.
- D. Hearing: The proponent does not believe that a public hearing is necessary.
- E. Expedited Consideration: Not requested.

#### SUGGESTED AMENDMENT

##### **RULE 11.7 Application of Other Court Rules**

**(a) Civil Rules.** The following Superior Court Civil Rules are applicable to appellate proceedings in civil cases in the superior court when not in conflict with the purpose or intent of these rules and when application is practicable: CR 1 (scope of rules), CR 2A (stipulations), CR 6 (time), CR 7(b) (form of motions), CR 11 (signing of pleadings), CR 25 (substitution of parties), CR 40(a)(2) (notice of issues of law), CR 42 (consolidation; separate trials), CR 46 (exceptions unnecessary), CR 54(a) (judgments and orders), CR 60 (relief from judgment or order), CR 71 (withdrawal by attorney), CR 77 (superior courts and judicial officers), CR 78 (clerks), CR 79 (books and records kept by the clerk), CR 80 (court reporters), and CR 83 (local rules of superior court).

**(b) Criminal Rules.** The following Superior Court Criminal Rules are applicable to appellate proceedings in criminal cases in the superior court when not in conflict with the purpose or intent of these rules and when application is practicable: CrR 1.1 (scope), CrR 1.2 (purpose and construction), CrR 1.4 (prosecuting attorney definition), CrR 3.1 (right to and assignment of counsel), CrR 7.1 (~~procedures before~~ sentencing), CrR 7.2 (~~presentence investigation~~ ~~sentencing~~), CrR 8.1 (time), CrR 8.2 (motions), CrR 8.5 (calendars), CrR 8.6 (exceptions unnecessary), CrR 8.7 (objections), and CrR 8.8 (discharge).

**(c) Civil Rules for Courts of Limited Jurisdiction.** The following Civil Rules for Courts of Limited Jurisdiction are applicable to appellate proceedings in civil cases in the court of limited jurisdiction when not in conflict with the purpose or intent of these rules and when application is practicable: CRLJ 5 (service and filing), CRLJ 6 (time), CRLJ 7(b) (motions), CRLJ 8 (general rules of pleading), CRLJ 10 (form of pleadings), CRLJ 11 (~~verification and signing of pleadings~~ ~~signing and drafting pleadings~~), CRLJ 25 (substitution of parties), CRLJ 40(~~bf~~) (disqualification of judge), and CRLJ 60 (relief from judgment or order).

**(d) Criminal Rules for Courts of Limited Jurisdiction.** The following Criminal Rules for Courts of Limited Jurisdiction are applicable to appellate proceedings in criminal cases in the court of limited jurisdiction when not in conflict with the purpose or intent of these rules and when application is practicable: ~~CrRLJ 1.7 (local court rules--availability)~~, CrRLJ 1.5 (style and form), ~~CrRLJ 1.7 (local court rules--availability)~~, CrRLJ 3.1 (right to and assignment of lawyer), ~~CrRLJ 7.8(a) (clerical mistakes)~~, CrRLJ 8.1 (time), and CrRLJ 8.2 (motions), CrRLJ 8.9 (disqualification of judge), CrRLJ 8.9(c) (disqualification of judge--transfer), ~~CrRLJ 7.8(a)~~



~~(clerical mistakes), CrRLJ 8.1 (time), and CrRLJ 8.2 (motions)~~. (Editorial Note: Effective September 1, 1987, Justice Court Criminal Rules (JCrR) were retitled Criminal Rules for Courts of Limited Jurisdiction (CrRLJ). Effective September 1, 1989, Justice Court Civil Rules (JCR) were retitled Civil Rules for Courts of Limited Jurisdiction (CRLJ)).

**(e) Rules of Appellate Procedure.** The following Rules of Appellate Procedure are applicable to appellate proceedings in criminal cases in the court of limited jurisdiction when not in conflict with the purpose or intent of these rules and when application is practicable: RAP 2.4(a) (scope of review), RAP 2.5 (circumstances which may affect the scope of review), RAP 3.3 (consolidation of cases), RAP 7.2(b) (authority of trial court to settle the record), RAP 10.7 (submission of improper brief), RAP 10.8 (additional authorities).

## GR 9 COVER SHEET

### Suggested Amendments

CRLJ 4, CRLJ 8, CRLJ 13, CRLJ 15, CRLJ 17, CRLJ 18, CRLJ 19, CRLJ 20, CRLJ 22, CRLJ 24, CRLJ 25, CRLJ 40, CRLJ 41, CRLJ 43, CRLJ 44.1, CRLJ 46, CRLJ 47, CRLJ 49, CRLJ 51, CRLJ 54, CRLJ 55, CRLJ 56, CRLJ 58, CRLJ 59, CRLJ 73, and CRLJ 75

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**A. Proponent:** WSBA Court Rules and Procedures Committee

**B. Spokesperson:** Isham Reavis, Chair – WSBA Court Rules and Procedures Committee

**C. Purpose:** The Superior Court Civil Rules were amended a few years ago to make the rules gender neutral. The same was not done for the Civil Rules for Courts of Limited Jurisdiction. The proposed amendments make the rules gender neutral.

**D. Hearing:** The proponent does not believe that a public hearing is necessary.

**E. Expedited Consideration:** Expedited consideration is not requested.

## SUGGESTED AMENDMENT

### CRLJ 4 PROCESS

#### (a) Summons—Issuance.

(1) The summons must be signed and dated by the plaintiff or ~~his~~ the plaintiff's attorney, and directed to the defendant requiring ~~him~~ the defendant to defend the action and to serve a copy of ~~his~~ the defendant's appearance or defense on the person whose name is signed on the summons, and to file a copy of ~~his~~ the defendant's appearance or defense with the court.

(2) Unless a statute or rule provides for a different time requirement, the summons shall require the defendant to serve and file a copy of ~~his defense~~ the answer within 20 days after the service of summons, exclusive of the day of service. If a statute or rule other than this rule provides for a different time to serve a defense, that time shall be stated in the summons.

(3) A notice of appearance, if made, shall be in writing, shall be signed by the defendant or ~~his~~ the defendant's attorney, and shall be served upon the person whose name is signed on the summons and filed with the court.

(4) No summons is necessary for a counterclaim or cross claim for any person who previously has been made a party. Counterclaims and cross claims against an existing party may be served as provided in rule 5.

#### (b) Summons.

(1) *Contents.* The summons for personal service shall contain:

(i) the title of the cause, specifying the name of the court in which the action is brought, the name of the county designated by the plaintiff as the place of trial, and the names of the parties to the action, plaintiff and defendant;

(ii) a direction to the defendant summoning ~~him~~ the defendant to serve a copy of ~~his defense~~ the answer within a time stated in the summons and to file with the court a copy of ~~his defense~~ the answer within the time stated in the summons;

(2) *Form.* The summons for personal service in the state shall be substantially in the following form:

(NAME AND LOCATION OF COURT)

\_\_\_\_\_, )

Plaintiff, ) No.

v. )

\_\_\_\_\_, ) SUMMONS (20 days)

Defendant. )

TO THE DEFENDANT: A lawsuit has been started against you in the above entitled court by , plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and serve a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where plaintiff is entitled to what ~~he~~ plaintiff asks for because you have not responded. If you serve a notice of appearance on the undersigned person you are entitled to notice before a default judgment may be entered.

Any response or notice of appearance which you serve on any party to this lawsuit must also be filed by you with the court within 20 days after the service of summons, excluding the day of service.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

This summons is issued pursuant to rule 4 of the Civil Rules for Courts of Limited Jurisdiction.

(signed)

Print or Type Name

( ) Plaintiff ( ) Plaintiff's Attorney

P. O. Address

Dated Telephone Number

**(c) By Whom Served.** Service of summons and complaint may be made by the sheriff or a deputy of the county or district in which the court is located or by any person over the age of 18 years and who is competent to be a witness and is not a party to the action.

**(d) Service.**

(1) *Of Summons and Complaint.* The summons and complaint shall be served together.

(2) *Personal in State.* Personal service of summons and other process shall be as provided in RCW 4.28.080-.090, 23B.05.040, 23B.15.100, 46.64.040, and 48.05.200 and .210, and other statutes which provide for personal service

**(e) Service by Publication and Personal Service Out of the Jurisdiction.**

(1) When the defendant cannot be found within the territorial jurisdiction of the court (of which the return of the sheriff of the county in which the action is brought, that the defendant cannot be found in the county, is prima facie evidence), and upon filing of an affidavit of the plaintiff, ~~his~~ the plaintiff's agent, or attorney, with the court stating that ~~he~~ the plaintiff believes that the defendant is not a resident of the county, or cannot be found therein, and that ~~he~~ the plaintiff has deposited a copy of the summons (substantially in the form prescribed in this rule) and complaint in the post office, directed to the defendant at ~~his~~ the defendant's place of residence, unless it is stated in the affidavit that such

residence is not known to the affiant, and stating the existence of one of the cases hereinafter specified, the service may be made by publication of the summons by the plaintiff or ~~his~~ the plaintiff's attorney in any of the following cases:

- (i) when the defendant is a foreign corporation, and has property within the county;
- (ii) when the defendant, being a resident of the county, has departed therefrom with intent to defraud ~~his~~ the defendant's creditors, or to avoid the service of a notice and complaint, or ~~keep himself~~ the defendant remains concealed therein with like intent;
- (iii) when the defendant is not a resident of the county, but has property therein which has been brought under the control of the court by seizure or some equivalent act;
- (iv) when the subject of the action is personal property in the county, and the defendant has or claims a lien or interest, actual or contingent, therein, and the relief demanded consists wholly, or partially, in excluding the defendant from any interest or lien therein;
- (v) when the action is brought under RCW 4.08.160 and 4.08.170 to determine conflicting claims to personal property in the county.

(2) The publication shall be made in the same manner and in the same form as a summons by publication in superior court (see RCW 4.28.100), with appropriate adjustments for the name and location of the court.

(3) Personal service on the defendant out of the territorial jurisdiction of the court shall be equivalent to service by publication, and the notice to the defendant out of the county shall contain the same as the notice by publication and shall require the defendant to appear at a time and place certain which shall not be less than 30 days from the date of service.

(4) Service made in the modes provided in this section 4(e) shall not alone be taken and held to give the court jurisdiction over the person of the defendant. By such service the court only acquires jurisdiction to give a judgment which is effective as to property or debts attached or garnished in connection with the suit or other property which properly forms the basis of jurisdiction of the court. If the defendant appears in a suit commenced by such service the court shall have jurisdiction over ~~his person~~ the defendant. The defendant may appear specially and solely to challenge jurisdiction over property or debts attached or garnished or other property within the jurisdiction of the court.

**(f) Alternative to Service by Publication.** In circumstances justifying service by publication, if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication, the court may order that service be made by any person over 18 years of age, who is competent to be a witness, other than a party, by mailing copies of the summons and other process to the party to be served at ~~his~~ the party's last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender. The summons shall contain the date it was deposited in the mail and shall require the defendant to appear and answer the complaint within 90 days from the date of mailing. Service under this subsection has the same jurisdictional effect as service by publication.

(g) **Appearance.** A voluntary appearance of a defendant does not preclude ~~his~~ the defendant's right to challenge lack of jurisdiction over ~~his~~ the defendant, insufficiency of process, or insufficiency of service of process pursuant to rule 12(b).

(h) **Territorial Limits of Effective Service.** All process other than a subpoena may be served anywhere within the territorial limits of the state, and when a statute or these rules so provide beyond the territorial limits of the state. A subpoena may be served within the territorial limits provided in rule 45 and RCW 5.56.010.

(i) **Return of Service.** Proof of service shall be as follows:

(1) If served by the sheriff or ~~his~~ the sheriff's deputy, the return of the sheriff or ~~his~~ the sheriff's deputy endorsed upon or attached to the summons;

(2) If served by any other person, ~~his~~ the person's affidavit of service endorsed upon or attached to the summons; or

(3) If served by publication, the affidavit of the publisher, foreman, principal clerk, or business manager of the newspaper showing the same, together with a printed copy of the summons as published; or

(4) If served as provided in section (f), the affidavit of the serving party stating that copies of the summons and other process were sent by mail in accordance with the rule and directions by the court, and stating to whom, and when, the envelopes were mailed;

(5) The written acceptance or admission of the defendant, ~~his~~ the defendant's agent or attorney;

(6) In case of personal service out of the state, the affidavit of the person making the service, sworn to before a notary public, with a seal attached, or before a clerk of a court of record;

(7) In case of service otherwise than by publication, the return, acceptance, admission, or affidavit must state the time, place, and manner of service. Failure to make proof of service does not affect the validity of the service.

(j) **Amendment of Process.** At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process is issued.

[Amended effective September 1, 1994; September 1, 1996; September 1, 2000.]

## CRLJ 8 GENERAL RULES OF PLEADING

(1) **Claims for Relief.** A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross claim, or third party claim shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief to which ~~he deems himself entitled~~ the pleader claims entitlement. Relief in the alternative or of several different types may be demanded.

(2) **Defenses; Form of Denials.** A party shall state in short and plain terms the defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, the pleader may make denials as specific denials of designated averments or paragraphs, or the pleader may generally deny all the averments except such designated averments or paragraphs as the pleader expressly admits; but, when the pleader does so intend to controvert all its averments, the pleader may do so by general denial subject to the obligations set forth in rule 11.

(3) **Affirmative Defenses.** In pleading to a preceding pleading, a party shall set forth affirmatively accord and satisfaction, arbitration and award, assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fault of a nonparty, fraud, illegality, injury by fellow servant, laches, license, payment, release, res judicata, statute of frauds, statute of limitation, waiver, and any other matter constituting an avoidance or affirmative defense. When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

(4) **Effect of Failure To Deny.** Averments in a pleading to which responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

### (5) **Pleading To Be Concise and Direct: Consistency.**

- Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleadings or motions are required.

- A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or

defenses as the party has regardless of consistency and whether based on legal or on equitable grounds or on both. All statements shall be made subject to the obligations set forth in rule 11.

**(f) Construction of Pleadings.** All pleadings shall be so construed as to do substantial justice.

[Adopted effective September 1 1984; Amended effective September 1, 1989; September 1, 1994.]



**CRLJ**  
**13**  
**COUNTERCLAIM AND CROSS CLAIM**

(6) **Compulsory Counterclaims.** A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. But the pleader need not state the claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the opposing party brought suit upon the claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this rule.

(7) **Permissive Counterclaims.** A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim.

(8) **Counterclaim Exceeding Opposing Claim.** A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

(9) **Counterclaim Against the State.** These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims, or to claim credits against the State or an officer or agency thereof.

(10) **Counterclaim Maturing or Acquired After Pleading.** A claim which either matured or was acquired by the pleader after serving the pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

(11) **Omitted Counterclaim.** When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may by leave of court set up the counterclaim by amendment.

(12) **Cross Claim Against Coparty.** A pleading may state as a cross claim any claim by one party against a coparty arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross claim may include a claim that the party against whom it is asserted is or may be liable to the cross claimant for all or part of a claim asserted in the action against the cross claimant.

(13) **Joinder of Additional Parties.** Persons other than those made parties to the original action may be made parties to a counterclaim or cross claim in accordance with the provisions of rules 19 and 20.

(14) **Separate Trials; Separate Judgment.** If the court orders separate trials as provided in rule 42(b), judgment on a counterclaim or cross claim may be rendered in accordance with the terms of rule 54(b), even if the claims of the opposing party have been dismissed or otherwise disposed of.

(15) **Setoff Against Assignee.** The defendant in a civil action upon a contract express or implied, other than upon a negotiable promissory note or bill of exchange, negotiated in good faith and without notice before due, which has been assigned to the plaintiff, may set off a demand of a like nature existing against the person to whom the defendant was originally liable, or any assignee prior to the plaintiff, of such contract, provided such demand existed at the time of the assignment thereof, and belonging to the defendant in good faith, before notice of such assignment, and was such a demand as might have been set off against such person to whom the defendant was originally liable, or such assignee while the contract belonged to ~~him~~ such person or assignee.

(b) **Setoff Against Beneficiary of Trust Estate.** If the plaintiff be a trustee to any other, or if the action be in a name of a plaintiff which has no real interest in the contract upon which the action is founded, so much a demand existing against those whom the plaintiff represents or for whose benefit the action is brought may be set off as will satisfy the plaintiffs debt, if the same might have been set off in an action brought against those beneficially interested.

(c) *Setoff Must Be Pleaded.* To entitle a defendant to a setoff under this rule, the defendant must set forth the same in the answer.

[Adopted effective September 1, 1984; Amended effective September 1, 1989.]

**CRLJ 15**  
**AMENDED AND SUPPLEMENTAL PLEADINGS**

**(a) Amendments.** A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise, a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. If a party moves to amend a pleading, a copy of the proposed amended pleading, denominated "proposed" and unsigned, shall be attached to the motion. If a motion to amend is granted, the moving party shall thereafter file the amended pleading and, pursuant to rule 5, serve a copy thereof on all other parties. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service or notice of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

**(b) Amendments to Conform to the Evidence.** When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If the evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice ~~him~~ **that party** in maintaining ~~his~~ **an** action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

**(c) Relation Back of Amendments.** Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading the amendment relates back to the date of the original pleading. An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against- ~~him~~ **against the original party**, the party to be brought in by amendment (1) has received such notice of the institution of the action that ~~he~~ **the new party** will not be prejudiced in maintaining ~~his~~ **a** defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against ~~him~~ **the new party**.

**(d) Supplemental Pleadings.** Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit ~~him~~ **the party** to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

(e) **Interlineations.** No amendments shall be made to any pleading by erasing or adding words to the original on file, without first obtaining leave of the court.

## CRLJ 16

[RESERVED]

## CRLJ 17

### PARTIES PLAINTIFF AND DEFENDANT; CAPACITY

(-) **Designation of Parties.** The party commencing the action shall be known as the plaintiff, and the opposite party as the defendant.

(a) **Real Party in Interest.** Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in ~~his~~ the party's own name without joining ~~with him~~ the party for whose benefit the action is brought. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

#### (b) **Infants or Incompetent Persons.**

(1) When an infant is a party ~~he~~ the infant shall appear by guardian, or if ~~he~~ the infant has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint a guardian ad litem. The guardian shall be appointed:

(i) when the infant is plaintiff, upon the application of the infant, if ~~he~~ the infant be of the age of 14 years, or if under the age, upon the application of a relative or friend of the infant;

(ii) when the infant is defendant, upon the application of the infant, if ~~he~~ the infant be of the age of 14 years, and applies within the time ~~he~~ the infant is to appear; if ~~he~~ the infant be under the age of 14, or neglects to apply, then upon the application of any other party to the action, or of a relative or friend of the infant.

(2) When an insane person is a party to an action ~~he~~ that person shall appear by guardian, or if ~~he~~ that person has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act as guardian ad litem. Said guardian shall be appointed:

(i) when the insane person is plaintiff, upon the application of a relative or friend of the insane person;

(ii) when the insane person is defendant, upon the application of a relative or friend of such insane person, such application shall be made within the time **he the defendant** is to appear. If no such application be made within the time above limited, application may be made by any party to the action.

## CRLJ 18

### JOINDER OF CLAIMS AND REMEDIES

(a) Joinder of Claims. A party asserting a claim to relief as an original claim, counterclaim, cross claim, or third party claim, may join, either as independent or as alternate claims, as many claims as **he the party** has against an opposing party.

(b) Joinder of Remedies. Whenever a claim is one heretofore cognizable only after another claim has been prosecuted to a conclusion, the two claims may be joined in a single action; but the court shall grant relief in that action only in accordance with the relative substantive rights of the parties.

## CRLJ 19

### JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION

**(a) Persons To Be Joined if Feasible.** A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in **his the person's** absence complete relief cannot be accorded among those already parties, or (2) **he the person** claims an interest relating to the subject of the action and is so situated that the disposition of the action in **his the person's** absence may (i) as a practical matter impair or impede **his the person's** ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of **his the person's** claimed interest. If **he the person** has not been so joined, the court shall order that **he the person** be made a party. If **he the person** should join as a plaintiff but refuses to do so, **he the person** may be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and **his the person's** joinder would render the venue of the action improper, **he the joined party** shall be dismissed from the action.

**(b) Determination by Court Whenever Joinder Not Feasible.** If a person joinable under (1) or (2) of section (a) hereof cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include:

(1) to what extent a judgment rendered in the persons absence might be prejudicial to **him the person** or those already parties;

(2) the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided;

(3) whether a judgment rendered in the person's absence will be adequate;

(4) whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

**(c) Pleading Reasons for Nonjoinder.** A pleading asserting a claim for relief shall state the names, if known to the pleader, of any persons joinable under (1) or (2) of section (a) hereof who are not joined, and the reasons why ~~they~~ **those persons** are not joined.

**(d) [Reserved.]**

**(e) Husband and Wife Must Join--Exceptions.** RCW 4.08.030 applies to the joinder of spouses.

## CRLJ 20 PERMISSIVE JOINDER OF PARTIES

**(a) Permissive Joinder.** All persons may join in one action as plaintiffs if they assert any right to relief jointly, severally, or in the alternative in respect of or arising out of the same transaction, occurrence or series of transactions or occurrences and if any question of law or fact common to all of these persons will arise in the action. All persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all of them will arise in the action. A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief, and against one or more defendants according to their respective liabilities.

**(b) Separate Trials.** The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom ~~he~~ **a party** asserts no claim and who asserts no claim against ~~him~~ **the party**, and may order separate trials or make other orders to prevent delay or prejudice.

**(c) When Husband and Wife May Join.** (Reserved. See RCW 4.08.040.)

**(d) Service on Joint Defendants; Procedure After Service.** When the action is against two or more defendants and the summons is served on one or more but not on all of them, the plaintiff may proceed as follows:

(1) If the action is against the defendants jointly indebted upon a contract, ~~he~~ **the plaintiff** may proceed against the defendants served unless the court otherwise directs; and if ~~he~~ **the plaintiff** recovers judgment it may be entered against all the defendants thus jointly indebted so

far only as it may be enforced against the joint property of all and the separate property of the defendants served.

(2) If the action is against defendants severally liable, ~~he~~ **the plaintiff** may proceed against the defendants served in the same manner as if they were the only defendants.

(3) Though all the defendants may have been served with the summons, judgment may be taken against any of them severally, when the plaintiff would be entitled to judgment against such defendants if the action had been against them alone.

**(e) Procedure To Bind Joint Debtor.** RCW 4.68 applies to the enforcement of a judgment against a joint debtor.

**CRLJ 21**  
**MISJOINDER AND NONJOINDER OF PARTIES**  
**[RESERVED]**

**CRLJ 22**  
**INTERPLEADER**

**(a) Rule.** Persons having claims against the plaintiff may be joined as defendants and required to interplead when their claims are such that the plaintiff is or may be exposed to double or multiple liability. It is not ground for objection to the joinder that the claims of the several claimants or the titles on which their claims depend do not have a common origin or are not identical but are adverse to and independent of one another, or that the plaintiff avers that ~~he~~ **the plaintiff** is not liable in whole or in part to any or all of the claimants. A defendant exposed to similar liability may obtain such interpleader by way of cross claim or counterclaim. The provisions of this rule supplement and do not in any way limit the joinder of parties permitted under other rules and statutes.

**(b) Statutes.** The remedy herein provided is in addition to and in no way supersedes or limits the remedy provided by RCW 4.08.150 to 4.08.180, inclusive.

**CRLJ 23**  
**[RESERVED]**

**CRLJ 24**  
**INTERVENTION**

**(a) Intervention of Right.** Upon timely application, anyone shall be permitted to intervene in an action:

- (1) when a statute confers an unconditional right to intervene; or
- (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and ~~he~~ **the applicant** is so situated that the disposition of the action may as a practical matter impair or impede ~~his~~ **the applicant's** ability to protect that interest, unless the applicants interest is adequately represented by existing parties.

**(b) Permissive Intervention.** Upon timely application, anyone may be permitted to intervene in an action:

- (1) when a statute confers a conditional right to intervene; or
- (2) when an applicants claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirements, or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

**(c) Procedure.** A person desiring to intervene shall serve a motion to intervene upon all parties as provided in rule 5. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought.

**CRLJ 25**  
**SUBSTITUTION OF PARTIES**

**(a) Death.**

(1) *Procedure.* If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by the successors or representatives of the deceased party or by any party and, together with the notice of hearing, shall be served on the parties as provided by rule 5 for service of notices, and upon persons not parties in the manner provided by statute or by rule for the service of a summons. If substitution is not made within the time authorized by law, the action may be dismissed as to the deceased party.

(2) *Partial Abatement.* In the event of the death of one or more of the plaintiffs or one or more of the defendants in an action in which the right sought to be enforced survives only to the surviving plaintiffs or only against the surviving defendants, the action does not abate. The death shall be suggested upon the record and the action shall proceed in favor of or against the surviving parties.



**(b) Incompetency.** If a party becomes incompetent, the court upon motion served as provided in section (a) of this rule may allow the action to be continued by or against ~~his~~ the party's representative.

**(c) Transfer of Interest.** In case of any transfer of interest, the action may be continued by or against the original party unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. Service of the motion shall be made as provided in section (a) of this rule.

**(d) Public Offices; Death or Separation From Office.** [Reserved.]

**CRLJ 26 through 37  
[RESERVED]**

## RULE 40. ASSIGNMENT OF CASES

### (a) Notice of Trial--Note of Issue.

(1) Of Fact. At any time after the issues of fact are completed in any case by the service of complaint and answer or reply when necessary, as herein provided, either party may cause the issues of fact to be brought on for trial, by serving upon the opposite party a notice of trial at least 3 days before any day provided by rules of court for setting causes for trial, which notice shall give the title of the cause as in the pleadings, and notify the opposite party that the issues in such action will be brought on for trial at the time set by the court; and the party giving such notice of trial shall, at least 5 days before the day of setting such causes for trial, file with the clerk of the court a note of issue containing the title of the action, the names of the attorneys and the date when the last pleading was served; and the clerk shall thereupon enter the cause upon the trial docket according to the date of the issue.

(2) Of Law. In case an issue of law raised upon the pleadings is desired to be brought on for argument, either party shall, at least 5 days before the day set apart by the court under its rules for hearing issues of law, serve upon the opposite party a like notice of trial and furnish the clerk of the court with a note of issue as above provided, which note of issue shall specify that the issue to be tried is an issue of law; and the clerk of the court shall thereupon enter such action upon the motion docket of the court.

(3) Adjournments. When a cause has once been placed upon either docket of the court, if not tried or argued at the time for which notice was given, it need not be noticed for a subsequent session or day, but shall remain upon the docket from session to session or from law day to law day until final disposition or stricken off by the court.

(4) Filing Note by Opposite Party. The party upon whom notice of trial is served may file the note of issue and cause the action to be placed upon the calendar without further notice ~~on his part~~ by the served party.

(5) Issue May Be Brought to Trial by Either Party. Either party, after the notice of trial, whether given by ~~himself or the adverse~~ either party, may bring the issue to trial, and in the absence of the adverse party, unless the court for good cause otherwise directs, may proceed with ~~his~~ the case, and take a dismissal of the action, or a verdict or judgment, as the case may require.

(b) Methods. Each court of limited jurisdiction may provide by local rule for placing of actions upon the trial calendar (1) without request of the parties or (2) upon request of a party and notice to the other parties or (3) in such other manner as the court deems expedient.

(c) Preferences. In setting cases for trial, unless otherwise provided by statute, preference shall be given to criminal over civil cases, and cases where the defendant or a witness is in confinement shall have preference over other cases.

(d) Trials. When a cause is set and called for trial, it shall be tried or dismissed, unless good cause is shown for a continuance. The court may in a proper case, and upon terms, reset the same.

(e) Continuances. A motion to continue a trial on the ground of the absence of evidence shall only be made upon affidavit showing the materiality of the evidence expected to be obtained, and that due diligence has been used to procure it, and also the name and address of the witness or witnesses. The court may also require the moving party to state upon affidavit the evidence which ~~he~~ that party expects to obtain; and if the adverse party admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial shall not be continued. The court, upon its allowance of the motion, may impose terms or conditions upon the moving party.

(f) Change of Judge.

In any case pending in any court of limited jurisdiction, unless otherwise provided by law, the judge thereof shall be deemed disqualified to hear and try the case when ~~he~~ the judge is in anywise interested or prejudiced. The judge, of ~~his~~ the judge's own initiative, may enter an order ~~disqualifying himself of self disqualification~~; A judge and he shall also self disqualify himself under the provisions of this rule if, before the jury is sworn or the trial is commenced, a party files an affidavit that such party cannot have a fair and impartial trial by reason of the interest or prejudice of the judge or for other ground provided by law. Only one such affidavit shall be filed by the same party in the case and such affidavit shall be made as to only one of the judges of said court.

All right to an affidavit of prejudice will be considered waived where filed more than 10 days after the case is set for trial, unless the affidavit alleges a particular incident, conversation or utterance by the judge, which was not known to the party or ~~his~~ the party's attorney within the 10-day period. In multiple judge courts, or where a pro tempore or visiting judge is designated as the trial judge, the 10-day period shall commence on the date that the defendant or ~~his~~ the defendant's attorney has actual notice of assignment or reassignment to a designated trial judge.

## RULE 41. DISMISSAL OF ACTIONS

(a) Voluntary Dismissal.

(1) Mandatory. Any action shall be dismissed by the court:

(i) By Stipulation. When all parties who have appeared so stipulate in writing; or

(ii) By Plaintiff Before Resting. Upon motion of the plaintiff at any time before plaintiff rests at the conclusion of ~~his~~ plaintiff's opening case.

(2) Permissive. After plaintiff rests after ~~his~~ plaintiff's opening case, plaintiff may move for a voluntary dismissal without prejudice upon good cause shown and upon such terms and conditions as the court deems proper.

(3) Counterclaim. If a counterclaim has been pleaded by a defendant prior to the service upon ~~him~~ the defendant of plaintiff's motion for dismissal, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court.

(4) Effect. Unless otherwise stated in the order of dismissal, the dismissal is without prejudice, except that an order of dismissal operates as an adjudication upon the merits when obtained by a plaintiff who has once dismissed an action based on or including the same claim in any court of the United States or of any state.

(b) Involuntary Dismissal; Effect. For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against ~~him or her~~ that defendant.

(1) Want of Prosecution on Motion of Party. Any civil action shall be dismissed, without prejudice, for want of prosecution whenever the plaintiff, counterclaimant, cross claimant, or third party plaintiff neglects to note the action for trial or hearing within 1 year after any issue of law or fact has been joined, unless the failure to bring the same on for trial or hearing was caused by the party who makes the motion to dismiss. Such motion to dismiss shall come on for hearing only after 10 days' notice to the adverse party. If the case is noted for trial before the hearing on the motion, the action shall not be dismissed.

(2) Dismissal on Clerk's Motion.

(i) Notice. In all civil cases in which no action of record has occurred during the previous 12 months, the clerk of the court shall notify the attorneys of record by mail that the court will dismiss the case unless, within 30 days following the mailing of such notice, a party takes action of record or files a status report with the court indicating the reason for inactivity and projecting future activity and a case completion date. If the court does not receive such a status report, it shall, on motion of the clerk, dismiss the case without prejudice and without cost to any party.

(ii) Mailing Notice; Reinstatement. The clerk shall mail notice of impending dismissal not later than 30 days after the case becomes eligible for dismissal because of inactivity. A party who

does not receive the clerk's notice shall be entitled to reinstatement of the case, without cost, upon motion brought within a reasonable time after learning of the dismissal.

(iii) Discovery in Process. The filing of a document indicating that discovery is occurring between the parties shall constitute action of record for purposes of this rule.

(iv) Other Grounds for Dismissal and Reinstatement. This rule is not a limitation upon any other power that the court may have to dismiss or reinstate any action upon motion or otherwise.

(3) Defendant's Motion After Plaintiff Rests. After the plaintiff, in an action tried by the court without a jury, has completed the presentation of ~~his~~ evidence, the defendant, without waiving ~~his~~ the right to offer evidence in the event the motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in RALJ 5.2. Unless the court in its order for dismissal otherwise specifies, a dismissal under this subsection and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under rule 19, operates as an adjudication upon the merits.

(c) Dismissal of Counterclaim, Cross Claim, or Third Party Claim. The provisions of this rule apply to the dismissal of any counterclaim, cross claim, or third party claim. A voluntary dismissal by the claimant alone pursuant to subsection (a)(1) of this rule shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.

(d) Costs of Previously Dismissed Action. If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of taxable costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

(e) Notice of Settlements. If a case is settled after it has been assigned for trial, it shall be the duty of the attorneys or of any party appearing pro se to notify the court promptly of the settlement. If the settlement is made within 5 days before the trial date, the notice shall be made by telephone or in person. All notices of settlement shall be confirmed in writing to the clerk.

**CRLJ 43**  
**TAKING OF TESTIMONY**

**(a) Testimony.**

(1) *Generally.* In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise directed by the court or provided by rule or statute.

(2) *Multiple Examinations.* When two or more attorneys are upon the same side trying a case, the attorney conducting the examination of a witness shall continue until the witness is excused from the stand; and all objections and offers of proof made during the examination of such witness shall be made or announced by the attorney who is conducting the examination or cross examination.

**(b) and (c) [Reserved. See ER 103 and 611.]**

**(d) Oaths of Witnesses.**

(1) *Administration.* The oaths of all witnesses

(i) shall be administered by the judge;

(ii) shall be administered to each witness individually; and

(iii) the witness shall stand while the oath is administered.

(2) *Applicability.* This rule shall not apply to civil ex parte proceedings, and in such cases the manner of swearing witnesses shall be as each court may prescribe.

(3) *Affirmation in Lieu of Oath.* Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

**(e) Evidence on Motions.** When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

**(f) Adverse Party as Witness.**

(1) *Party or Managing Agent as Adverse Witness.* A party, or anyone who at the time of the notice is an officer, director, or other managing agent (herein collectively referred to as "managing agent") of a public or private corporation, partnership or association that is a party to an action or proceeding may be examined at the instance of any adverse party. Attendance of such deponent or witness may be compelled solely by notice (in lieu of a subpoena) given in the manner prescribed in CR 30(b)(1) to opposing counsel of record. Notices for the attendance of a party or of a managing agent at the trial shall be given not less than 10 days before trial (exclusive of the day of service, Saturdays, Sundays, and court holidays). For good cause shown in the manner prescribed in CR 26(c), the court may make orders for the protection of the party or managing agent to be examined.

(2) *Effect of Discovery, etc.* A party who has served interrogatories to be answered by the adverse party or who has taken the deposition of an adverse party or of the managing agent of an adverse party shall not be precluded for that reason from examining such adverse party or managing agent at the trial. Matters admitted by an adverse party or managing agent in interrogatory answers, deposition testimony, or trial testimony are not conclusively established and may be rebutted.

(3) *Refusal To Attend and Testify; Penalties.* If a party or a managing agent refuses to attend and testify before the officer designated to take ~~his-that person's~~ deposition or at the trial after notice served as prescribed in CR 30(b)(1), the complaint, answer, or reply of the party may be stricken and judgment taken against the party, and the contumacious party or managing agent may also be proceeded against as in other cases of contempt. This rule shall not be construed:

(i) to compel any person to answer any question where such answer might tend to ~~be~~ incriminate ~~him~~;

(ii) to prevent a party from using a subpoena to compel the attendance of any party or managing agent to give testimony by deposition or at the trial; nor

(iii) to limit the applicability of any other sanctions or penalties provided in CR 37 or otherwise for failure to attend and give testimony.

(g) **Attorney as Witness.** If any attorney offers ~~himself as to be~~ a witness on behalf of ~~his-the attorney's~~ client and gives evidence on the merits, ~~he-the attorney~~ shall not argue the case to the jury, unless by permission of the court.

(h) **Recording as Evidence.** Whenever the testimony of a witness at a trial or hearing which was recorded is admissible in evidence at a later trial, it may be proved by the recording thereof duly certified by the person who recorded the testimony.

(i) [Reserved. See ER 804.]

(j) **Record in Retrial of Nonjury Cases.** In the event a cause has been remanded by the court for a new trial or the taking of further testimony, and such cause shall have been tried without a jury, and the testimony in such cause shall have been taken in full and used as the record upon review, either party upon the retrial of such cause or the taking of further testimony therein shall have the right, provided the court shall so order after an application on 10 days' notice to the opposing party or parties, to submit said record as the testimony in said cause upon its second hearing, to the same effect as if the witnesses called by ~~him-either party~~ in the earlier hearing had been called, sworn, and testified in the further hearing; but no party shall be denied the right to submit other or further testimony upon such retrial or further hearing, and the party having the right of cross examination shall have the privilege of subpoenaing any witness whose testimony is contained in such record for further cross examination.

(k) **Juror Questions for Witnesses.** The court shall permit jurors to submit to the court written questions directed to witnesses. Counsel shall be given an opportunity to object to such questions in a manner that does not inform the jury that an objection was made. The court shall establish procedures for submitting, objecting to, and answering questions from jurors to

witnesses. The court may rephrase or reword questions from jurors to witnesses. The court may refuse on its own motion to allow a particular question from a juror to a witness.

[Adopted effective September 1, 1984; Amended effective September 1, 1989; October 1, 2002; September 1, 2006.]



**CRLJ 44.1**  
**DETERMINATION OF FOREIGN LAW**

(a) **Pleading.** A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States, or a foreign country shall give notice in ~~his~~the party's pleadings in accordance with rule 9(k).

(b) **United States Jurisdictions.** The law of a state, territory, or other jurisdiction of the United States shall be determined as provided in RCW 5.24.

(c) **Other Jurisdictions.** The court, in determining the law of any jurisdiction other than a state, territory, or other jurisdiction of the United States, may consider any relevant written material or other source, including testimony, having due regard for their trustworthiness, whether or not submitted by a party and whether or not admissible under the Rules of Evidence. If the court considers any material or source not received in open court, prior to its determination the court shall:

(1) Identity in the record such material or source;

(2) Summarize in the record any unwritten information received; and

(3) Afford the parties an opportunity to respond thereto. The court's determination shall be treated as a ruling on a question of law.

[Adopted effective September 1, 1984; Amended effective September 1, 1989.]

**CRLJ 46**  
**EXCEPTIONS UNNECESSARY**

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which the party~~he~~ desires the court to take or ~~his~~the party's objection to the action of the court and the~~his~~ grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice ~~him~~the party.

[Adopted effective September 1, 1984; Amended effective September 1, 1989.]

**CRLJ 47**  
**JURORS**

(a) **Examination, Selection, etc.** See rule 38.

(b) **Care of Jury While Deliberating.**

(1) *Generally.* During trial and deliberations the jury may be allowed to separate unless good cause is shown, on the record, for sequestration of the jury.

(2) *Communication Restricted.* Unless the jury is allowed to separate, the jurors shall be kept together under the charge of one or more officers until they agree upon their verdict or are discharged by the court. The officer shall keep the jurors separate from other persons and shall not allow any communication which may affect the case to be made to the jurors, nor shall the officer make any himself such communication, unless by order of the court, except to ask the jurors if they have agreed upon their verdict. The officer shall not, before the verdict is rendered, communicate to any person the state of the jurors' deliberations or their verdict.

(3) *Motions.* Any motions or proceedings concerning the separation or sequestration of the jury shall be made out of the presence of the jury.

[Adopted effective September 1, 1984; Amended effective September 1, 1989.]

**CRLJ 49**  
**TAKING OF TESTIMONY**

(-) **General Verdict.** A general verdict is that by which the jury pronounces generally upon all or any of the issues in favor of either the plaintiff or defendant.

(a) **Special Verdict.** The court may require a jury to return only a special verdict in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring the written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives ~~his-the~~ rights to a trial by jury of the issue so omitted unless before the jury retires ~~he-the party~~ demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or, if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

(b) **General Verdict Accompanied by Answer to Interrogatories.** The court may submit to the jury, together with appropriate forms for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers to the interrogatories and to render a general verdict, and the court shall direct the jury both to make written answers and to render a general verdict. When the general verdict and the answers are harmonious, the appropriate judgment upon the verdict and answers shall be entered pursuant to rule 58. When the answers are consistent with each other but one or more is inconsistent with the general verdict, judgment may be entered pursuant to rule 58 in accordance with the answers, notwithstanding the general verdict, or the court may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, judgment shall not be entered, but the court shall return the jury for further consideration of its answers and verdict or shall order a new trial.

(c) **Discharge of Jury.** [Reserved. See RCW 12.12.080 and 12.12.090.]

(d) **Court Recess During Deliberation.** [Reserved. See RCW 4.44.350.]

(e) **Proceedings When Jury Has Agreed.** [Reserved. See RCW 4.44.360.]

(f) **Manner of Giving Verdict.** [Reserved. See RCW 4.44.370.]

(g) **Verdict by Five Jurors in Civil Cases.** [Reserved. See RCW 4.44.380.]

(h) **Jury May Be Polled.** [Reserved. See RCW 4.44.390]

(i) **Correction of Informal Verdict.** [Reserved. See RCW 4.44.400.]

**(j) Jury To Assess Amount of Recovery.** [Reserved. See RCW 4.44.450]

**(k) Receiving Verdict and Discharging Jury.** [Reserved. See RCW 12.12.080 and 12.12.090.]

[Adopted effective September 1, 1984; Amended effective September 1, 1989.]

**CRLJ 51**  
**INSTRUCTIONS TO JURY AND DELIBERATION**

**(a) Proposed.** Unless otherwise requested by the trial judge on timely notice to counsel, proposed instructions shall be submitted when the case is called for trial. Proposed instructions upon questions of law developed by the evidence, which could not reasonably be anticipated, may be submitted at any time before the court has instructed the jury.

**(b) Submission.** Submission of proposed instructions shall be by delivering the original and three or more copies as required by the trial judge, by filing one copy with the clerk, identified as the party's proposed instructions, and by serving one copy upon each opposing counsel.

**(c) Form.** Each proposed instruction shall be typewritten or printed on a separate sheet of letter-size (8-1/2 by 11 inches) paper. Except for one copy of each, the instructions delivered to the trial court shall not be numbered or identified as to the proposing party. One copy delivered to the trial court, and the copy filed with the clerk, and copies served on each opposing counsel shall be numbered and identified as to proposing party, and may contain supporting annotations.

**(d) Published Instructions.**

(1) *Request.* Any instruction appearing in the Washington Pattern Instructions (WPI) may be requested by counsel who must submit the proper number of copies of the requested instruction, identified by number as in section (c) of this rule, in the form ~~he~~-counsel wishes it read to the jury. If the instruction in WPI allows or provides for a choice of wording by the use of brackets or otherwise, the written requested instruction shall use the choice of wording which is being requested.

(2) *Record on Review.* Where the refusal to give a requested instruction is an asserted error on review, a copy of the requested instruction shall be placed in the record on review.

(3) *Local Option.* Any court of limited jurisdiction may adopt a local rule to substitute for subsection (d)(1) and to allow instructions appearing in the Washington Pattern Instructions (WPI) to be requested by reference to the published number. If the instruction in WPI allows or provides for a choice of wording by the use of brackets or otherwise, the local rule must require that the written request which designates the number of the instruction shall also designate the choice of wording which is being requested.

**(e) Disregarding Requests.** The trial court may disregard any proposed instruction not submitted in accordance with this rule.

**(f) Objections to Instruction.** Before instructing the jury, the court shall supply counsel with copies of its proposed instructions which shall be numbered. Counsel shall then be afforded an opportunity in the absence of the jury to make objections to the giving of any instruction and to the refusal to give a requested instruction. The objector shall state distinctly the matter to which ~~he~~-counsel objects and the grounds ~~of his for the~~ objection, specifying the number, paragraph or particular part of the instruction to be given or refused and to which objection is made.

**(g) Instructing the Jury and Argument.** After counsel have completed their objections and the court has made any modifications deemed appropriate, the court shall then provide each counsel with a copy of the instructions in their final form. The court shall then read the instructions to the jury. The plaintiff or party having the burden of proof may then address the jury upon the evidence, and the law as contained in the courts instructions; after which the adverse party may address the jury; followed by the rebuttal of the party first addressing the jury.

**(h) Deliberation.** After argument, the jury shall retire to consider its verdict. In addition to the written instructions given, the jury shall take with it all exhibits received in evidence, except deposition. Copies may be substituted or any parts of public records or private documents as ought not, in the opinion of the court, to be taken from the person having them in possession. Pleadings shall not go to the jury room.

**(i) Questions from Jury During Deliberations.** The jury shall be instructed that any question it wishes to ask the court about the instructions or evidence should be signed, dated and submitted in writing to the bailiff without any indication of the status of the jury's deliberations. The court shall notify the parties of the contents of the questions and provide them an opportunity to comment upon an appropriate response. Written questions from the jury, the court's response and any objections thereto shall be made a part of the record. The court shall respond to all questions from a deliberating jury in open court or in writing. In its discretion, the court may grant a jury's request to rehear or replay evidence, but should do so in a way that is least likely to be seen as a comment on the evidence, in a way that is not unfairly prejudicial and in a way that minimizes the possibility that jurors will give undue weight to such evidence. Any additional instruction upon any point of law shall be given in writing.

**(j) Comments Upon Evidence.** Judges shall not instruct with respect to matters of fact, nor comment thereon.

[Adopted effective September 1, 1984; Amended effective October 1, 2002.]

**CRLJ 54**  
**JUDGEMENTS; COSTS**

**(a) Definition; Form.** "Judgment" as used in these rules includes a decree and any final order from which an appeal lies. A judgment shall not contain a recital of pleadings or the record of prior proceedings. Judgments may be in writing signed by the court or may be oral confirmed by an entry in the record.

**(b) Judgment Upon Multiple Claims or Involving Multiple Parties.** When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross claim, or third party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination in the judgment that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

**(c) Demand for Judgment.** A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a judgment is entered by default, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in ~~his~~the party's pleadings.

**(d) Costs.** Costs shall be fixed and allowed as provided in RCW 12.20.060 or by any other applicable statute.

[Adopted effective September 1, 1984; Amended effective September 1, 1989.]



## CRLJ 55 DEFAULT

### (a) Entry of Default.

(1) *Motion.* When a party against whom a judgment for affirmative relief is sought has failed to appear, plead, or otherwise defend as provided by these rules and that fact is made to appear by motion and affidavit, a motion for default may be made.

(2) *Pleading After Default.* Any party may respond to any pleading or otherwise defend at any time before a motion for default and supporting affidavit is filed, whether the party previously has appeared or not. If the party has appeared before the motion is filed, ~~he~~the party may respond to the pleading or otherwise defend at any time before the hearing on the motion. If the party has not appeared before the motion is filed ~~he~~the party may not respond to the pleading nor otherwise defend without leave of court. Any appearances for any purpose in the action shall be for all purposes under this rule 55.

(3) *Notice.* Any party who has appeared in the action for any purpose, shall be served with a written notice of motion for default and the supporting affidavit at least 5 days before the hearing on the motion. Any party who has not appeared before the motion for default and supporting affidavit are filed is not entitled to a notice of the motion, except as provided in subsection (f)(2)(i).

(4) *Venue.* A motion for default shall include a statement of the basis for venue in the action. A default shall not be entered if it clearly appears to the court from the papers on file that the action was brought in an improper district.

**(b) Entry of Default Judgment.** As limited in rule 54(c), judgment after default may be entered as follows, if proof of service is on file as required by subsection (b)(4):

(1) *When Amount Certain.* When the claim against a party, whose default has been entered under section (a), is for a sum certain or for a sum which can by computation be made certain, the court upon motion and affidavit of the amount due shall enter judgment for that amount and costs against the party in default, if ~~he~~the party is not an infant or incompetent person. No judgment by default shall be entered against an infant or incompetent person unless represented by a general guardian or guardian ad litem. Findings of fact and conclusions of law are not necessary under this subsection even though reasonable attorney fees are requested and allowed.

(2) *When Amount Uncertain.* If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings as are deemed necessary or, when required by statute, shall have such matters resolved by a jury. Findings of fact and conclusions of law are required under this subsection.

(3) *When Service by Publication or Mail.* In an action where the service of the summons was by publication, or by mail under rule 4(d)(4), the plaintiff, upon the expiration of the time for answering, may, upon proof of service, apply for judgment. The court must thereupon require

proof of the demand mentioned in the complaint, and must require the plaintiff or ~~his~~the plaintiff's agent to be examined on oath respecting any payments that have been made to the plaintiff, or to anyone for ~~his~~the plaintiff's use on account of such demand, and may render judgment for the amount which ~~he~~the plaintiff is entitled to recover, or for such other relief as ~~he~~the plaintiff may be entitled to.

(4) *Costs and Proof of Service.* Costs shall not be awarded and default judgment shall not be rendered unless proof of service is on file with the court.

**(c) Setting Aside Default.**

(1) *Generally.* For good cause shown and upon such terms as the court deems just, the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with rule 60(b).

(2) *When Venue Is Improper.* A default judgment entered in a district of improper venue is valid but will on motion be vacated for irregularity pursuant to rule 60(b)(1). A party who procures the entry of the judgment shall, in the vacation proceedings, be required to pay to the party seeking vacation the costs and reasonable attorney fees incurred by the party in seeking vacation if the party procuring the judgment could have determined the district of proper venue with reasonable diligence. This subsection does not apply if either (i) the parties stipulate in writing to venue after commencement of the action, or (ii) the defendant has appeared, has been given written notice of the motion for an order of default, and does not object to venue before the entry of the default order.

**(d) Plaintiffs, Counterclaimants, Cross Claimants.** The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third party plaintiff, or a party who has pleaded a cross claim or counterclaim. In all cases a judgment by default is subject to the limitations of rule 54(c).

**(e) Judgment Against State.** [Reserved.]

**(f) How Made After Elapse of Year.**

(1) *Notice.* When more than 1 year has elapsed after service of summons with no appearance being made, the court shall not sign an order of default or enter a judgment until a notice of the time and place of the application for the order or judgment is served on the party in default, not less than 10 days prior to the entry. Proof by affidavit of the service of the notice shall be filed before entry of the judgment.

(2) *Service.* Service of notice of the time and place on the application for the order of default or default judgment shall be made as follows:

(i) by service upon the attorney of record;

(ii) if there is no attorney of record, then by service upon the defendant by certified mail with return receipt of said service to be attached to the affidavit in support of the application; or

(iii) by a personal service upon the defendant in the same manner provided for service of process.

(iv) If service of notice cannot be made under sections (i) and (iii), the notice may be given by publication in a newspaper of general circulation in the county in which the action is pending for one publication, and by mailing a copy to the last known address of each defendant. Both the publication and mailing shall be done 10 days prior to the hearing.

[Adopted effective September 1, 1984; Amended effective September 1, 1989.]

**CRLJ 56**  
**SUMMARY JUDGEMENT**

**(a) For Claimant.** A party seeking to recover upon a claim, counterclaim, or cross claim, or to obtain a declaratory judgment may, at any time after the expiration of the period within which the defendant is required to appear, or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in ~~his-the~~ party's favor upon all or any part thereof.

**(b) For Defending Party.** A party against whom a claim, counterclaim, or cross claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in ~~his-such party's~~ favor as to all or any part thereof.

**(c) Motion and Proceedings.** The motion and any supporting affidavits, memoranda of law, or other documentation shall be filed and served not later than 15 days before the hearing. The adverse party may file and serve opposing affidavits, memoranda of law, and other documentation not later than three days before the hearing. The moving party may file and serve any rebuttal documents not later than the day prior to the hearing. Summary judgment motions shall be heard more than 14 days before the date set for trial unless leave of the court is granted to allow otherwise. The judgment sought shall be rendered forthwith if the pleadings, answers to interrogatories, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment, interlocutory in character, may be rendered on the issue of liability alone although there is a genuine issue as to the amount of damages.

**(d) Case Not Fully Adjudicated on Motion.** If on motion under the rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action, the facts so specified shall be deemed established, and the trial shall be conducted accordingly.

**(e) Form of Affidavits; Further Testimony; Defense Required.** Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials ~~of in his-a~~ pleading, but ~~his-a~~ response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If ~~he-the adverse party~~ does not so respond, summary judgment, if appropriate, shall be entered against ~~himthe adverse party~~.

**(f) When Affidavits Are Unavailable.** Should it appear from the affidavits of a party opposing the motion that ~~he cannot~~, for reasons stated ~~the party cannot~~, present by affidavit facts essential to justify ~~his~~ the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

**(g) Affidavits Made in Bad Faith.** Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused ~~him~~ the other party to incur, including reasonable attorney fees, and any offending party or attorney may be adjudged guilty of contempt.

**(h) Rulings by Court.** In granting or denying the motion for summary judgment, the court shall designate the documents and other evidence considered in its rulings.

[Adopted effective September 1, 1984; Amended effective September 1, 1989.]

## **RULE 58. ENTRY OF JUDGMENT**

Upon the verdict of a jury, the court shall immediately render judgment thereon. If the trial is by the judge, judgment shall be entered immediately after the close of the trial, unless ~~he~~ or she the judge reserves decision, in which event the decision shall be rendered within 45 days.

## **RULE 59. NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS**

**(a) Grounds for New Trial or Reconsideration.** On the motion of the party aggrieved, a verdict may be vacated and a new trial granted to all or any of the parties, and on all the issues, or on some of the issues when such issues are clearly and fairly separable and distinct, or any other decision or order may be vacated and reconsideration granted. Such motion may be granted for any one of the following causes materially affecting the substantial rights of such parties:

- (1) Irregularity in the proceedings of the court, jury or adverse party, or any order of the court, or abuse of discretion, by which such party was prevented from having a fair trial;
- (2) Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have been induced to assent to any general or special verdict or to a finding on any question or questions submitted to the jury by the court, other and different from ~~his~~ the courts own conclusions, and arrived at by a resort to the determination of chance or lot, such misconduct may be proved by the affidavits of one or more of the jurors;
- (3) Accident or surprise which ordinary prudence could not have guarded against;
- (4) Newly discovered evidence, material for the party making the application, which ~~he~~ the party could not with reasonable diligence have discovered and produced at the trial;
- (5) Damages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice;
- (6) Error in the assessment of the amount of recovery whether too large or too small, when the action is upon a contract, or for the injury or detention of property;
- (7) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;
- (8) Error in law occurring at the trial and objected to at the time by the party making the application; or
- (9) That substantial justice has been done.

**(b) Time for Motion: Contents of Motion.** A motion for a new trial or for reconsideration shall be filed not later than 10 days after the entry of the judgment, order, or other decision. The motion shall be noted at the time it is filed, to be heard or otherwise considered within 30 days after entry of the judgment, order, or other decision, unless the court directs otherwise.

A motion for a new trial or for reconsideration shall identify the specific reasons in fact and law as to each ground on which the motion is based.

**(c) Time for Serving Affidavits.** When a motion for new trial is based on affidavits, they shall be filed with the motion. The opposing party has 10 days after service to file opposing affidavits, but that period may be extended for up to 20 days, either by the court for good cause or by the parties' written stipulation. The court may permit reply affidavits.

**(d) On Initiative of Court.** Not later than 10 days after entry of judgment, the court on its own initiative may order a hearing on its proposed order for a new trial for any reason for which it might have granted a new trial on motion of a party. After giving the parties notice and an opportunity to be heard, the court may grant a timely motion for a new trial for a reason not

stated in the motion. When granting a new trial on its own initiative or for a reason not stated in the motion, the court shall specify the grounds in its order.

**(e) Hearing on Motion.** When a motion for reconsideration or for a new trial is filed, the judge by whom it is to be heard may on the judge's own motion or on application determine:

(1) *Time of Hearing.* Whether the motion shall be heard before the entry of judgment;

(2) *Consolidation of Hearings.* Whether the motion shall be heard before or at the same time as the presentation of the findings and conclusions and/or judgment, and the hearing on any other pending motion; and

(3) *Nature of Hearing.* Whether the motion or motions and presentation shall be heard on oral argument or submitted on briefs, and if on briefs, shall fix the time within which the briefs shall be served and filed.

**(f) Statement of Reasons.** In all cases where the trial court grants a motion for a new trial, it shall, in the order granting the motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record that cannot be made a part thereof. If the order is based upon the record, the court shall give definite reasons of law and facts for its order. If the order is based upon matters outside the record, the court shall state the facts and circumstances upon which it relied.

**(g) Reopening Judgment.** On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law, and direct the entry of a new judgment.

**(h) Motion to Alter or Amend Judgment.** A motion to alter or amend the judgment shall be filed not later than 10 days after entry of the judgment.

**(i) Alternative Motions, etc.** Alternative motions for judgment as a matter of law and for a new trial may be made in accordance with rule 50(c).

**(j) Limit on Motions.** If a motion or reconsideration, or for a new trial, or for judgment as a matter of law, is made and heard before the entry of the judgment, no further motion may be made, without leave of the court first obtained for good cause shown: (1) for a new trial, or (2) pursuant to sections (g), (h), and (i) of this rule.



## RULE 73. TRIAL DE NOVO

**(a) Scope of Rule.** This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

**(b) Filing Notice of Appeal Service.**

(1) A party appealing a judgment or decision subject to this rule must file in the court of limited jurisdiction a notice of appeal within 30 days after the judgment is rendered or decision made. Filing the notice of appeal is the only jurisdictional requirement for an appeal.

(2) The statutory filing fee for superior court must be paid to the clerk of the limited jurisdiction court at the time the notice of appeal is filed, unless the party is excused from paying a filing fee by statute or by the constitution.

(3) The clerk of the court of limited jurisdiction shall immediately upon filing of a notice of appeal and payment of the filing fee, if required, file a copy of the notice with the superior court.

(4) A party filing a notice of appeal shall also, within the same 30 days, serve a copy of the notice of appeal on all other parties or their lawyers and file an acknowledgment or affidavit of service in the court of limited jurisdiction.

**(c) Bond.** A bond or undertaking shall be executed on the part of the appellant, except when the appellant is a county, city, town or school district, and filed with and approved by the court of limited jurisdiction with one or more sureties, in the sum of \$100, conditioned that the appellant will pay all costs that may be awarded against ~~him~~ appellant on appeal; or if a stay of proceedings in the court of limited jurisdiction be claimed, except by a county, city, town or school district, a bond or undertaking, with two or more personal sureties, or a surety company as surety, to be approved by the court of limited jurisdiction, in a sum equal to twice the amount of the judgment and costs, conditioned that the appellant will pay such judgment, including costs, as may be rendered against ~~him~~ appellant on appeal, be so executed and filed.

**(d) Stay of Proceedings.** Upon an appeal being taken and a bond filed to stay all proceedings, the court of limited jurisdiction shall allow the same and make an entry of such allowance, and all further proceedings on the judgment in such court shall thereupon be suspended; and if in the meantime execution shall have been issued, such court shall give the appellant a certificate that such appeal has been allowed.

**(e) Release of Property Taken on Execution.** On such certificate being presented to the officer holding the execution, ~~he~~ the officer shall forthwith release the property of the judgment debtor that may have been taken on execution.

**(f) No Dismissal for Defective Bond.** No appeal allowed by a court of limited jurisdiction shall be dismissed on account of any defect in the bond on appeal, if the appellant, before the motion is determined, shall execute and file in the superior court such bond as ~~he~~ the appellant should have executed at the time of taking the appeal, and pay all costs that may have accrued by reason of such defect.

**(g) Judgment Against Appellant and Sureties.** In all cases of appeal to the superior court, if on the trial anew in such court, the judgment be against the appellant in

whole or in part, such judgment shall be rendered against ~~him~~ the appellant and ~~his~~ sureties on the bond on appeal.

## RULE 75. RECORD ON TRIAL DE NOVO

**(a) Scope of Rule.** This rule applies only to proceedings which are not subject to appellate review under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The proceedings to which those rules apply are defined by RALJ 1.1.

**(b) Transcript; Procedure in Superior Court; Pleadings in Superior Court.** Within 14 days after the notice of appeal has been filed in a civil action or proceeding, including a small claims appeal pursuant to chapter 12.40 RCW, the appellant shall file with the clerk of the superior court a transcript of all entries made in the docket of the court of limited jurisdiction relating to the case, together with all the process and other papers relating to the case filed in the court of limited jurisdiction which shall be made and certified by such court to be correct upon the payment of the fees allowed by law therefor, and upon the filing of such transcript the superior court shall become possessed of the cause, and shall proceed in the same manner, as near as may be, as in actions originally commenced in that court, except as provided in these rules. The issue before the court of limited jurisdiction shall be tried in the superior court without other or new pleadings, unless otherwise directed by the superior court.

**(c) Small Claims Appeals; Trial De Novo on the Record.** Small claims appeals pursuant to chapter 12.40 RCW shall be tried by the superior court de novo on the record. Within 14 days after the notice of appeal has been filed in a small claims proceeding, appellant shall make necessary arrangements with the district court to directly transmit a verbatim electronic recording of the trial and any exhibits from the trial to the clerk of the superior court. The electronic recording shall be made and certified by the district court to be correct upon the payment of the fees allowed by law therefor.

**(d) Transcript; Procedure on Failure To Make and Certify; Amendment.** If upon an appeal being taken the court of limited jurisdiction fails, neglects or refuses, upon the tender or payment of the fees allowed by law, to make and certify the transcript, the appellant may make application, supported by affidavit, to the superior court and the court shall issue an order directing the court of limited jurisdiction to make and certify such transcript upon the payment of such fees. Whenever it appears to the satisfaction of the superior court that the return of the court of limited jurisdiction to such order is substantially erroneous or defective it may order the court of limited jurisdiction to amend the same. If the judge of the court of limited jurisdiction fails, neglects or refuses to comply with any order issued under the provisions of this section ~~he~~ the judge may be cited and punished for contempt of court.

**WASHINGTON STATE**  
**BAR ASSOCIATION**

**TO:** WSBA Board of Governors

**FROM:** WSBA Low Bono Section, Jennifer Ortega, Chair

**DATE:** September 7, 2021

**RE: Low Bono Section Comments on GR40 Informal Domestic Relations Trials**

**ACTION/DISCUSSION :**

The WSBA Low Bono Section hereby submits a comment on the proposed GR40 rule changes. We are providing the comment to serve as input into the Board's discussion and potential comment on the subject and to also seek permission from the Board for the Low Bono Section to submit the comment directly to the WA Supreme Court.

Thank you for your time in reviewing the comment and for your consideration in approving it for submission to the WA Supreme Court.

Respectfully submitted,

Jennifer Ortega, Chair of the WSBA Low Bono Section



# Low Bono Section

*Low Bono Section of the Washington State Bar Association*

September 7, 2021

Clerk of the Supreme Court  
PO Box 40929  
Olympia, WA 98504-0929

[supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)

Re: GR 40 – Informal Domestic Relations Trial (IDRT) Public Comment

Dear Supreme Court Justices,

The Low Bono Section Executive Committee (LBS ExCom) has unanimously endorsed the following comments regarding the proposed GR 40 and requested that I forward these comments on behalf of the LBS ExCom to you via email.

The LBS ExCom supports the proposed IDRT rule. An informal process should be available to family law litigants, especially because so many litigants are unable to afford legal representation.

The LBS ExCom also suggests the following changes to the proposed rule:

1. Add language that third party sworn statements are admissible as trial exhibits.
2. Clarify the rule that if an informal trial is converted to a regular trial with 30 days of the trial date, the court SHALL continue the trial at least 30 days to allow for trial preparation, unless all parties agree to a shorter time period for a continuance. It is likely that one or both parties will require the additional time to prepare for a formal trial, particularly if both parties are pro se.

The LBS ExCom hopes the rule will be approved and quickly implemented.

Most respectfully,

A handwritten signature in black ink, appearing to read "Jennifer Ortega".

Jennifer Ortega, Chair of the WSBA Low Bono Section



To: WSBA Board of Governors  
From: Kristina Larry, President  
Re: 2021-22 Board of Trustees Appointments  
Date: September 9, 2021

The Washington State Bar Foundation Board is pleased to present the proposed 2021-22 Board of Trustees roster.

The Washington State Bar Foundation is the fundraising arm of the WSBA. The current members of the WSBA Board of Governors constitute the membership of the Foundation. Per the Foundation's bylaws, the WSBA Executive Director serves as the Foundation's Secretary ex officio, the WSBA Past President serves as a trustee ex officio, and the WSBA President each year appoints a first year Governor to serve a three-year term on the Foundation Board. The remaining seats are recommended by the Foundation Board and appointed by the Board of Governors, convened as the members of the Foundation.

The Board has unanimously approved a slate that includes appointing (in addition to the continuing trustees):

- Rajeev Majumdar to fill the vacant At Large position

Attachments:

- Proposed roster



## 2021-2022 Board of Trustees, Recommendation

	POSITION	RECOMMENDATION	TERM, ending
1	WSBA 1 <sup>st</sup> Year Governor	<i>Appointed by 2021-2022 BOG President TBA</i>	September 2024
2	WSBA 2 <sup>nd</sup> Year Governor	<i>Appointed by 2020-2021 BOG President Brent Williams-Ruth</i>	September 2023
3	WSBA 3 <sup>rd</sup> Year Governor	<i>Appointed by 2019-2020 BOG President Thomas McBride</i>	September 2022
4	WSBA Past President or Governor	Tracy S. Flood	1 <sup>st</sup> Regular Term, September 2023
5	WSBA Member	Allie Sisson	1 <sup>st</sup> Regular Term, September 2024
6	WSBA Member	Peter Finch	1 <sup>st</sup> Regular Term, September 2023
7	WSBA Member	Kinnon Williams	2 <sup>nd</sup> Term, September 2023
8	WSBA Member	Susan Machler	Remainder, September 2022
9	Minority/Specialty Bar Rep.	Deb Wechselblatt	1 <sup>st</sup> Regular Term, September 2024
10	Law Student	Maya Manus	Graduation
11	Public Member	<i>Vacant</i>	1 <sup>st</sup> Term, September 2024
12	Public Member	Richard C. Bird, Jr.	2 <sup>nd</sup> Term, September 2022
13	At Large	Gloria Ochoa-Bruck	1 <sup>st</sup> Term, September 2022
14	At Large	Rajeev Majumdar	1 <sup>st</sup> Term, September 2024
15	At Large	Kristine Kuenzli	1 <sup>st</sup> Term, September 2023
16	WSBA Immediate Past President	Kyle Sciuchetti	September 2022
17	Secretary	Terra Nevitt	Executive Director serves Ex Officio

**MEMO**

**To:** Board of Governors

**From:** Governor Sunitha Anjilvel, Diversity Committee Co-Chair  
Andrea Jarmon, Diversity Committee Co-Chair

**Date:** September 14, 2021

**Re:** Diversity Committee’s Exploration of Proposing a Council Structure

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We are writing to inform the Board of Governors (BOG) that the Diversity Committee will be exploring the possibility of becoming a council. If we decide to submit a proposal to become a council, we will develop a proposed charter. Prior to submitting a proposal to the BOG, we will be sure to seek stakeholder input. We are exploring the possibility of the Diversity Committee becoming a council because the current Bylaws and Committee and Board Policy do not account for the Diversity Committee’s unique history, membership makeup and role.

**History**

Prior to 2012, there were two different diversity focused committees, the Board of Governors’ Diversity Committee and the WSBA Committee for Diversity. The Board of Governors’ Diversity Committee’s purpose was to focus on diversity policy established by the BOG. This committee “served to further the guiding principles of advancing and promoting diversity, equality and cultural understanding throughout the legal community and to reflect the ever changing face of the legal profession.” This committee’s membership was limited to BOG members only. The WSBA Committee for Diversity’s purpose was to focus on increasing diversity within the membership and leadership of WSBA, to promote opportunities for appointment or election of diverse members to the bench, to support and encourage opportunities for minority attorneys, and to raise awareness of the benefits of diversity. This committee’s membership was open to any WSBA member.

In 2012, the WSBA Board of Governors voted to merge these two committees into one to become what is known today as the WSBA Diversity Committee (see attached Memo dated 2/24/2012).

**Membership Makeup**

The Diversity Committee’s membership makeup consists of four BOG members and 14 non-BOG members. It is a unique WSBA entity, in that BOG members are not just liaisons to the committee, but voting members of the committee appointed by the incoming president. The Diversity Committee is led by co-chairs – one BOG member and one non-BOG member. The bylaws do not account for the unique structure of this entity.

Further, the Bylaws and the Committee and Board Policy are in conflict when applying them to the Diversity Committee. The Bylaws provide that the Diversity Committee is a standing committee of the



BOG but then later state that only governors may vote on standing committees (see Bylaw IV (c)(1)). Further, the WSBA Committee and Board Policy states under Section 2(a) that the Diversity Committee will be made up of 18 members and under Section 3(e) that “the WSBA Diversity Committee includes both general WSBA members and members of the Board of Governors.”

When looking at both the WSBA Bylaws and the Committee and Boards Policy, there appears to be a discrepancy regarding whether or not the Committee is a standing BOG committee or a committee constituted of both general members and BOG members. When we look at the Bylaws and Committee and Boards Policy together, they do not accurately reflect the actual makeup of Bar members and BOG members working collaboratively to promote diversity, equity, and inclusion in the legal profession. Part of our exploration in becoming a council will be to have clear membership makeup so there is not confusion in how we are constituted.

### **Role**

The work of the Diversity Committee is focused on assisting underrepresented and historically marginalized groups to enter, thrive, and advance to leadership roles in the legal profession. This is accomplished through collaborative relationships with the Minority Bar Associations; community partnerships with other organizations; and supporting programming at our legal institutions (see memos dated 7/12/2021 and 8/5/2021 for detailed information on the work of the Committee). This is all done with the recognition that a credible legal profession reflects the diversity of the communities and populations served.

Given the unique role and scope of work of the Committee, we believe it is vital to have a diversity of voices within the committee. The current Bylaws and Committee and Board Policy limit membership to active members only. They do not allow for representation from the judiciary, law students, and other types of status.

Given the unique history, makeup and role of the Diversity Committee, we believe it is prudent to begin exploring a different structure such as a council. We will keep you posted on our exploration.



# WSBA

**TO:** WSBA Board of Governors

**FROM:** Roger Leishman, Chair, BOG Diversity Committee  
Bob Taylor, Co-chair, WSBA Committee for Diversity

**RE:** Proposal for WSBA Committee for Diversity Structure

**DATE:** February 24, 2012

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**PURPOSE:** Develop a charter and manifest for adoption by the Board of Governors (“BOG”) for the WSBA Committee for Diversity (“WSBA CFD”), a new committee formed by the merge of the BOG Diversity Committee (“BOG DC”) and current Committee for Diversity (“CFD”). The new WSBA CFD’s first term will begin on October 1, 2012.

## **I. History:**

### **A. WSBA Committees:**

The WSBA has two diversity-focused committees to address specific diversity issues. They are:

1. The Board of Governors Diversity Committee focuses on diversity policy established by the WSBA Board of Governors. The BOG DC serves to further the guiding principle to advance and promote diversity, equality and cultural understanding throughout the legal community and to reflect the changing face of our profession.
2. The WSBA Committee for Diversity is the principal programming entity for diversity for the Bar. The stated primary goals of the WSBA CFD are to increase diversity within the membership and leadership of the WSBA; to promote opportunities for appointment or election of diverse members to the bench; to support and encourage opportunities for minority attorneys; to aggressively pursue employment opportunities for minorities; and to raise awareness of the benefits of diversity.

### **B. Consolidation of Diversity Programming and Committees:**

In 2008-2009, WSBA conducted an organization wide program review. The diversity program review examined diversity funding, programming, relationships and projects. A recommendation

to identify a specific direction(s) based on the WSBA's Guiding Principles and then develop a strategic plan for diversity moving forward was formulated.

On January 21, 2010, the BOG adopted an External Focus for WSBA Diversity Efforts. The foci are working to understand the lay of the land of our legal community and providing tools to members and employers in order to enhance the retention of minority lawyers in our community.

In February of 2010, then BOG members Anthony Gipe and Brenda Williams drafted a Proposal to Reform Diversity Efforts at the WSBA, considering the outcome of the WSBA's program review and external foci. Changes to the current committees were recommended, including:

1. CFD:

- Work with YLD CFD to avoid overlap;
- Focus on diversity projects and programming;
- Provide an annual report to the BOG, and
- Coordinate two yearly diversity stakeholder meetings\*

2. BOG DC:

- Educate the BOG on diversity issues;
- Support the CFD, and
- Make diversity policy recommendations to the BOG\*

\*not an exhaustive list\*

In 2006, the Washington Young Lawyers Division Board of Trustees formed the WYLD CFD ("YLD CFD"), with initial goals to develop a diversity training for the WYLD BOT and forge a connection between the WYLD and MBAs. In August, 2010 members of the CFD, YLD CFD and WSBA staff reviewed CFD and YLD CFD programming and prepared a report evaluating the effectiveness of activities based on established criterion. Recommendations were then developed as to whether activities should be sunset or continued, either as they existed at the time or in different iterations. The YLD CFD was disbanded, and the CFD became the sole programming committee. At the time, the CFD had significant representation of young lawyers.

During 2012-2013, CFD programming will continue (ARC Reception, Bar News Articles) with an eye towards maintaining an external presence in the legal community, while identifying other possible entities who might be better positioned to carry out the programming in the future.

In June, 2011, the WSBA formed the Committee on Committees, charged with reviewing the annual reports of WSBA's committees and task forces in order to insure, "[t]hat the ongoing work of WSBA's committees, task forces, councils, and boards is consistent with the WSBA's mission and guiding principles, as well as the focuses for those principles that the BOG has developed and adopted."<sup>1</sup> The Committee on Committees recommended that, "The Committee for Diversity and the BOG Diversity Committee should merge into a single committee. The structure of the new committee will be determined in consultation with the members of both

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<sup>1</sup> Report from the Committee on Committees, July 1, 2012.

current committees, but it is recommended that the new committee be named the WSBA Committee for Diversity, and that it have two co-chairs, one of whom will be a BOG member who will also report on the committee's activity at every BOG meeting."<sup>2</sup>

In October, 2011, a Task Force was formed of BOG DC and CFD members to develop a charter for the new CFD, to commence in October, 2012.

## **MOVING FORWARD**

### **II. Mission Statement for WSBA Committee for Diversity:**

The Committee for Diversity is charged with ensuring that diversity and inclusion is integrated within the workings of the WSBA and throughout the legal profession. The Committee will suggest policies to the Board of Governors, provide programming, serve as a champion of inclusion, provide resources for our membership and be a leader in inclusion within the law for our membership and the public.

### **III. Goals:**

#### **A. First Year (2012-2013):**

The CFD will begin its inaugural term by identifying three primary areas of strategic focus. Some areas to be considered include outreach, education and the judiciary. Once three areas are chosen, one topic under each will be formulated, with a strategic goal identified and a working plan drafted, with a goal of completion within a 3 year period.

For example: Under the Judiciary, the CFD will commit to providing programming and other resources for diverse attorneys interested in joining the bench. Support will be provided to the Judicial Institute, with a commitment to continuing and expanding the program. Twice yearly meetings will be held, where input from the interested minority attorneys will be heard and addressed. By 2015, 10 minority attorneys will have applied to join the bench, as a direct result of this support, with 5 others working towards the application process in the following year.

This Judiciary Pipeline will be lead by a subcommittee of the CFD, whose members are tasked with only further development, support and growth of this one entity. The JP will have a working plan on how to achieve its goals.

The CFD will have a standing line item on BOG meeting agendas for reports and feedback.

#### **B. 2013 and Beyond:**

Once the inaugural year is completed, the effectiveness and initial success of the three areas of specific focus will be assessed. Areas for improvement, external and internal feedback and anticipation of completed goals will be identified and examined. A report will be created by the CFD Co-chairs, with input from the full committee, to be submitted to the BOG at the July BOG

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<sup>2</sup> Ibid.

meeting. Assuming the tri-focus approach is deemed effective and sustainable, the programming will continue. External programming will also be assessed at this time as well, with possible new driving entities charged with continuing the projects. A separate CFD subcommittee may need to be formed to maintain this programming, and some events may be removed from the CFD's portfolio.

When the initial three year period is completed, the three areas of focus will be reassessed based on success and internal and external feedback. Based on the level of completion of the projects, new projects will be developed, while current ones are either continued, refocused or sunset. The CFD will hold a retreat at the beginning of each fiscal year where projects are determined and subcommittees are formed.

**IV. Structure:**

The CFD will consist of 14 members, culled from the BOG, Young Lawyers and the WSBA's general membership. All members will be appointed by the BOG.

<b>Position</b>	<b>Membership</b>
Co-chair (2)	BOG and General Membership
Member ( 3 )	BOG
Member ( 13 )	General Membership

Project oriented volunteers may be recruited to supplement the work of the CFD Membership on a project-by-project basis.

Current bylaws pertaining to committees, specifically with relation to attendance, will apply.

**V. Budget:**

The budget for the 2011-2012 Committee for Diversity is \$3,000.00. We will roll this amount over to the new CFD's inaugural year, and reassess at the end of 2013, based on spending and new events and programming developed in 2012-2013.

**VI. Supporting Documentation: (Supplemental Materials)**

- Criteria for Defining Our Focus
- Diversity Definition
- Internal WSBA Diversity Programs and Activities
- Proposal to Reform Diversity Efforts in the WSBA
- Proposed External Focus for WSBA Diversity Efforts
- Report from the Committee on Committees
- WSBA Mission Statement, Guiding Principles and Strategic Goals

**MEMO**

**To:** Board of Governors

**From:** Andrea Jarmon, Co-Chair, Diversity Committee  
Governor Sunitha Anjilvel, Co-Chair, Diversity Committee

**Date:** June 25, 2021

**Re:** Update to FY 20 Annual Report

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This update on the Diversity Committee FY 20 Annual Report is provided to the Board of Governors (BOG), for the discussion at the July BOG meeting, as part of their annual dialogue between each WSBA entity and the Board. Below is a summary of the progress we have made since we submitted the FY 20 Annual Report last summer.

**Background & Purpose:**

The Washington State Bar Association’s Diversity Committee is dedicated to implementing WSBA’s Diversity and Inclusion Plan. The work of the committee is centered on programs and resources that promote the presence and retention of historically underrepresented groups in the legal profession. The Diversity Committee does this through collaborative partnerships and community building activities, the support of pipeline and mentorship programs, advocating for and sponsoring diversity training and CLEs, and making recommendations to the Board of Governors on issues and policies of impact to minority members in the profession, which highlight the numerous societal benefits of a diverse legal profession.

**FY 21 Accomplishments and Updates:**

- **AT LARGE GOVERNOR ELECTIONS:** In FY 20, the Committee proposed bylaw changes that would direct the Committee to vet and recommend At-Large Governor candidates for a member-wide election. The Board of Governors approved the bylaw change and the Committee followed the new policy for the first time at the end of 2020 following an incoming At-Large Governor’s withdraw. The Committee assisted in communication efforts to ensure wide dissemination about the opportunity to apply to run for an At-Large Governor seat, designed interview questions and selection criteria, and interviewed 6 candidates. The Committee ultimately recommended four candidates for the member-wide election and a new At-Large Member was elected in January 2021.
- **MINORITY BAR ASSOCIATIONS:** The Committee continues to work with and support the MBAs in a variety of ways:

- In June 2020, comments raising concerns about racial bias were made by a sitting BOG member. Many MBAs including the Asian Bar Association of WA, Korean American Bar Association, WA Attorneys with Disabilities Association, Latina/o Bar Association, QLaw, Vietnamese-American Bar Association, Loren Miller Bar Association, MAMA Seattle, Filipino Lawyers of WA, and WA Women Lawyers submitted written communication to the BOG, expressing their concerns and requesting various actions. The Committee sent a letter to the BOG expressing its support of the MBAs and urging the BOG to respond to the MBAs, heed the Supreme Court’s call to action against racism, and fulfill its commitments in the mission statement, GR 12.2(6) and the Race and Equity Justice Initiative.
- The Committee has supported the MBAs in their work in supporting law students from underrepresented communities. The MBAs created the Joint Minority Mentorship Program which matches Bar members with law students from underrepresented communities. In April 2021, upon the Diversity Committee’s recommendation, the BOG approved the WSBA becoming an official sponsor.
- **MCLE RULE CHANGE:** The MCLE Board proposed a rule change which would require training in equity, inclusion and the mitigation of bias as part of the required ethics credits. The Committee has supported this change since the MCLE Board first submitted this proposal a few years ago. In April 2021, upon BOG approval, the Committee submitted comments to the Supreme Court in support of the proposed change.
- **BAR EXAM RESOLUTION COMMENT:** In March 2021, the Diversity Committee urged the BOG to hold off on passing a bar exam resolution so members including the MBAs could have time to submit their comments. The Committee then helped facilitate outreach to the MBAs, inviting them to submit comments. Subsequently, several MBAs submitted comments and some MBA leaders attended the April 2021 BOG meeting to give oral comments. The Diversity Committee also submitted its own memo to the BOG recommending that it forego passing the proposed bar exam resolution and instead allow the Supreme Court Bar Licensure Task Force to complete its work.
- **LAW STUDENT OUTREACH AND PARTNERSHIP WITH LAW SCHOOLS:** The Committee has been working to strengthen relationships with law schools and work with underrepresented law students to advance diversity and inclusion in the legal profession. They have engaged in the following activities this year:
  - The Committee invited students and staff from the three WA law schools to their Committee meetings to learn about their diversity, equity and inclusion efforts and identify how to collaborate on joint efforts.
  - The Committee historically has supported the Access Admissions Program through Seattle University School of Law’s Academic Resource Center (ARC). The

Access Admissions Program is targeted towards law school candidates from historically oppressed communities, and recognizes that students from these communities may have less access to education and standardized testing prep, and may have lower LSAT scores and/or undergraduate GPAs, and offers an alternative admissions process so that students from historically marginalized groups can still enter into the legal profession. The Committee is currently planning its first virtual ARC reception for 1L students that are part of the Access Admissions Program, to inspire and encourage more diversity in the legal profession, and give students the opportunity to network with people from various backgrounds and professions.

- The Committee is working on creating formal membership opportunities for a law student from each of the three WA law schools.
- **DIVERSITY, EQUITY AND INCLUSION CLES:** The Committee, in collaboration with members of different MBAs and others in the legal community convened a brainstorm session to inform the development of the FY 21 Legal Lunchbox CLEs which would be devoted to DEI topics. Following the brainstorm session, the Committee in partnership with WSBA staff developed a series of Legal Lunchbox CLEs responding to the WA Supreme Court's June 2020 Call to Action. The three CLEs build off each other to provide a foundation of learning about structural racism (March 2021), how to combat it as individuals (June 2021), and how it relates to and can be a catalyst for organizational change (September 2021).
- **COMMUNICATIONS:** In partnership with the Editorial Advisory Committee, the Committee is working to promote diversity, equity and inclusion in various WSBA communications including the WSBA Bar News. The Committees are working to create columns dedicated to issues related to diversity, equity, and inclusion and recruit authors to write articles. Two articles in development include one on Lawyers Against Systemic Racism which is based in Tacoma, and one on the Racial Justice Consortium which the Supreme Court has convened. The Committee and the Editorial Advisory Committee also plan to work together on using an equity lens in all aspects of the Bar News, in order to institutionalize the practice of having DEI focused submissions in the Bar News, the Diversity Committee has created a subcommittee that will work directly with the Editorial Advisory Committee for a regular submission. Additionally, the Diversity Committee continues to offer a diversity focused lens to provide feedback. Recently, both committees engaged in a successful dialogue related to the selection of the cover for the last issue of the Bar News.
- **MEMBERSHIP STUDY AND DIVERSITY AND INCLUSION PLAN:** The WSBA Diversity and Inclusion Plan provides that the WSBA will conduct a comprehensive membership demographics study every 10 years. The Diversity Committee, in partnership with WSBA staff, are preparing for the next study which is due in 2022. The Committee will be



identifying needed data points and will solicit input from relevant stakeholders before and while working with a data consultant. The Committee envisions the results of the study informing the update of a new Diversity and Inclusion Plan.

We look forward to meeting with you and happy to answer any questions at our meeting on July 16<sup>th</sup>. Thank you.

**MEMO**

**To:** Board of Governors

**From:** Andrea Jarmon, Co-Chair, Diversity Committee  
Governor Sunitha Anjilvel, Co-Chair, Diversity Committee

**Date:** August 5, 2021

**Re:** Supplemental Report to July 17, 2021 Update

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The Diversity Committee is excited about the continued opportunity to support the Board of Governors as we, in partnership, further hone and expand the important work of diversity, equity, and inclusion (DEI). Thank you for the opportunity and time afforded to the Diversity Committee to come before the Board of Governors and report on this work and the goals of the Diversity Committee during this past year. We are writing to supplement the update we shared with you at your meeting on July 17, 2021.

At the July 17, 2021 meeting, we shared some background on the Diversity Committee. The work of the Diversity Committee is centered on programs and resources that promote the presence and retention of historically underrepresented groups in the legal profession. The Diversity Committee does this through collaborative partnerships and community building activities, the support of pipeline and mentorship programs, advocating for and sponsoring diversity training and CLEs, and making recommendations to the Board of Governors on issues and policies of impact to minority members in the profession, which highlight the numerous societal benefits of a diverse legal profession.

We also provided some highlights of what we have been working on over this past year. We shared about our work on the At-Large Governor Elections, our partnership with the Minority Bar Associations, our support of the MCLE Rule requiring equity, inclusion and the mitigation of bias as an ethics credit, our comments on the bar exam resolution, our work with law students, highlights of the most recent DEI CLEs and our work to promote DEI in WSBA communications.

The Diversity Committee welcomes the continued engagement of each of the BOG members and the executive team. We believe that this work is and must be collaborative. We are appreciative of the questions and discussion that unfolded. As promised, we are following up to supplement our report with more information about the makeup of our committee, as well as, additional information about our committee work that demonstrates our understanding of and responsiveness to the diversity and intersectionality of both of our committee and the public and membership we serve.

### **Diversity Committee Members**

The Diversity Committee continues to prioritize diversity among its committee membership as we value a diversity of perspectives especially from those who are part of underrepresented communities. Reflective of this, our current membership of 18 people reported the following demographics:

- 10 women and 6 men (2 unreported)
- 4 people from the LGBTQ community (2 unreported)
- 14 people who are Black, Indigenous, People of Color and 2 who are White (2 unreported)
- 2 people with a disability (2 unreported)

During past recruiting season for new members in FY 22, we made a special effort to reach out to the Minority Bar Associations, making individualized phone calls, as well as sending out multiple email blasts to the MBA Leaders listserv, Diversity Stakeholders listserv and the Access to Justice Community listserv.

We work to create an inclusive space for our meetings and ensure each committee member can voice their ideas and concerns. We spend time getting to know each other, learning about our lived experiences and what motivates to engage in diversity, equity and inclusion.

### **Member Demographic Survey and Diversity and Inclusion Plan**

Informed by the 2012 Member Demographic Survey and guided by the 2013 Diversity and Inclusion Plan, the Diversity Committee has been working to address the disparities and impacts experienced by WSBA members from underrepresented communities. Some examples of 2012 data points include:

- Members of color represented 12% of the membership and reported experiencing the highest frequency of professional barriers among underrepresented groups.
- Members with disabilities represented 21% of members and experienced the highest intensity of professional barriers.
- Members from the LGBTQ community represented 12% of the WSBA membership and reported the lowest income among underrepresented groups.

Following the WSBA's commitment to engage in a comprehensive membership study every ten years as outlined in the Diversity and Inclusion Plan, we are planning for a new membership study to take place in 2022. We are developing a plan so the process will be inclusive and provide the Bar with an updated picture of our membership and their experiences. Our hope is that the data will then inform our work to update the 2013 Diversity and Inclusion Plan.

### **Minority Bar Associations**

We shared highlights of our work with Minority Bar Associations (MBAs) during our July 17<sup>th</sup>

presentation. There were some questions about who MBAs included. Below is a list of the MBAs we have reached out to and worked with:

[Asian Bar Association of Washington](#)

[The Cardozo Society](#)

[Filipino Lawyers of Washington](#)

[QLaw – The LGBT Bar Association](#)

[Korean American Bar Association](#)

[Latina/Latino Bar Association of Washington](#)

[Loren Miller Bar Association](#)

[Middle Eastern Legal Association of Washington](#)

[Mother Attorneys Mentoring Association of Seattle](#)

[Northwest Indian Bar Association](#)

[Pierce County Minority Bar Association](#)

[Slavic Bar Association of Washington](#)

[South Asian Bar Association of Washington](#)

[Spokane County Bar Association Diversity Section](#)

[Vietnamese American Bar Association of Washington](#)

[Washington Attorneys with Disabilities Association](#)

[Washington State Veterans Bar Association](#)

[Washington Women Lawyers](#)

Many of the MBAs have come together to launch the Joint Minority Mentorship Program (JMM) under the leadership of the South Asian Bar Association of Washington. JMM matches Bar members with law students from underrepresented communities and offers virtual learning opportunities for law students. The MBAs involved with JMM include the South Asian Bar Association of Washington WA Women Lawyers, Washington Attorneys with Disabilities Association, Korean American Bar Association, Latina/Latino Bar Association of Washington, NW Indian Bar Association, and the Middle Eastern Legal Association of WA. As you know, WSBA signed on as a sponsor of JMM in April 2021 and most recently hosted a webinar to learn about volunteer opportunities with the Bar.

Guided by the Diversity and Inclusion Plan to increase outreach to the MBAs, the Diversity Committee has prioritized its partnership with the MBAs. Part of this partnership has been to ensure that MBAs are given ample opportunities to share their input on WSBA matters. Just over

this past year, many MBAs have taken the time to give their collective and individual input on a proposal for a new mission statement, the bar exam resolution and the proposed MCLE rule on diversity, inclusion and the mitigation of bias. We hope that the Board of Governors will continue to be open to getting input from the MBAs especially since they offer perspectives from underrepresented groups.

### **CLE Programs**

In partnership with the WSBA Equity and Justice Department, we have been involved with, promoted or supported the following CLE programs (in chronological order starting with the most recent):

- **Creating a More Equity-Minded Justice System: Strategies and Best Practices** (Legal Lunchbox™ Series June 29, 2021)
- **Understanding Systemic Racism in the Law** (Legal Lunchbox™ Series March 30, 2021)
- **Disability Discrimination During the Pandemic** (collaboration with WA Attorneys with Disabilities Association - November 10, 2020)
- **Beyond the Dialogue From Transphobia to Gender Inclusion in the Practice Law** (Sept. 15, 2020)
- **Legal Responses to Hate Crimes in the Pacific Northwest** (Legal Lunchbox™ Series March 2020)
- **Washington's General Rule 37: Eliminating Racial and Ethnic Bias in Jury Selection** (Legal Lunchbox™ Series July 2019)
- **Transgender Competency in Legal Services** (June 15, 2019)
- **Trauma Informed Approaches and Secondary Trauma** (June 15, 2019)
- **Formerly Incarcerated Community Panel Discussion** (June 14, 2019)
- **Past Lessons for Future Planning Housing Discrimination in Spokane and Structural Racism** (June 15, 2019)
- **Identifying and Responding to Bias and Microaggressions in the Practice of Law** (April 23, 2019)
- **Women and the Law Past, Present and Future - 2nd Annual Women's History Month** (March 13, 2019)
- **Seeing the Unseen: Implicit Bias and the Courtroom** (March 13, 2019)
- **The Law and Strategy of Accommodating Mental Health and Cognitive Disability in the Workplace** (Nov. 30, 2018)
- **Working with Survivors of Domestic Violence** (Sept. 19, 2018)

- **Disability Law & Digital Accessibility** (Legal Lunchbox™ Series September 2018)
- **Hiring, Retention and Advancement of Underrepresented Groups** (Legal Lunchbox™ Series May 2018)
- **Diversity and Inclusion Webinar Series: Best Practices for Working with Unaccompanied Minors**
- **Diversity and Inclusion Webinar Series: Mentoring for Diversity and Inclusion: The Role of Allies**

We are happy to answer any questions and/or provide ongoing updates. We are grateful for your commitment to diversity, equity and inclusion and look forward to our continued partnership with you.

**WASHINGTON STATE**  
**BAR ASSOCIATION**

**TO:** WSBA Board of Governors  
**FROM:** Terra Nevitt, Executive Director  
**DATE:** September 14, 2021  
**RE:** Suggested Amendments to Guidelines for Waiver and Appeals of Late Fees and Reinstatement Fees

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This topic was originally planned for discussion at the August 20-21, 2021 Board of Governors meeting but was deferred due to time constraints. The attached materials are unchanged from what was presented in the August meeting materials.

**TO:** WSBA Board of Governors  
**FROM:** Renata de Carvalho Garcia, Chief Regulatory Counsel  
**DATE:** August 4, 2021  
**RE:** Suggested Amendments to Guidelines for Waiver and Appeals of Late Fees and Reinstatement Fees

**FIRST READING:** The Regulatory Services Department presents suggested amendments to the Guidelines for Waiver and Appeals of Late Fees and Reinstatement Fees for first reading to gather comments and feedback from the Board of Governors, the membership, and the public.

**BACKGROUND & PURPOSE:**

Adopted by the Board of Governors in 2010, the Guidelines for Waiver and Appeals of Late Fees and Reinstatement Fees (“Fee Waiver Policy”) describes circumstances, if any, when WSBA employees are permitted to waive or reduce the annual license fees, the late payment fees, and the reinstatement fees (only in the case of reinstatement from administrative suspension for failure to pay license fees). This official Board of Governors policy has not been revised or amended since it was adopted eleven years ago.

The Regulatory Services Department (RSD) is suggesting amendments now to bring the Fee Waiver Policy up to date with changes in financial administration and technology, as well as changes to methods of communication that the WSBA has with its members. In addition, the amendments attempt to define clear, objective criteria for determining when extraordinary personal circumstances apply. Importantly, the policy was evaluated under an equity lens to identify and attempt to mitigate or eliminate any implicit or explicit bias and inequity. Finally, the structure of the policy was evaluated and edited in parts to make it easier to understand and to remove repetitive language.

**EXPLANATION OF KEY AMENDMENTS**

**Extraordinary Personal Circumstances.** There are two significant amendments to the definition of extraordinary personal circumstances. First is a change from “death in the immediate family” to “death of a close family member or close friend”. This change recognizes that people may have close relationships with people other than those traditionally included in the immediate family. In fact, some people have no immediate family but have close friends who they consider to be their “family”. Second is the addition of “extreme financial hardship” as a possible extraordinary circumstance for the waiver or reduction of late fees or reinstatement fees. The standard to assert an extreme financial hardship is the same as that used for the financial hardship exemption for the active license fee under the WSBA Bylaws—less than 200% of the federal poverty level. Not that there weren’t people in this situation before, but these past 16 months or so during the pandemic have really highlighted the need for relief to people who are trying to keep or reinstate their license under difficult financial situations.

**To-Active Investigation/Application Fee.** When a member wants to return to active status from any other status, the member must pay an investigation/application fee to cover the administrative costs of processing the application. This fee, which is currently \$100, was implemented after the adoption of the Fee Waiver Policy. These amendments include this fee and make clear that it cannot be waived or reduced under any circumstances.



**Appeals of Staff Decisions.** The current guidelines have several appeal sections with more or less the same language. The suggested amendments will combine all appeal procedures into one section at the end of the policy. Substantive changes to the appeal section include clarifying that, although the appeal before the Board of Governors is on the written record only, Bar staff may attend the executive session in which the appeal is going to be discussed in order to answer procedural questions from the governors. Bar staff is not to advocate its position in person before the Board of Governors. In addition, the amendments clarify that the issue on appeal is whether the member qualifies for a waiver or reduction under that member's circumstances as the policy and Bylaws exist at that time.

**CONCLUSION**

The RSD would like to hear from the Board of Governors, members and the public, about their concerns, questions, or suggestions regarding amendments to this policy. RSD will then incorporate the feedback and return at the September meeting and potentially seek approval at that time.

**Attachments:**

1. Suggested Amendments to Guidelines for Waiver and Appeals of Late Fees and Reinstatement Fees (blackline copy)
2. Suggested Amendments to Guidelines for Waiver and Appeals of Late Fees and Reinstatement Fees (clean copy)



# WSBA

WASHINGTON STATE BAR ASSOCIATION

## Guidelines Policy for Waiver or Reduction of, or Extension of Payment for ~~and Appeals of~~ Annual License ~~Late Fees~~ and Reinstatement Fees

Approved by the Board of Governors on July 23, 2010 and amended on \*\*\*. ~~October 2010~~

### **Annual License Fees**

#### **Requests to Waive, Reduce or Extend Payment of License Fees**

WSBA members must pay license fees in order to maintain a license to practice law in Washington. In general, license fees cannot be waived or reduced, nor can the time to pay be extended. Other than the Executive Director's ability to grant a hardship exemption as set forth in the WSBA Bylaws, WSBA employees are not authorized to waive, reduce or extend the time to pay the license fee.

~~The Bylaws do provide, however, for a one-time exemption from payment of the annual license fees and assessments by any Active member. The member must meet the conditions set forth in the WSBA Bylaws.~~

### **Late Fees re Annual License Fees**

#### **Requests to Waive, Reduce or Extend Payment of the Late Payment Fee**

WSBA employees are not authorized to extend the time to pay the late payment fee. Staff has WSBA employees have limited discretion in waiving late payment fees. Late payment fees are not waived in the following circumstances:

1. If members claim they did not receive their license packets or email notifications, without evidence that this actually occurred and was due to WSBA error (see below).
2. If a members pays by a check that is returned by the bank for non-sufficient funds (NSF) and ~~the member does~~ subsequently do not pay by the deadline.
3. If members ~~claim financial hardship~~ submit a timely request through their bank to send a check and the bank does not send the check by the deadline.

~~Staff~~ WSBA employees will waive the late payment fee for the following reasons:

1. If WSBA error was the cause, such as failure to correctly process a member's change of address-contact information.
2. If members ~~are able to~~ provide reasonable proof that they made their payments in time even though WSBA has no record of receiving it.
3. If members ~~have had~~ notify the WSBA of extraordinary personal circumstances which that prevented them from handling their mail and financial matters and the timing of these circumstances supported the inability of the members to make making their payments by the due date. Extraordinary personal circumstances ~~would~~ include

a serious medical emergency, a death ~~in the immediate~~ of a close family member or close friend, or a significant health problem, and extreme financial hardship. Extreme financial hardship is defined as annual household income equal to or less than 200% of the federal poverty level as determined based on the member's household income for the calendar year immediately preceding the calendar year for which the member is seeking the request. The WSBA may require reasonable documented proof of the extraordinary personal circumstances.

4. ~~If the member pays by credit card and the member can show that the bank declined the card in error after a second submission, which resulted in the member owing a late fee.~~
5. ~~In rare instances, if members claim they did not receive their license packets and can demonstrate compelling reasons for not being aware of the license fee deadline.~~

### **Appeals of License Fees**

~~License fees must be paid in order to maintain WSBA membership. There are no provisions in the Bylaws for appeals. Staff is not authorized to waive, reduce or extend the time to pay the license fee. Only the Executive Director can grant the one time hardship exemption if the member meets the criteria. There is no appeal of denial of the hardship exemption.~~

### **Appeals of Late Payment Fees**

~~If the member's request to waive late payment fees is denied by staff, the member's last resort is to appeal the decision to the Board of Governors. Written appeals should be submitted to Regulatory Services for inclusion in the Board of Governors meeting materials and must include full documentation and assertion of claims.~~

~~The Board of Governors will only accept documented appeals of staff decisions. The standard for granting the appeal is "documented, exigent circumstances." The Board of Governors will review the petition using the criteria listed below for consideration of waivers of late payment fees:~~

1. ~~Is there a compelling circumstance for the member to not have been aware of the license payment deadline and/or not been able to meet the deadline;~~
2. ~~Is there a reasonable connection between the compelling circumstance and the missed deadline; and,~~
3. ~~Is the documentation adequate to the cause?~~

~~The decision of the Board of Governors is final.~~

## **Reinstatement Fees after Suspension for Non-payment of License Fees**

### **Reinstatement Class and Calculation of Reinstatement Fees**

A member's license can be reinstated from suspension to any membership class status after meeting the requirements for that membership class class changing status after suspension as set forth in the WSBA Bylaws Art. III Sec. K, which includes paying the current license fee and

assessments. Reinstatement after suspension for non-payment of license fees has additional reinstatement fees.

### **Waiver or Reduction of Investigation/Application Fee**

Members must pay an investigation/application fee to apply to return to active status. Investigation fees cannot be waived or reduced.

### **Calculation of Reinstatement Fees after Suspension for Non-payment of License Fees**

The In accordance with the WSBA Bylaws, the reinstatement fee assessed to a member depends on when the member is reinstated.

1. Reinstatement to the same class status prior to suspension:
  - a. If the member requests to be reinstated in the same calendar year that ~~he~~ the license is suspended, the member will need to pay two times the sum of the annual license fee and the late payment fee (~~as well as~~ and the LFCP Client Protection Fund (CPF) Assessment fee for assessment if returning to Active members status).
  - b. If the member requests to be reinstated in a calendar year subsequent to the year in which ~~he~~ the license was suspended, the member will need to pay:
    - i. Two times the sum of the annual license fee and the late payment fee for the year of the suspension (~~Active members also need to pay the annual LFCP Assessment fee and the CPF assessment for the year of suspension if Active at time of suspension-~~); and
    - ii. The license fee for the current year (~~as well as the LFCP Assessment fee for active members and the CPF assessment if returning to Active status~~).
2. Reinstatement to a class status other than Active when the member's license was Active prior to suspension:
  - a. If the member requests to be reinstated in the same calendar year that ~~he~~ the license is suspended, the member will need to pay two times the sum of the Active license fee and the late payment fee, and the ~~LFCP CPF~~ assessment. The member will not have to pay an additional license fee for the new ~~membership~~ class status, because that fee will be covered by the amount of the Active license fee.
  - b. If the member requests to be reinstated in a calendar year subsequent to the year in which ~~he~~ the license was suspended, the member will need to pay:
    - i. two times the sum of the Active license fee and late payment fee for the year of suspension;
    - ii. the ~~LFCP Assessment fee~~ CPF assessment for the year of suspension; and,
    - iii. the license fee for the current year.

### **Circumstances for Reducing Reinstatement Fees**

Staff has WSBA employees have limited discretion in waiving reinstatement fees. Reinstatement fees are not waived in the following circumstances:

1. If a member did not understand, at the time of suspension, that the fees would be high.
2. If a member was unaware that the member's license had been suspended for non-payment.

Staff WSBA employees will reduce the reinstatement fee for the following reasons:

1. If WSBA error was the cause, such as failure to correctly process a member's change of address-contact information.
2. If members ~~have documented~~ notify the WSBA of extraordinary personal circumstances ~~which that prevented them from handling their mail and financial matters and the timing of these circumstances supported the inability of the members to paying~~ license fees ~~and/or applying~~ for reinstatement in a timely manner. Extraordinary personal circumstances ~~would~~ include a serious medical emergency, a death ~~in the immediate~~ of a close family member or close friend, ~~or~~ a significant health problem, and extreme financial hardship. Extreme financial hardship is defined as annual household income equal to or less than 200% of the federal poverty level as determined based on the member's household income for the last 12 months or the immediately preceding calendar year. The WSBA may require reasonable documented proof of the extraordinary personal circumstances.

The amount of the reduction in the reinstatement fee will be considered on a case by case basis, based on ~~the number of years~~ length of time in suspended status, the duration of the extraordinary personal circumstances, ~~the length of the emergency~~, and other pertinent factors.

### **Appeals of Reinstatement Fees**

~~If the member's request is denied by staff, the member's last resort is to appeal the decision to the Board of Governors. Written appeals should be submitted to Regulatory Services for inclusion in the Board of Governors meeting materials and must include full documentation and assertion of claims.~~

~~The Board of Governors will only accept documented appeals of staff decisions. The standard for granting the appeal is "documented, exigent circumstances." The Board of Governors will review the petition using the criteria listed below for consideration of waivers of reinstatement fees.~~

1. ~~Is there a compelling circumstance for the member to not have been aware of the member's impending suspension for non-payment of fees and/or not able to pay license fees within 60 days of the mailing of the Pre-suspension Notice;~~
2. ~~Is there a reasonable connection between the compelling circumstance and the missed deadline; and~~
3. ~~Is the documentation adequate to the cause?~~

### **Appeals of Staff Decisions**

If a member's request for a waiver, reduction or extension is denied by staff, the member may appeal the decision to the Board of Governors.

**Appeals must be submitted in writing.** Appeals must be submitted in writing to the Regulatory Services Department for inclusion in the Board of Governors meeting materials. The standard for granting the appeal is documented, exigent circumstances.

**Appeals should be reviewed and decided on the written record.** The Board must review the appeal on the written record in executive session. Staff from the Regulatory Services Department may be present to respond to procedural questions from the Board of Governors but not to advocate its position.

**Issue on appeal.** The issue on appeal before the Board is whether the appellant qualifies for a waiver or reduction under this policy and WSBA Bylaws at the time of the request.

**Criteria for review.** The criteria for reviewing the request are:

1. Is there a compelling circumstance for the member to not have been aware of the license fee payment deadline, to not have been able to meet the license fee deadline, to not have been aware of the member's impending suspension for non-payment of fees, or to not be able to pay license fees within 60 days of the mailing of the Pre-suspension Notice;
2. Is there a reasonable connection between the compelling circumstance and the missed deadline; and
3. Is the documentation adequate to the cause?

The decision of the Board of Governors is final.

*Approved by the Board of Governors on July 23, 2010.*

## **Policy for Waiver or Reduction of, or Extension of Payment for, Annual License and Reinstatement Fees**

*Approved by the Board of Governors on July 23, 2010 and amended on \*\*\*DRAFT 8-4-2021\*\*\*.*

### **Annual License Fees**

#### **Requests to Waive, Reduce or Extend Payment of License Fees**

WSBA members must pay license fees in order to maintain a license to practice law in Washington. In general, license fees cannot be waived or reduced, nor can the time to pay be extended. Other than the Executive Director's ability to grant a hardship exemption as set forth in the WSBA Bylaws, WSBA employees are not authorized to waive, reduce or extend the time to pay the license fee.

### **Late Fees re Annual License Fee**

#### **Requests to Waive, Reduce or Extend Payment of the Late Payment Fee**

WSBA employees are not authorized to extend the time to pay the late payment fee. WSBA employees have limited discretion in waiving late payment fees. Late payment fees are not waived in the following circumstances:

1. If members claim they did not receive their license packets or email notifications, without evidence that this actually occurred and was due to WSBA error (see below).
2. If members pay by check or electronic funds transfer that is returned by the bank for non-sufficient funds (NSF) and subsequently do not pay by the deadline.
3. If members submit a timely request through their bank to send a check and the bank does not send the check by the deadline.

WSBA employees will waive the late payment fee for the following reasons:

1. If WSBA error was the cause, such as failure to correctly process a member's change of contact information.
2. If members provide reasonable proof that they made their payments in time even though WSBA has no record of receiving it.
3. If members notify the WSBA of extraordinary personal circumstances that prevent them from making their payments by the due date. Extraordinary personal circumstances include a serious medical emergency, a death of a close family member or close friend, a significant health problem, and extreme financial hardship. Extreme financial hardship is defined as annual household income equal to or less than 200% of the federal poverty level as determined based on the member's household income for the calendar year immediately preceding the calendar year for which the member is seeking the request. The WSBA may require reasonable documented proof of the extraordinary personal circumstances.

### **Reinstatement after Suspension**

A member's license can be reinstated from suspension to any membership status after meeting the requirements for changing status after suspension as set forth in the WSBA Bylaws Art. III Sec. K, which includes paying the current license fee and assessments. Reinstatement after suspension for non-payment of license fees has additional reinstatement fees.

### **Waiver or Reduction of Investigation/Application Fee**

Members must pay an investigation/application fee to apply to return to active status. Investigation fees cannot be waived or reduced.

### **Calculation of Reinstatement Fees after Suspension for Non-payment of License Fees**

In accordance with the WSBA Bylaws, the reinstatement fee assessed to a member depends on when the member is reinstated.

1. Reinstatement to the same status prior to suspension:
  - a. If the member requests to be reinstated in the same calendar year that the license is suspended, the member will need to pay two times the sum of the annual license fee and the late payment fee (and the Client Protection Fund (CPF) assessment if returning to Active status).
  - b. If the member requests to be reinstated in a calendar year subsequent to the year in which the license was suspended, the member will need to pay:
    - i. Two times the sum of the annual license fee and the late payment fee for the year of the suspension (and the CPF assessment for the year of suspension if Active at time of suspension); and
    - ii. The license fee for the current year (and the CPF assessment if returning to Active status).
2. Reinstatement to a status other than Active when the member's license was Active prior to suspension:
  - a. If the member requests to be reinstated in the same calendar year that the license is suspended, the member will need to pay two times the sum of the Active license fee and the late payment fee, and the CPF assessment. The member will not have to pay an additional license fee for the new status, because that fee will be covered by the amount of the Active license fee.
  - b. If the member requests to be reinstated in a calendar year subsequent to the year in which the license was suspended, the member will need to pay:
    - i. two times the sum of the Active license fee and late payment fee for the year of suspension;
    - ii. the CPF assessment for the year of suspension; and,
    - iii. the license fee for the current year.

### **Circumstances for Reducing Reinstatement Fees**

WSBA employees have limited discretion in waiving reinstatement fees. Reinstatement fees are not waived in the following circumstances:

1. If a member did not understand, at the time of suspension, that the fees would be high.
2. If a member was unaware that the member's license had been suspended for non-payment.

WSBA employees will reduce the reinstatement fee for the following reasons:

1. If WSBA error was the cause, such as failure to correctly process a member's change of contact information.
2. If members notify the WSBA of extraordinary personal circumstances that prevented them from paying license fees or applying for reinstatement in a timely manner. Extraordinary



personal circumstances include a serious medical emergency, a death of a close family member or close friend, a significant health problem, and extreme financial hardship. Extreme financial hardship is defined as annual household income equal to or less than 200% of the federal poverty level as determined based on the member's household income for the last 12 months or the immediately preceding calendar year. The WSBA may require reasonable documented proof of the extraordinary personal circumstances.

The amount of the reduction in the reinstatement fee will be considered on a case by case basis, based on length of time in suspended status, the duration of the extraordinary personal circumstances, and other pertinent factors.

### **Appeals of Staff Decisions**

If a member's request for a waiver, reduction or extension is denied by staff, the member may appeal the decision to the Board of Governors.

**Appeals must be submitted in writing.** Appeals must be submitted in writing to the Regulatory Services Department for inclusion in the Board of Governors meeting materials. The standard for granting the appeal is documented, exigent circumstances.

**Appeals should be reviewed and decided on the written record.** The Board must review the appeal on the written record in executive session. Staff from the Regulatory Services Department may be present to respond to procedural questions from the Board of Governors but not to advocate its position.

**Issue on appeal.** The issue on appeal before the Board is whether the appellant qualifies for a waiver or reduction under this policy and WSBA Bylaws at the time of the request.

**Criteria for review.** The criteria for reviewing the request are:

1. Is there a compelling circumstance for the member to not have been aware of the license fee payment deadline, to not have been able to meet the license fee deadline, to not have been aware of the member's impending suspension for non-payment of fees, or to not be able to pay license fees within 60 days of the mailing of the Pre-suspension Notice;
2. Is there a reasonable connection between the compelling circumstance and the missed deadline; and
3. Is the documentation adequate to the cause?

The decision of the Board of Governors is final.

**TO:** WSBA Board of Governors

**CC:** Terra Nevitt, Executive Director

**FROM:** Eleanor Doermann, Chair of Senior Lawyers Section Executive Committee  
Carole Grayson, Senior Lawyers Section Executive Committee Member, Chair from 2014-2017  
Brian Comstock, Senior Lawyers Section Emeritus Executive Committee Member, Chair from 2017-2019

**DATE:** September 8, 2021

**RE:** Request to Modify WSBA Bylaws to Allow Inactive/Honorary Members to Join Sections as Voting Members

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**This is the First Read of a request by the Senior Lawyers Section to modify the WSBA Bylaws to allow Sections the option of allowing inactive/honorary members of the WSBA to join a section as a voting member and to serve as a voting member of a section executive committee.**

By its nature, the WSBA Senior Lawyers Section attracts members who are advanced in age and, consequently, closer to retirement. This prompts members of the Section to switch their license status from active to inactive or honorary. The Senior Lawyers Section currently has three members of its executive committee who have switched to inactive or honorary status. They are serving on the executive committee as Emeritus members with no voting rights because the WSBA Bylaws prohibit inactive/honorary members from joining sections as voting members and serving on section executive committees as voting members.

We are requesting that the WSBA Bylaw provisions preventing inactive/honorary members from joining sections and serving on section executive committees as voting members be modified so that any section may opt to allow inactive/honorary members of WSBA to join as voting members of that section. See the proposed redline of the WSBA Bylaws attached. The proposed modifications were also reviewed by the WSBA Office of General Counsel.

#### Background

The proposed WSBA Bylaws amendments would not require sections to allow inactive/honorary members, but would give a section the option to do so by modifying its own section bylaws. Currently, the WSBA Bylaws allow the sections to have discretion in adding all member types (Judicial status is questionable because there is an apparent conflict in the Bylaws regarding Judicial status and sections) as voting members with the exclusion of inactive/honorary members.

In research of other bar associations in close proximity to Washington, we found that the [Idaho State Bar Bylaws](#) do not allow inactive members to participate as voting members generally, but they do allow the sections to make exceptions to active membership in their own bylaws. Similarly, the [Utah State Bar Bylaws](#) do not allow inactive members to vote in general bar matters, but do allow them to join sections as voting members. The [Oregon State Bar Bylaws](#) allow those of inactive status to be members of the section, but not serve as officers of the section. The [Nevada State Bar Bylaws](#) allow any member of the State Bar to be a member of the section unless otherwise provided in the section bylaws.

This research demonstrates that the act of allowing sections discretion in determining who shall be a voting member of their section is not unique. In fact, three of the state bars above (Idaho, Utah, and Nevada) allow the option we are asking the Board to approve in the WSBA Bylaws.

#### Stakeholder Input

We sought input from section leaders from August 9<sup>th</sup> through August 30<sup>th</sup> on the WSBA Section Leaders List Serve. We received thirteen responses from seven sections. Responses indicate that 92% of Section Leaders agree with the request to change the Bylaws and 8% disagree.

When asked whether a section would affirmatively take action to modify its bylaws to allow inactive members to join as voting members 46% said they would and 8% said they would not. 46% said they would consider changing their bylaws.

#### Fiscal Impact

From our perspective, the potential fiscal impacts are deemed minimal. Extending the option for sections to include inactive/honorary members as voting members would not negatively impact the WSBA unless members in Active status transfer their license to Inactive status because they are only maintaining an Active license to retain a voting status in a section. The assumption is that members maintain an Active license to practice law or for other career purposes rather than to serve as a voting member in sections. This proposal was run through the CFO's office of the WSBA and there is agreement that the potential fiscal impact is minimal.

Given that this request is in alignment with the way other bar associations handle section members, that a vast majority of WSBA section leaders who took the survey approve of these proposed changes, and that the fiscal impact is negligible, we ask the Board to approve the proposed Bylaws amendments.

Sincerely,

Eleanor Doermann, Chair of Senior Lawyers Section Executive Committee  
Carole Grayson, Senior Lawyers Section Executive Committee Member  
Brian Comstock, Senior Lawyers Section Emeritus Executive Committee Member

#### Attachments

Redlines of applicable WSBA Bylaws  
Summary Results of Section Leaders Survey

### **III. MEMBERSHIP**

#### **A. MEMBER LICENSE TYPES**

1. Members of the Washington State Bar consist of these types of licensed legal professionals:
  - a. Lawyers admitted to the Bar and licensed to practice law pursuant to APR 3 and APR 5;
  - b. Limited License Legal Technicians; and
  - c. Limited Practice Officers.

Members of one type do not automatically qualify to be or become a member of another type, and in order to become a member of another type the member must comply with the requirements for admission as a member of that type.

2. Lawyers licensed to practice law in Washington pursuant to APR 8 and APR 14, or who are permitted to practice law pursuant to RPC 5.5 without being licensed in Washington are not members of the Bar.
3. Membership in the Bar ends when a member is disbarred or the equivalent, the member resigns or otherwise terminates his or her license, or when the member's license is revoked or terminated for any reason.

#### **B. STATUS CLASSIFICATIONS**

Membership status classifications have the qualifications, privileges, and restrictions specified.

##### **1. Active**

Any member who has been duly admitted by the Supreme Court to the practice of law in Washington State who complies with these Bylaws and the Supreme Court rules applicable to the member's license type, and who has not changed to another status classification or had his or her license suspended is an Active member.

- a. Active membership in the Bar grants the privilege to engage in the practice of law consistent with the rules governing the member's license type. Upon payment of the Active annual license fee and assessments required for the member's license type, compliance with these Bylaws and the applicable Supreme Court rules, and compliance with all other applicable licensing requirements, Active members are fully qualified to vote, hold office and otherwise participate in the affairs of the Bar as provided in these Bylaws.
- b. Active members may:
  - 1) Engage in the practice of law consistent with the rules governing their license type;
  - 2) Be appointed to serve on any committee, board, panel, council, task force, or other Bar entity;
  - 3) Vote in Bar matters and hold office therein, as provided in these Bylaws;
  - 4) Join Bar sections as voting members; and
  - 5) Receive member benefits available to Active members.

- c. All persons who become members of the Bar must first do so as an Active member.

## 2. Inactive

Inactive members must not practice law in Washington, nor engage in employment or duties that constitute the practice of law. Inactive members ~~are not may be~~ eligible to vote in Bar matters or hold office therein, or serve on any committee or board.

- a. Inactive members may:

- 1) Join Bar sections ~~as non-voting members,~~
- 2) Continue their affiliation with the Bar;
- 3) Change their membership status to Active pursuant to these Bylaws and any applicable court rule;
- 4) Request a free subscription to the Bar's official publication; and
- 5) Receive member benefits available to Inactive members.

- b. Types of Inactive membership:

- 1) Inactive Member: Inactive members must pay an annual license fee in an amount established by the BOG and approved by the Supreme Court. They are not required to earn or report MCLE credits while Inactive, but may choose to do so, and may be required to do so to return to Active membership.
- 2) Disability: Disability inactive members are not required to pay a license fee, or earn or report MCLE credits while in this status, but they may choose to do so, and they may be required to earn and report MCLE credits to return to Active membership.
- 3) Honorary: All members who have been Active or Judicial, or a combination of Active and Judicial, members for 50 years may elect to become Honorary members of the Bar. Honorary members are not required to pay a license fee. A member who otherwise qualifies for Honorary membership but wants to continue to practice law in any manner must be an Active member or, if applicable, a Pro Bono member.

## 3. Judicial

- a. A member may qualify to become a Judicial member if the member is one of the following:

- 1) A current judge, commissioner, or magistrate judge of the courts of record in the State of Washington, or the courts of the United States, including Bankruptcy courts;
- 2) A current judge, commissioner, or magistrate in the district or municipal courts in the State of Washington, provided that such position requires the person to be a lawyer;
- 3) A current senior status or recall judge in the courts of the United States;
- 4) An administrative law judge, which is defined as either:
  - (a) Current federal judges created under Article I and Article II of the United States Constitution, excluding Bankruptcy court judges, or created by the Code of Federal Regulations, who by virtue of their position are prohibited by the United States Code and/or the Code of Federal Regulations from practicing law; or
  - (b) Full-time Washington State administrative law judges in positions created by either the Revised Code of Washington or the Washington Administrative Code; or
- 5) A current Tribal Court judge in the State of Washington.

- b. Members not otherwise qualified for Judicial membership under (1) through (5) above and who serve full-time, part-time or ad hoc as pro tempore judges, commissioners or magistrates are not eligible for Judicial membership.
- c. Judicial members, whether serving as a judicial officer full-time or part-time, must not engage in the practice of law and must not engage in mediation or arbitration for remuneration outside of their judicial duties.
- d. Judicial members:
  - 1) May practice law only where permitted by the then current Washington State Code of Judicial Conduct as applied to full-time judicial officers;
  - 2) May be appointed to serve on any task force, council or Institute of the Bar;
  - 3) May receive member benefits provided to Judicial members; and
  - 4) May be non-voting members in Bar sections, if allowed under the section's bylaws.
  - 5) Judicial members are not eligible to vote in Bar matters or to hold office therein.
- e. Nothing in these Bylaws will be deemed to prohibit Judicial members from carrying out their judicial duties.
- f. Judicial members who wish to preserve eligibility to transfer to another membership status upon leaving service as a judicial officer:
  - 1) must provide the member registry information required of other members each year unless otherwise specified herein, and provide the Bar with any changes to such information within 10 days of any change; and
  - 2) must annually pay any required license fee that may be established by the Bar, subject to approval by the Supreme Court, for this membership status. Notices, deadlines, and late fees will be consistent with those established for Active members.
- g. Judicial members must inform the Bar within 10 days when they retire or when their employment situation has otherwise changed so as to cause them to be ineligible for Judicial membership, and must apply to change to another membership status or to resign.
  - 1) Failure to apply to change membership status or to resign within ten days of becoming ineligible for Judicial membership, when a Judicial member has annually maintained eligibility to transfer to another membership status, is cause for administrative suspension of the member.
  - 2) A Judicial member who has not annually complied with the requirements to maintain eligibility to transfer to another membership status and who is no longer eligible for Judicial membership who fails to change to another membership status will be deemed to have voluntarily resigned.
- h. Administrative law judges who are judicial members must continue to comply with APR 11 regarding MCLE. Either judicial continuing education credits or lawyer continuing legal education credits may be applied to the credit requirement for judicial members; if judicial continuing education credits are applied, the standards for determining accreditation for judicial continuing education courses will be accepted as establishing compliance.
- i. Legal, legislative, and policy positions and resolutions taken by the BOG are not taken on behalf of Judicial members, are not considered to be those of Judicial members, and are not binding on Judicial members.

- j. The Bar's disciplinary authority over Judicial members is governed exclusively by ELC 1.2 and RPC 8.5.

#### **4. Pro Bono**

A member may become a Pro Bono member by complying with the requirements of APR 3(g), including payment of any required license fee and passing a character and fitness review.

Pro Bono members must not engage in the practice of law except as permitted under APR 3(g), but may:

- a. Be appointed to serve on any task force, council, or Institute of the Bar. In addition, up to two Pro Bono members are permitted to serve on the Pro Bono and Public Service Committee (PBPSC) and may be appointed to serve as Chair, Co-Chair, or Vice-Chair of that committee;
- b. Join Bar sections;
- c. Request a free subscription to the Bar's official publication; and
- d. Receive member benefits available to Pro Bono members.

#### **5. Suspended**

Members of any type and status can have their membership suspended by order of the Washington Supreme Court. Although suspended members remain members of the Bar, they lose all rights and privileges associated with that membership, including their authorization and license to practice law in Washington.

### **C. REGISTER OF MEMBERS**

- 1. All Bar members, including Judicial members who wish to preserve eligibility to transfer to another membership status upon leaving service as a judicial officer, must furnish the information below to the Bar:
  - a. physical residence address;
  - b. physical street address for a resident agent if required to have one pursuant to these Bylaws or by court rule;
  - c. principal office address, telephone number, and email address;
  - d. such other data as the BOG or Washington Supreme Court may from time to time require of each member

and must promptly advise the Executive Director in writing of any change in this information within 10 days of such change. Judicial members are not required to provide a physical residence address.

- 2. The Executive Director will keep records of all members of the Washington State Bar Association, including, but not limited to:
  - a. physical residence address furnished by the member;
  - b. principal office address, telephone number, and email address furnished by the member;
  - c. physical street address of any resident agent for the member;
  - d. date of admittance;
  - e. type and status of membership;
  - f. date of transfer(s) from one status to another, if any;

- g. date and period(s) of administrative suspensions, if any;
  - h. date and period of disciplinary actions or sanctions, if any, including suspension, disbarment, and revocation;
  - i. such other data as the BOG or Washington Supreme Court may from time to time require of each member.
3. Any Active member residing out-of-state must file with the Bar, in such form and manner as the Bar may prescribe, the name and physical street address of a designated resident agent within Washington State. The member must notify the Bar of any change in resident agent within 10 days of any such change.
  4. Any member who fails to provide the Bar with the information required to be provided pursuant to these Bylaws, or to notify the Bar of any changes in such information within 10 days, will be subject to administrative suspension pursuant to these Bylaws and/or the Admission and Practice Rules. Judicial members are exempt from suspension pursuant to this provision while eligible for Judicial membership and serving as a judicial officer.

#### **D. CHANGE OF MEMBERSHIP STATUS TO ACTIVE**

1. Members may change membership status as provided below.
  - a. **Transfer from Inactive to Active.**
    - 1) An Inactive member or Honorary member may transfer to Active by:
      - (a) paying an application and/or investigation fee and completing and submitting an application form, all required licensing forms, and any other required information. The fee in this paragraph is not required from an LPO or LLLT who has been inactive for 90 days or less;
      - (b) earning, within the six years preceding the return to Active status, and reporting the total number of approved MCLE credits required for one reporting period for an Active member with the same license type, and paying any outstanding MCLE late fees that are owed. If the member has been Inactive or a combination of Suspended and Inactive for less than one year, and the member would have been required to report during the time the member was Inactive and/or Suspended, the member must establish that the member is compliant with the MCLE reporting requirements for that reporting period before the member can change to Active. This paragraph does not apply to members transferring back to Active during their first MCLE reporting period;
      - (c) passing a character and fitness review essentially equivalent to that required of all applicants for admission to the Bar, pursuant to APR 20-24.3; and
      - (d) paying the current Active license fee, including any mandatory assessments, less any license fee (not including late fees) and assessments paid as an Inactive member for the same year.
    - 2) If a member was Inactive or any combination of Suspended and Inactive in Washington for more than six consecutive years, the member must earn MCLE credits in a manner consistent with the requirement for one reporting period for an Active member of the



same license type, and these credits must be earned and reported within the three years preceding the return to Active status. In addition, the member must complete a reinstatement/readmission course sponsored by the Bar, which must consist of education on law office management and professional responsibility (including the applicable RPC for the member's license type, proper handling of client funds and trust accounts, and client communications), legal research and writing, and changes in the law that apply to the member's license type, as follows:

- (a) For lawyer members, a minimum of 15 live CLE credits, consisting of at least four credit hours on law office management and professional responsibility, at least three credit hours on legal research and writing, and the remaining credit hours on recent significant changes in the law;
- (b) For LLLT members, a minimum of seven live CLE credits, consisting of at least two credit hours on law office management and professional responsibility, at least one credit hour on legal research and writing, and the remaining credit hours on recent significant changes in the law in approved LLLT practice or core education areas;
- (c) For LPO members, a minimum of seven live CLE credits, consisting of at least two credit hours on professional responsibility, and the remaining credit hours on recent significant changes in the law covered by the approved LPO Study Topics.

The member is required to pay the cost of the course. Any member completing such course will be entitled to credit towards mandatory continuing legal education requirements for all CLE credits for which such reinstatement/readmission course is accredited. The member must comply with all registration, payment, attendance, and other requirements for such course, and will be responsible for obtaining proof of attendance at the entire course and submitting or having such proof submitted to the Bar.

Periods of administrative and/or disciplinary suspension occurring immediately before or after a change to Inactive will be included when determining whether a member is required to take the readmission course. For purposes of determining whether a member has been Inactive and/or Suspended for more than six consecutive years, the period continues to run until the change to Active membership is completed, regardless of when the application is submitted to the Bar.

- 3) Any member seeking to change to Active who was Inactive or any combination of Suspended and Inactive in Washington and does not have active legal experience as defined in APR 1(e) in any jurisdiction for more than ten consecutive years, is required to complete the requirements in Art. III. Sec.D.1.a.1)(a), (c) and (d), above, and is also required to take and pass the examinations required for admission to the Bar for the member's license type.
- 4) A Disability Inactive status member may be reinstated to Active pursuant to the disciplinary rules applicable to their license type. Before being transferred to Active, after establishing compliance with the disciplinary rules, the member also must comply with the requirements in these Bylaws for Inactive members transferring to Active status.

- 5) A member of any type who has transferred to Inactive status during the pendency of a grievance or disciplinary proceedings may not be transferred to Active except as provided herein and may be subject to such discipline by reason of any grievance or complaint as may be imposed under the ELC, ELPOC, or ELLLTC.

**b. Transfer from Judicial to Active.**

A Judicial member may request to transfer to any other status, including Active. Upon a Judicial member's resignation, retirement, or completion of such member's term of judicial office, such member must notify the Bar within 10 days, and any Judicial member desiring to continue his or her affiliation with the Bar must change to another membership status within the Bar.

- 1) A Judicial member who has complied with all requirements for maintaining eligibility to return to another membership status may transfer to Active by submitting an application for change to Active membership status and
  - (a) paying the then current Active license fee for the member's license type, including any mandatory assessments, less any license fee (not including late fees) and assessments paid as a Judicial member for the same licensing year; and
  - (b) complying with the MCLE requirements for members returning from Inactive to Active. Either judicial continuing education credits or lawyer continuing education credits may be applied to the credit requirement for Judicial members transferring to Active. If judicial continuing education credits are applied, the standards for determining accreditation for judicial continuing education courses will be accepted as establishing compliance.
- 2) A Judicial member wishing to transfer to Active upon leaving service as a judicial officer who has failed in any year to provide the annual member registry information or pay the annual license fee required of Judicial members to maintain eligibility to transfer to another membership status shall, prior to transfer to Active, be required to pay the Active license fee for the member's license type any years the registry information was not provided or the Judicial fee was not paid, in addition to complying with the requirements of (a) above.

**c. Transfer from Pro Bono to Active**

A Pro Bono member may transfer to Active by complying with the requirements for members returning from Inactive to Active. There is no limit on how long a member may be Pro Bono before returning to Active status.

**d. Referral to Character and Fitness Board**

All applications for readmission, reinstatement or transfer to Active status will be reviewed by Bar staff and handled consistent with the provisions of APR 20-24.3. In all cases reviewed by it, the Character and Fitness Board has broad authority to recommend withholding a transfer to Active status or imposing

conditions on readmission to Active status, which may include retaking and passing the licensing examination applicable to the member's license type. The member will be responsible for the costs of any investigation, examination, or proceeding before the Character and Fitness Board and the Washington Supreme Court.

#### **E. CHANGE OF MEMBERSHIP STATUS TO INACTIVE**

1. Any member who is an Active, Judicial, or Pro Bono member and who is not Suspended will become an Inactive member when the member files a request for Inactive membership with the Bar, in such form and manner as the Bar may require, and that request is approved.

Effective January 1, 2012, a Judicial member wishing to transfer to Inactive member status upon leaving service as a judicial officer, who has failed in any year to provide the annual member registry information or to pay the annual licensing fee required of Judicial members to maintain eligibility to transfer to another membership status shall, prior to transfer to Inactive, be required to pay the Active license fee for lawyer members for any years the registry information was not provided or the Judicial fee was not paid.

2. Members are transferred to Disability Inactive pursuant to Title 8 of the ELC, ELPOC, or ELLLTC. Any member seeking to transfer from Disability Inactive to Inactive member status must first establish that the member has complied with the requirements of Title 8 of the ELC, ELPOC, or ELLLTC, and then must submit a written request to make the change and comply with all applicable licensing requirements for Inactive members.
3. All members who have been Active or Judicial, or a combination of Active and Judicial, members for 50 years may qualify for Honorary status. A qualified member may request to change to Honorary status by submitting a written request and any required application.
4. An Active member may apply to change from Active to Inactive status while grievances or disciplinary proceedings are pending against such member. Such transfer, however, shall not terminate, stay or suspend any pending grievance or proceeding against the member.

#### **F. CHANGE OF MEMBERSHIP STATUS TO JUDICIAL**

An Active member may request to become a Judicial member of the Bar by submitting a written request on judicial letterhead and any required application, and complying with the provisions of these Bylaws.

#### **G. CHANGE OF MEMBERSHIP STATUS TO PRO BONO**

A member may become a Pro Bono member by complying with the requirements of APR 3(g), including payment of any required license fee, and passing a character and fitness review.

Effective January 1, 2012, a Judicial member wishing to transfer to Pro Bono status upon leaving service as a judicial officer who has failed in any year to provide the annual member registry information or to pay the annual licensing fee required of Judicial members to maintain eligibility to transfer to another membership status shall, prior to transfer to Pro Bono, be required to pay the Active license fee for any years the registry information was not provided or the Judicial fee was not paid.

## **H. VOLUNTARY RESIGNATION**

Voluntary resignation may apply in any situation in which a member does not want to continue practicing law in Washington for any reason (including retirement from practice) and for that reason does not want to continue membership in the Bar. A member may voluntarily resign from the Bar by submitting a written request for voluntary resignation to the Bar in such form and manner as the Bar may require. If there is a disciplinary investigation or proceeding then pending against the member, or if at the time the member submits the written request the member has knowledge that the filing of a grievance of substance against such member is imminent, resignation is permitted only under the provisions of the ELC, ELPOC, or ELLLTC. A member who resigns from the Bar cannot practice law in Washington in any manner. A member seeking readmission after resignation must comply with these Bylaws.

## **I. ANNUAL LICENSE FEES AND ASSESSMENTS**

### **1. License Fees**

Unless established otherwise by order of the Washington Supreme Court, the following provisions apply to member license fees.

#### **a. Active Members**

- 1) Effective 2010, and all subsequent years, the annual license fees for Active members will be as established by resolution of the BOG, subject to review by the Washington Supreme Court.
- 2) First time admittees who are not admitted or licensed to practice law elsewhere, who take and pass the required examination for admission to practice law in Washington and are admitted in the first six months of the calendar year in which they took the exam, will pay 50% of the applicable full Active license fee for that year.
- 3) First time admittees who are not admitted or licensed to practice law elsewhere, who take and pass the required examination for admission to practice law in Washington and are admitted in the last six months of the calendar year in which they took the exam, will pay 25% of the applicable full Active license fee for that year.
- 4) First time admittees who are not admitted elsewhere, who take and pass the required examination for admission to practice law in Washington in one year but are not admitted until a subsequent year, shall pay 50% of the applicable full Active license fee for their first two license years after admission.
- 5) First time admittees who are admitted as a lawyer in one calendar year in another state or territory of the United States or in the District of Columbia by taking and passing a bar examination for that state, territory, or district, who become admitted as a lawyer in Washington in the same calendar year in which they took and passed the examination, will pay 50% of the full Active lawyer license fee if admitted in Washington in the first six months of that calendar year and 25% of the full active license fee if admitted in Washington in the last six months of that calendar year.

- 6) All members in their first two full licensing years after admission or licensure to practice law in any jurisdiction will pay 50% of the applicable full Active license fee.
- 7) An Active member of the Bar who is activated from reserve duty status to full-time active duty in the Armed Forces of the United States for more than 60 days in any calendar year, or who is deployed or stationed outside the United States for any period of time for full-time active military duty in the Armed Forces of the United States will be exempt from the payment of license fees and assessments for the Client Protection Fund upon submitting to the Executive Director satisfactory proof that he or she is so activated, deployed or stationed. All requests for exemption must be postmarked or delivered to the Bar's offices on or before February 1st of the year for which the exemption is requested. Eligible members must apply every year they wish to claim the exemption. Each exemption applies for only the calendar year in which it is granted, and exemptions may be granted for a maximum total of five years for any member. Granting or denying an exemption under this provision is within the sole discretion of the Executive Director and is not appealable.

**b. Inactive Members**

- 1) The annual license fee for Inactive members will be as established by resolution of the BOG and as approved by the Washington Supreme Court. Except for the amount of the license fee itself, the annual license fee payment requirements, including deadlines and late payment fees, for Active members will apply to Inactive members.
- 2) Honorary and Disability Inactive status members will be exempt from license fees and assessments, unless otherwise provided by Supreme Court order.

**c. Judicial Members [Effective January 1, 2012]**

Judicial members who wish to preserve eligibility to transfer to another membership status upon leaving service as a judicial officer must pay the annual license fee established by the Bar and as approved by the Supreme Court. Except for the amount of the license fee itself, the annual license fee payment requirements, including deadlines and late payment fees, for Active members apply to Judicial members; however, Judicial members are not subject to administrative suspension for nonpayment of license or late payment fees.

**d. Pro Bono Members**

Pro Bono members must pay the annual license fee required of Inactive members with the same type of license unless the member qualifies for the license fee waiver as provided for in APR 3(g). Except for the amount of the license fee itself, the annual license fee payment requirements, including deadlines and late payment fees, for Active members apply to Pro Bono members.

**2. Assessments**

Members must pay any Client Protection Fund assessment, and any other assessments, as ordered by the Washington Supreme Court.

### **3. Deadline and Late Payment Fee**

License fees and mandatory assessments are due and payable on or before February 1st of each year, in such form and manner as required by the Bar, unless otherwise established by these Bylaws or the APR. Members who pay their license fees on or after February 2nd will be assessed a late payment fee of 30% of the total amount of the license fees required for that membership type and status. License fees for newly admitted members are due and payable at the time of admission and registration, and are not subject to the late payment fee.

### **4. Rebates /Apportionments**

No part of the license fees will be apportioned to fractional parts of the year, except as provided for new admittees by the BOG. After February 1st of any year, no part of the license fees will be rebated for any reason, including but not limited to death, resignation, suspension, disbarment, license termination, cancellation or revocation, or change of membership status.

### **5. License Fee and Assessment Exemptions Due to Hardship**

In case of proven extreme financial hardship, which must entail a current annual household income equal to or less than 200% of the federal poverty level as determined based on the member's household income for the calendar year immediately preceding the calendar year for which the member is seeking to be exempted from license fees, the Executive Director may grant an exemption from payment of annual license fees and assessments by any Active member. Hardship exemptions are for one licensing period only, and a request must be submitted on or before February 1st of the year for which the exemption is requested. Denial of an exemption request is not appealable. A member may be granted a hardship exemption a maximum of two times, on the basis of separate exemption requests, and the exemptions may be granted for consecutive or non-consecutive calendar years.

### **6. License Fee Referendum**

Once approved by the BOG, license fees shall be subject to the same referendum process as other BOG actions, but may not be modified or reduced as part of a referendum on the Bar's budget. The membership shall be timely notified of the BOG resolutions setting license fees both prior to and after the decision, by posting on the Bar's website, e-mail, and publication in the Bar's official publication.

## **J. SUSPENSION**

### **1. Interim Suspension**

Interim suspensions may be ordered during the course of a disciplinary or disability investigation or proceeding, as provided in the ELC, ELPOC, or ELLLTC, and are not considered disciplinary sanctions.

### **2. Disciplinary Suspension**

Suspensions ordered as a disciplinary sanction pursuant to the ELC, ELPOC, or ELLLTC are considered disciplinary suspensions.

### 3. Administrative Suspension

- a. Administrative suspensions are neither interim nor disciplinary suspensions, nor are they disciplinary sanctions. Except as otherwise provided in the APR and these Bylaws, a member may be administratively suspended for the following reasons:
  - 1) Nonpayment of license fees or late-payment fees;
  - 2) Nonpayment of any mandatory assessment (including without limitation the assessment for the Client Protection Fund);
  - 3) Failure to file a trust account declaration;
  - 4) Failure of a lawyer to file a professional liability insurance disclosure;
  - 5) Failure of a LLLT or LPO to provide proof of financial responsibility;
  - 6) Failure to comply with mandatory continuing legal education requirements;
  - 7) Nonpayment of child support;
  - 8) Failure to designate a resident agent or notify the Bar of change in resident agent or the agent's address;
  - 9) Failure to provide current information required by APR 13 or to notify the Bar of a change of information required by APR 13 within 10 days after the change; and
  - 10) For such other reasons as may be approved by the BOG and the Washington Supreme Court.
- b. Unless requirement for hearing and/or notice of suspension are otherwise stated in these Bylaws or the APR, ELC, ELPOC or ELLLTC, a member will be provided notice of the member's failure to comply with requirements and of the pendency of administrative suspension if the member does not cure the failure within 60 days of the date of the written notice, as follows:
  - 1) Written notice of non-compliance will be sent one time by the Bar to a member at the member's address of record with the Bar by registered or certified mail. Such written notice will inform the member that the Bar will recommend to the Washington Supreme Court that the member be suspended from membership and the practice of law if the member has not corrected the deficiency within 60 days of the date of the notice.
  - 2) In addition to the written notice described above, the Bar will make one attempt to contact the member at the telephone number(s) the member has made of record with the Bar and will speak to the member or leave a message, if possible. The Bar will also make one attempt to contact the member at the member's e-mail address of record with the Bar.
- c. Although not required to provide any additional notice beyond what is described above, the Bar may, in its sole discretion, make such other attempt(s) to contact delinquent members as it deems appropriate for that member's situation.
- d. A member failing to correct any deficiency after two months' written notice as provided above must be suspended from membership. The Executive Director must certify to the Clerk of the Supreme Court the name of any member who has failed to correct any deficiency, and when so ordered by the Supreme Court, the member will be suspended from membership in the Bar and from the practice of law in Washington. The list of

suspended members may be provided to the relevant courts or otherwise published at the discretion of the BOG.

#### **4. Multiple Suspensions**

A member may be suspended from membership and from the practice of law for more than one reason at any given time.

#### **K. CHANGING STATUS AFTER SUSPENSION**

1. Upon the completion of an ordered disciplinary or interim suspension, or at any time after entry of an order for an administrative suspension, a suspended member may seek to change status from suspended to any other membership status for which the member qualifies at the time the change in status would occur.
2. Before changing from suspended status, a member who is suspended pursuant to an interim or disciplinary suspension must comply with all requirements imposed by the Washington Supreme Court and/or the applicable disciplinary rules in connection with the disciplinary or interim suspension. Additionally, such member must comply with all other requirements as stated in these Bylaws and in the applicable APR.
3. If a member was suspended from practice for more than one reason, all requirements associated with each type of suspension must be met before the change from suspended status can occur.
4. Unless otherwise provided in the applicable APR, a suspended member may seek to change status by:
  - a. paying the required license fee and any assessments for the licensing year in which the status change is sought, for the membership status to which the member is seeking to change. For members seeking to change to Active or any other status from suspension for nonpayment of license fees, the required license fee will be the current year's license fee and assessments, the assessments for the year of suspension, and double the amount of the delinquent license fee and late fees for the license year that resulted in the member's suspension;
  - b. completing and submitting to the Bar an application for change of status, any required or requested additional documentation, and any required application or investigation fee, and cooperating with any additional character and fitness investigation or hearing that may be required pursuant to APR 20-24.3; and
  - c. completing and submitting all licensing forms required for the license year for the membership status to which the member is seeking to change.
  - d. In addition to the above requirements:
    - 1) Any member seeking to change to Active who was Suspended, or any combination of Suspended and Inactive, for less than six consecutive years must establish that within the six years prior to the return to active status, the member has earned and reported approved MCLE in a manner consistent with the requirements for one reporting period for an Active member with the same license type. However, if the member has been Suspended and/or Inactive for one year or less and the member was required to report



MCLE compliance during the time the member was Suspended and/or Inactive, the member must establish that the member is compliant with the MCLE credits the member would have been required to report that period.

- 2) Any member seeking to change to Active who was Suspended, or any combination of Suspended and Inactive, for six or more consecutive years must establish that within the three years prior to the return to Active status, the member has earned and reported approved MCLE credits in a manner consistent with the requirement for one reporting period for an Active member with the same license type. In addition, the member must have completed the applicable readmission/reinstatement course as set forth in Art. III. Sec.D.1.a)(2).

Any member completing such course will be entitled to credit towards mandatory continuing legal education requirement for all CLE credits for which such reinstatement/readmission course is accredited. It is the member's responsibility to pay the cost of attending the course. The member must comply with all registration, payment, attendance, and other requirements for such course, and will be responsible for obtaining proof of attendance at the entire course and submitting or having such proof submitted to the Bar.

#### **L. REINSTATEMENT AFTER DISBARMENT OR REVOCATION**

Applicants seeking reinstatement after disbarment or revocation must file a petition for reinstatement and otherwise comply with the requirements of the APR relating to reinstatement after disbarment or revocation. If the petition is granted and reinstatement is recommended, the petitioner must take and pass the required examination for admission and comply with all other admission and licensing requirements applicable to the member's license type for the year in which the petitioner is reinstated.

#### **M. REINSTATEMENT AFTER RESIGNATION IN LIEU OF DISCIPLINE, DISBARMENT, OR REVOCATION**

No former member will be allowed to be readmitted to membership of any type after entering into a resignation in lieu of discipline, disbarment, or revocation pursuant to the ELC, ELPOC, or ELLLTC. Persons who were allowed to resign with discipline pending under former provisions of these Bylaws prior to October 1, 2002, may be readmitted on such terms and conditions as the BOG determines, provided that if the person resigned with discipline pending and a prior petition for reinstatement or readmission has been denied, no petition may be filed or accepted for a period of two years after an adverse decision on the prior petition for reinstatement or readmission.

#### **N. READMISSION AFTER VOLUNTARY RESIGNATION**

Any former member who has resigned and who seeks readmission to membership must do so in one of two ways: by filing an application for readmission in the form and manner prescribed by the Bar, including a statement detailing the reasons the member resigned and the reasons the member is seeking readmission, or by seeking admission by motion pursuant to APR 3(c) (if the former member is

licensed as a lawyer in another U.S. jurisdiction and would otherwise qualify for admission under that rule).

1. A former member filing an application for readmission after voluntary resignation must:
  - a. pay the application fee, together with such amount as the BOG may establish to defray the cost of processing the application and the cost of investigation; and
  - b. establish that such person is morally, ethically and professionally qualified to be licensed as the applicable member type and is of good moral character and has the requisite fitness to practice law consistent with the requirements for other applicants for admission to practice law as the applicable member type. An application for readmission will be subject to character and fitness investigation and review as described in APR 20-24.3, consistent with other applications for admission.
  - c. In addition to the above requirements, if an application for readmission is granted and:
    - 1) it has been less than four consecutive years since the voluntary resignation, the applicant must establish:
      - (a) that within the three years prior to readmission the former member has earned and reported approved MCLE credits in a manner consistent with the requirement for one reporting period for an Active member of the same license type, without including the credits that might otherwise be available from the reinstatement/readmission course; and
      - (b) attend and complete the applicable Bar-sponsored reinstatement/readmission course as set forth in Art. III.Sec.D.1.a)(2).
    - 2) it has been four or more consecutive years since the voluntary resignation, the applicant must take and pass the applicable examination required for admission.
  - d. Upon successful completion of the above requirements, the former member must satisfy the preadmission requirements and be admitted by Supreme Court order as set forth in APR 5, except that:
    - 1) A lawyer who has been resigned for less than four years need not take and pass the Washington Law Component; and
    - 2) A LLLT applicant who has been resigned less than four consecutive years need not demonstrate completion of substantive law-related work experience.
2. A voluntarily resigned former member seeking readmission through admission by motion pursuant to APR 3(c) must comply with all requirements for filing such application and for admission upon approval of such application.

## **O. EXAMINATION REQUIRED**

All applications for reinstatement after disbarment or revocation will be subject to character and fitness review, and taking and passing the examination for admission for the applicable license type, pursuant to the provisions of APR 25-25.6. All applications for readmission after voluntary resignation will be subject to character and fitness review pursuant to the provisions of APR 20-24.3. All applications for reinstatement to Active status from Suspended status will be handled in a similar fashion to applications for a return to Active status from Inactive status. The Character and Fitness Board, and (on review) the

Washington Supreme Court, have broad authority to withhold a transfer to Active or to impose conditions on reinstatement or readmission to Active membership, which may include taking and passing the applicable examination for admission, in cases where the applicant fails to meet the burden of proof required by APR 20-24.3. The member/former member will be responsible for the costs of any investigation, bar examination, or proceeding before the Character and Fitness Board and the Washington Supreme Court.

Proposed

## XI. SECTIONS

### A. DESIGNATION AND CONTINUATION

Sections are entities of the Bar created and tasked to carry on the work of the Bar and further their purposes as defined in individual section bylaws. A list of all current sections will be maintained by the Executive Director. Once established, a section will continue until discontinued as provided in these Bylaws or in the section bylaws.

### B. ESTABLISHING SECTIONS

1. The BOG will consider the establishment of a new section on a petition and report endorsed by at least 150 Active members of the Bar. Any such petition must be filed with the Executive Director at least one BOG meeting prior to the meeting at which action on the proposal is contemplated and must substantially set forth:
  - a. The contemplated purpose of the section, which will be within the purposes of the Bar and not in substantial conflict with the purpose of any existing section or committee, the continuance of which is contemplated after the section is established;
  - b. Proposed bylaws of the section, which must contain a definition of its purpose;
  - c. The names of any proposed committees of the section;
  - d. A proposed budget of the section for the first two years of its operation;
  - e. A list of members of the Bar who have signed statements that they intend to apply for membership in the section;
  - f. A statement of the need for the proposed section.
2. The BOG may create a new section by combining sections as set forth in these Bylaws.

### C. MEMBERSHIP

1. Any Active member of the Bar may be a voting member of a section and eligible for election to office in the section upon paying the annual dues established by the section. Inactive members may ~~not~~ be voting members of sections, if permitted by a section's bylaws.
2. If provided for in the section bylaws, any Pro Bono member pursuant to APR 3(g), Judicial member, House Counsel under APR 8(f), professor at a Washington law school (whether licensed in Washington or not), or any lawyer who is a full time lawyer in a branch of the military who is stationed in Washington but not licensed in Washington, may be a voting member of the section and eligible for election to office in the section.
3. Law students will be allowed to be nonvoting members of any section at a standard annual dues amount set by the BOG.
4. Sections may adopt bylaw provisions authorizing inactive members to be voting members. Sections may adopt bylaw provisions authorizing inactive members, ~~and-or~~ others not eligible for section membership as voting members, to be nonvoting members or "subscribers" of the section.

## **D. DUES**

Dues will be paid annually in the amount determined by the section executive committee and approved by the BOG. Any person who fails to pay the annual dues will cease to be a member of the section.

## **E. BYLAWS AND POLICIES**

Sections are subject to all Bar Bylaws, policies, and procedures. Each section must have bylaws consistent with the Bar Bylaws. Amendments to section bylaws may be made by a majority vote of the voting executive committee members or by a majority vote of section members present at a section meeting. Section bylaws or amendments thereof will become effective when approved by the BOG.

## **F. SECTION EXECUTIVE COMMITTEE**

1. Each section will have a section executive committee consisting of, at minimum, the following Officer positions: Chair, Secretary and Treasurer (or Secretary/Treasurer); and may have At-Large members. Unless otherwise permitted by a section's bylaws, voting members of a section executive committee must be Active members of the Bar and a member of the section for their entire term of office on the executive committee. Additionally, a section executive committee may have non-voting members. The section executive committee is empowered to act on behalf of the section unless it chooses to take a vote of the section membership.
2. Due to the section executive committee's unique need to be able to act quickly to address issues that arise during a regular or special legislative session, between executive committee meetings during a legislative session, upon notice to all section executive committee members, the section executive committee may discuss and vote on issues relating to the section's position on pending or proposed legislation by email. However, if any section executive committee member objects to using an email process for any particular issues, the section executive committee instead will take up that issue at its next section executive committee meeting.
3. Officers. Unless otherwise permitted by a section's bylaws, officers of a section executive committee must be Active members of the Bar and elected by the section membership to complete the one-year term of office.
  - a. Chair. The chair of the section presides at all meetings of the section and section executive committee, and will have such other executive powers and perform such other duties as are consistent with the Bar and section bylaws.
  - b. Secretary. The Secretary will take minutes at each meeting of the section and section executive committee, and provide approved minutes to the Bar for publication and record retention.
  - c. Treasurer. The Treasurer will work with the Bar to ensure that the section complies with Bar fiscal policies and procedures, work with the Bar to prepare the section's annual budget, and review the section's monthly financial statements for accuracy and comparison to budget.
  - d. A section may have additional officer positions as defined in its sections bylaws.
4. At-Large Members. At-large members of the section executive committee will be voting members. At-large members will be elected by the section membership for terms of up to

three-years. A section executive committee may appoint its Young Lawyer Liaison (if any) as a voting member of the section's executive committee.

5. Non-voting Members. Voting members of the section executive committee may appoint non-voting members from among the current members of the section to further the work of the Bar and section. Non-voting members serve at the discretion of the section executive committee.
6. Executive committee members are not subject to a limit on the number of the consecutive terms they may serve unless stated in a section's bylaws.
7. All section executive committee positions will begin October 1 each year.

## **G. NOMINATIONS AND ELECTIONS**

### **1. Nominations**

- a. Nominating Committee. Each section will have a nominating committee consisting of no less than three section members appointed annually by the Chair or executive committee. At least one member of the nominating committee should not be a current member of the section executive committee.
- b. The executive committee should reflect diverse perspectives. To assist this, all applicants will apply through an electronic application process administered by the Bar. The application form will, on a voluntary basis, solicit information including, but not limited to, the person's ethnicity, gender, sexual orientation, disability status, area of practice, years of practice, employer, number of lawyers in law firm, previous involvement in section activities, and skills or knowledge relevant to the position. The nominating committee should actively take factors of diversity into account when making recommendations.
- c. Alternate Nomination Process. The executive committee will also have an alternative process to allow for nominations to occur outside of the nominating committee process.
- d. Executive Committee Approval. The executive committee will approve a list of nominees for each open position. Persons nominated through an alternative nomination process will be included on the final list of approved nominees.

### **2. Elections**

- a. Only voting members of the section may participate in section elections.
- b. The Bar will administer the elections by electronic means and certify results, unless the section develops its own equivalent electronic election process. For sections that administer elections through an alternate equivalent electronic election process, the section must provide the Bar with the total number of votes cast and the number of votes received for each candidate immediately following the close of the election.
- c. In the event of a tie, the section executive committee will implement a random tie-breaker of its choice, such as a coin toss or a drawing of lots, to determine the winner.
- d. All election processes must comply with the Bar record retention policies.

3. Timing. Nominations and elections for open section executive committee positions will be held no later than June 30th of each year.

## **H. VACANCIES AND REMOVAL**

1. The section executive committee will appoint, by a majority vote, members to fill vacancies on the section executive committee. When a member is appointed to fill a vacancy in an unexpired term, the member will do so until the next annual election when an individual will be elected to serve the remainder of the vacated term.
2. Any member of the executive committee may be removed by a two-thirds majority vote of the section executive committee. Grounds for removal include, but are not limited to, regular absence from section executive committee meetings and events, failure to perform duties, unprofessional or discourteous conduct or whenever, in the executive committee's judgment, the executive committee member is not acting in the best interest of the section membership.

## **I. OTHER COMMITTEES**

The section executive committee may create other committees as necessary to further the purposes of the section. Section committees, section committee chairs, and section committee members serve at the discretion of the section executive committee.

## **J. BUDGET**

Each section executive committee must submit an annual budget request for each fiscal year to the BOG for review. The BOG will approve final section budgets as part of the Bar's annual budget. The section executive committee expenditures must be consistent with the approved section budget and consistent with the Bar fiscal policies and procedures.

## **K. SECTION REPORTS**

Each section must submit an annual report to the Executive Director and such other reports as requested by the BOG.

## **L. TERMINATING SECTIONS**

1. The BOG may consider terminating a section when it appears the section is no longer carrying on the work of the Bar as defined in these Bylaws. The issue will be raised (a) on motion, (b) on petition, or (c) at a "viability review" as defined in these Bylaws.
2. A section that has less than 75 voting members for two consecutive years will be automatically placed on the BOG agenda for a "viability review." The BOG has the discretion to retain a section despite what might otherwise be considered to be a lack of viability when in the BOG's opinion the section is carrying on the work of the Bar as defined in these Bylaws, and the work is of value to the legal profession.
3. Any section subject to a motion, petition, or viability review pursuant to paragraph (1) above will be given notice and an opportunity to be heard by the BOG. Notice must be sent by the Bar to the current section officers and/or executive committee and posted on the Bar website at least one BOG meeting prior to the meeting at which the Board plans to vote on the proposal.

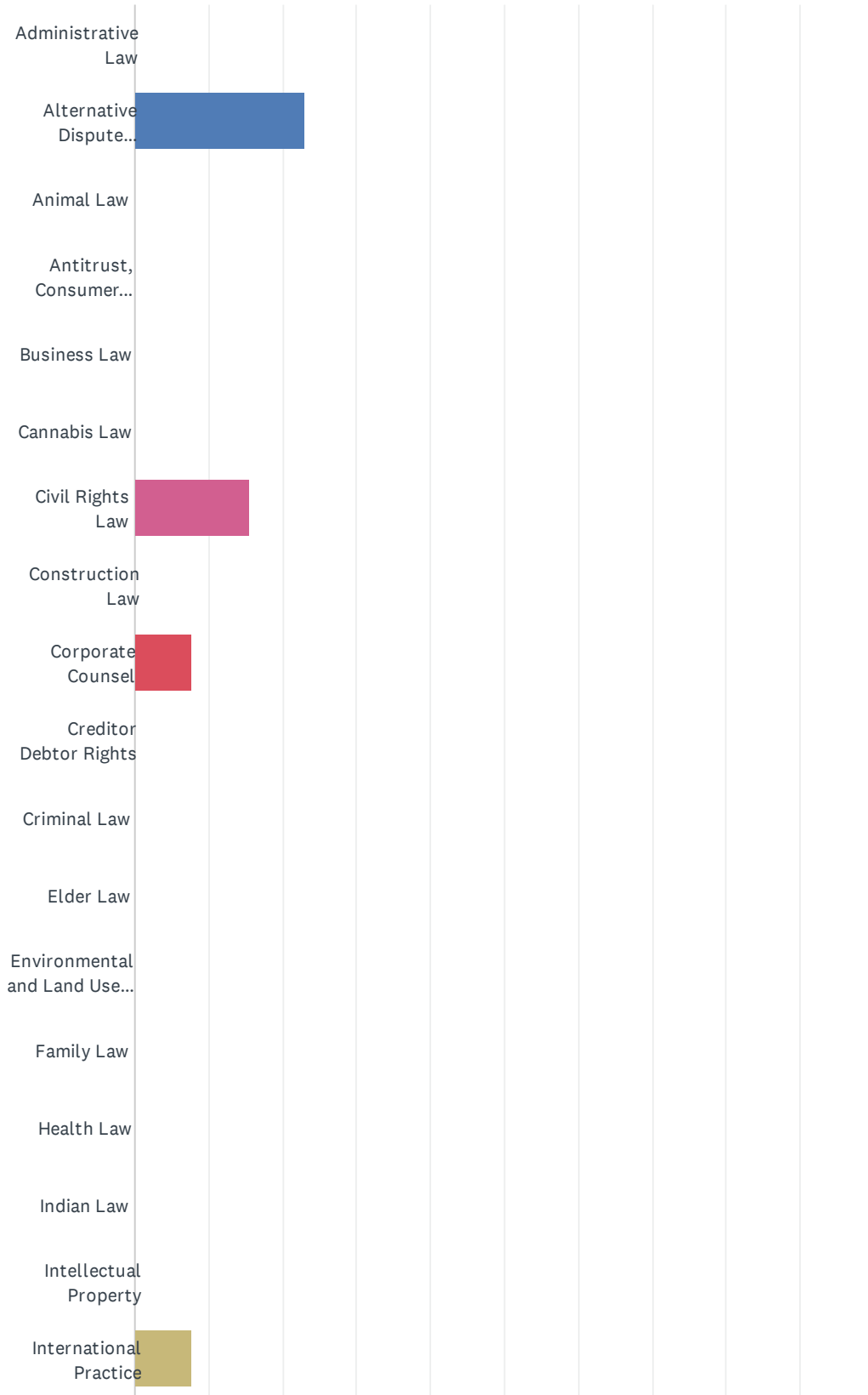
4. A section subject to potential termination may petition the BOG to be combined with another section, with that section's written approval, and will be given reasonable opportunity to present that petition to the BOG before the BOG votes on the section's termination.
5. If a section is terminated pursuant to these Bylaws, section members will be allowed to transfer to another section of their choosing, without payment of additional fees, for that remainder of the section dues year.
6. A section terminated pursuant to these Bylaws may apply for reactivation if they meet qualifications for establishing a new section.
7. Any funds remaining in the treasury of a section at the time of termination will be transferred to the Bar's general operating fund unless otherwise designated by the BOG. Funds in the treasury of combined sections will be combined.

Proposed

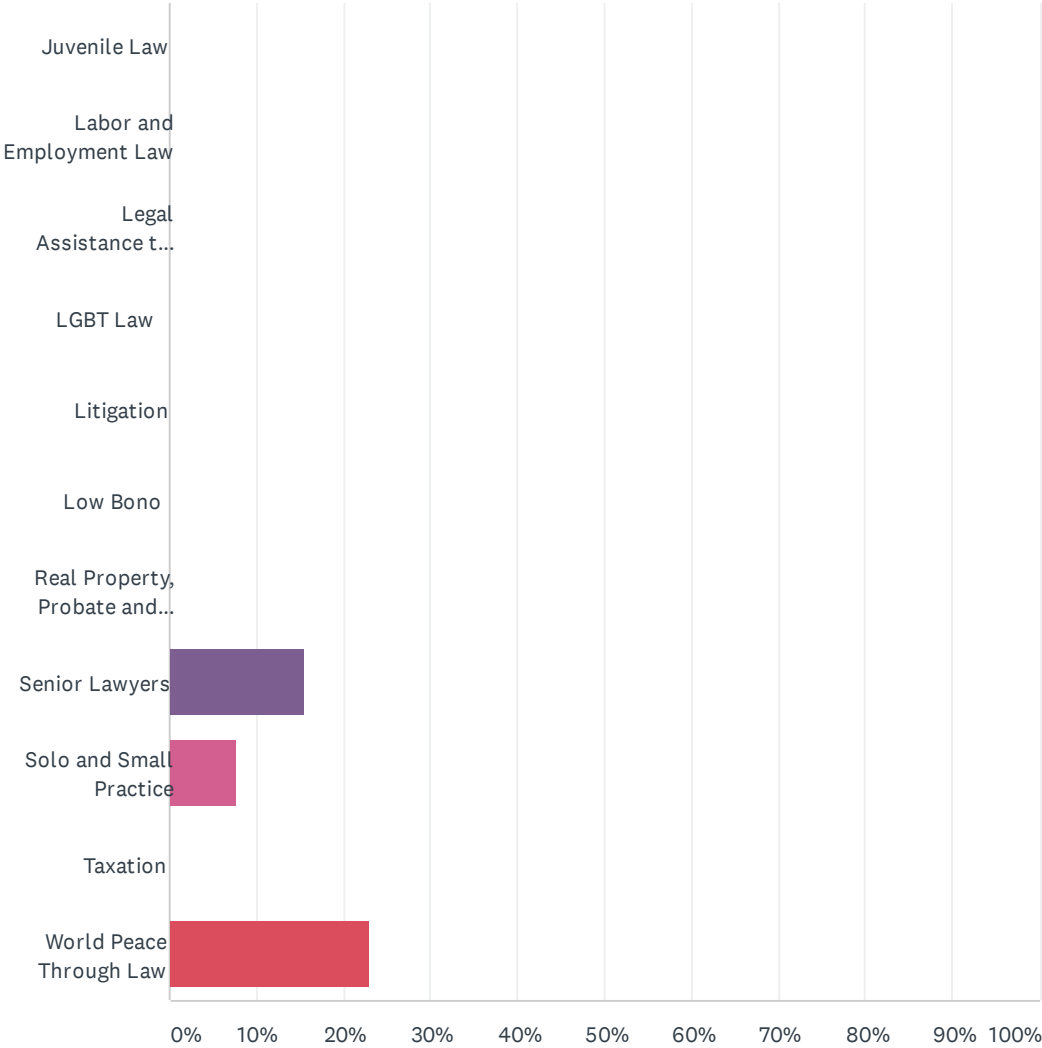


# Q1 On which section's executive committee do you currently serve on (please select all that apply)?

Answered: 13 Skipped: 0



Proposed WSBA Sections Bylaws Amendments Regarding Membership Status Eligibility

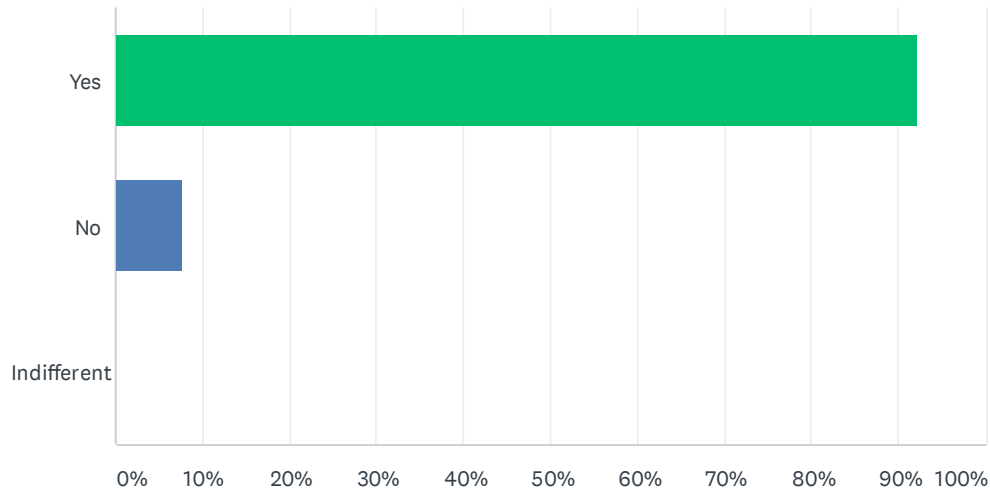


Proposed WSBA Sections Bylaws Amendments Regarding Membership Status Eligibility

ANSWER CHOICES	RESPONSES	
Administrative Law	0.00%	0
Alternative Dispute Resolution	23.08%	3
Animal Law	0.00%	0
Antitrust, Consumer Protection & Unfair Business Practices	0.00%	0
Business Law	0.00%	0
Cannabis Law	0.00%	0
Civil Rights Law	15.38%	2
Construction Law	0.00%	0
Corporate Counsel	7.69%	1
Creditor Debtor Rights	0.00%	0
Criminal Law	0.00%	0
Elder Law	0.00%	0
Environmental and Land Use Law	0.00%	0
Family Law	0.00%	0
Health Law	0.00%	0
Indian Law	0.00%	0
Intellectual Property	0.00%	0
International Practice	7.69%	1
Juvenile Law	0.00%	0
Labor and Employment Law	0.00%	0
Legal Assistance to Military Personnel	0.00%	0
LGBT Law	0.00%	0
Litigation	0.00%	0
Low Bono	0.00%	0
Real Property, Probate and Trust	0.00%	0
Senior Lawyers	15.38%	2
Solo and Small Practice	7.69%	1
Taxation	0.00%	0
World Peace Through Law	23.08%	3
Total Respondents: 13		

## Q2 Do you generally support a WSBA Bylaws amendment as proposed by the Senior Lawyers Section to allow for those with inactive and honorary membership statuses to be voting members of a section?

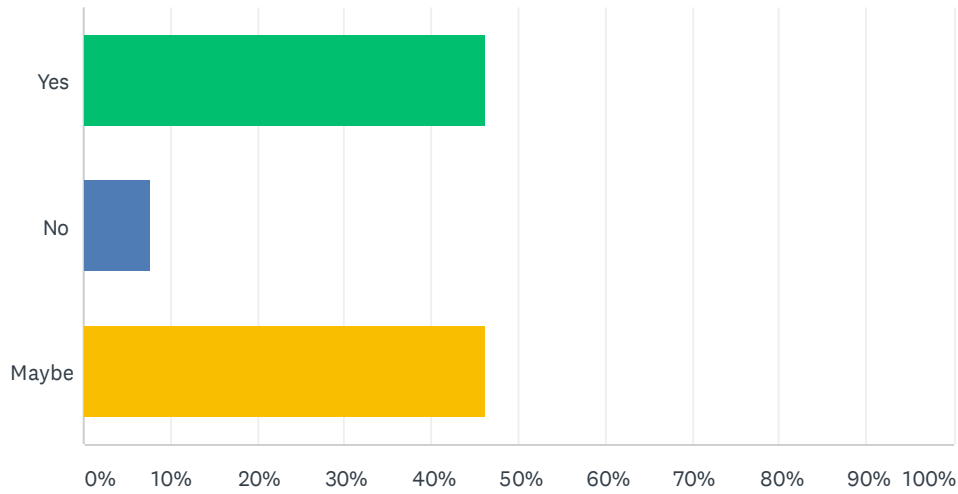
Answered: 13 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	92.31%	12
No	7.69%	1
Indifferent	0.00%	0
<b>TOTAL</b>		<b>13</b>

**Q3 If the WSBA Bylaws were amended to permit Sections to allow inactive and honorary members to be voting members of the section, would your Section's executive committee consider amending the Section's bylaws to allow inactive and/or honorary members to be voting members of the Section?**

Answered: 13 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	46.15%	6
No	7.69%	1
Maybe	46.15%	6
<b>TOTAL</b>		<b>13</b>

## Q4 Any comments or questions?

Answered: 6 Skipped: 7

#	RESPONSES	DATE
1	The above is my personal opinion and does not represent IPS Executive Committee's opinion. IPS EC will need further discussion whether to make any changes to our section bylaws.	8/15/2021 10:13 AM
2	I speak only for myself, not our Executive Committee, but I am confident it would support the proposal because (A) the wisdom and energy of elder lawyers is valuable and (B) the interests of retired lawyers do not diverge from those of currently active members of our Section,IMO. We shall discuss at our next meeting.	8/13/2021 2:38 PM
3	We have 3 honorary members on our EC. None of them have been attorneys in their career, even though they have worked with attorneys. I don't think non-attorneys should be allowed to vote on issues related to attorney members.	8/12/2021 2:54 PM
4	Voting is important but so is being up to date and educated on the law. If a lawyer is still active as in engaged in education to further the administration of justice, then they should be afforded the right to vote.	8/12/2021 12:31 PM
5	This is particularly relevant to the ADR Section, as we have members practicing solely ADR services and therefore not required to be active members of the Bar.	8/12/2021 9:59 AM
6	This is ridiculous that retired members of the WSBA cannot participate. They basically have more time and effort to keep the sections moving and going. The BOG should consider that the fact that they are retired but are interested in giving back in some manner as a gift. Considering people who are active never can spend time doing anything of quality for the WSBA.	8/12/2021 7:32 AM



## SUPREME COURT/WSBA BOARD OF GOVERNORS MEETING

*By Videoconference  
Friday, September 24, 2021  
9AM to 12PM*

### **AGENDA**

- 1. Welcome & Introductions**, Chief Justice Steven González
- 2. WSBA Updates**, President Kyle Sciuchetti
  - a. WSBA Climate & Culture Work**, Gov. Alec Stephens & Chief Glynnis Klinefelter Sio
  - b. Bar Exam**, Chief Renata Garcia
  - c. Treasurer's Report**, Treas. Dan Clark
- 3. Additional Discussion Topics**
  - a.** WSBA's Role in Court Rulemaking
  - b.** Bar Licensure Task Force
- 4. Resume WSBA Board of Governors Meeting & Enter Executive Session for Discussion with Counsel Re Litigation Impacting Integrated Bar Associations**

# WASHINGTON STATE BAR ASSOCIATION

Office of the Executive Director

October 23, 2020

Pamela H. Anderson, Chair  
WSBA Committee on Professional Ethics  
3117 Capitol Blvd SW  
Tumwater, WA 98501-3301  
VIA EMAIL: [pandapara@comcast.net](mailto:pandapara@comcast.net)

Re: Request to advise the Board of Governors regarding possible RPC amendments relating to unidentified property

Dear Chair Anderson,

The Legal Foundation of Washington, the nonprofit organization created at the direction of the Washington Supreme Court to distribute IOLTA funds to legal aid organizations in Washington State, has recommended an amendment to Washington RPC 1.15A to require that unidentified property in a lawyer's trust account be remitted to the Legal Foundation of Washington rather than transferred to the Department of Revenue as abandoned property under the Uniform Unclaimed Property Act, Chapter 63.29 RCW. A memo to this effect from the Executive Director of the Legal Foundation, Caitlin Davis, is attached.

The proposal does not include a draft of an amendment to RPC 1.15A, but it does append rules adopted in Illinois and Louisiana that address the same issue in those jurisdictions. Additionally, it has come to our attention that the Supreme Judicial Court of Massachusetts recently held that that unidentified client funds on deposit in an IOLTA account do not fall within the statutory definition of "abandoned property" in that state and that such funds must be transferred to the IOLTA administrator in Massachusetts for disposition. A copy of that opinion, *In re Olchowski*, No. SJC-12730 (Mass. Oct. 1, 2020), is also attached.

The WSBA Board of Governors would appreciate a recommendation from the Committee on Professional Ethics as to whether WSBA should support and potentially serve as a co-proponent of such an amendment, and, if so, a recommendation as to the content of such an amendment. Ideally, the Board would receive the Committee's recommendation with ample time to analyze and act on it prior to October 15, 2021, the rule-submission deadline under General Rule 9.

Please keep Caitlin Davis Carlson apprised of the Committee's activity on this issue, and coordinate joint efforts with the Legal Foundation as appropriate. In addition, because of the potential effect of such an amendment on a lawyer's trust-accounting responsibilities, please include the Office of Disciplinary Counsel in the Committee's deliberations.





Let us know if you have questions about this request. On behalf of WSBA and the Board of Governors, thank you for your service as CPE Chair.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a long horizontal line.

Kyle D. Sciuchetti  
President

A handwritten signature in blue ink, appearing to be 'Terra Nevitt' in a cursive style.

Terra Nevitt  
Interim Executive Director

Enclosures

CC: Jeanne Marie Clavere, WSBA Professional Responsibility Counsel  
Caitlin Davis, Executive Director, Legal Foundation of Washington  
Douglas J. Ende, WSBA Chief Disciplinary Counsel  
Gov. Brett Purtzer, BOG Liaison to the CPE

**MEMORANDUM**

1325 Fourth Avenue  
 Suite 1335  
 Seattle, WA  
 98101-2509

Ph: (206) 624-2536  
 Fax:(206) 382-3396

<b>To:</b>	Terra Nevitt, Executive Director, Doug Ende, Chief Disciplinary Council
<b>From:</b>	Caitlin Davis, Executive Director
<b>Date:</b>	September 15, 2020
<b>Re:</b>	Proposed IOLTA Rule Change

Over the last five years, IOLTA programs in several states (Pennsylvania, Texas, Louisiana, Vermont, Oregon, Oklahoma, Arkansas and Illinois) have amended court rules and or legislation to include changes regarding unclaimed or unidentified property in lawyers’ trust accounts. These changes have proven to be a new source of revenue for civil legal aid, as well as a tool that helps lawyers properly dispose of unidentified funds in their trust accounts. The Legal Foundation of Washington seeks to amend RPC 1.15 to include instructions on how lawyers handle unidentified property in their trust accounts.

Unidentified vs Unclaimed Property

- Unidentified property are funds or assets that cannot be traced to a specific owner.
- Unclaimed property are funds or assets that can be traced to a specific owner who cannot be located.

Currently in Washington State, all unclaimed property must be turned over to the State Department of Revenue after a period of due diligence in which the holder of the property attempts to locate the owner. Washington law is silent on how unidentified property should be disposed of. However, in the Washington State Bar Association’s publication called “Managing Client Trust Accounts,” lawyers are advised to handle unidentified funds in their trust account as unclaimed property and remit them to the Department of Revenue.

There are many circumstances in which a lawyer may have unidentified property in their trust accounts. The death of a lawyer, the dissolution of a law firm, the merger of lawyers or law firms, retirement, and other situations are examples of when a lawyer may be in possession of unidentified client funds.

The Legal Foundation of Washington seeks a rule amendment that would direct unidentified property to us. The rule amendment we propose would not address unclaimed property.

## Experiences in Other States

Several of the states we looked at had amended IOLTA rule changes to include both unidentified and unclaimed property. After discussing those states' experiences with implementation, we decided to focus in on states that had pursued only an unidentified property amendment, Illinois and Louisiana.

### Illinois

In March 2015, the Illinois Supreme Court adopted amendments to the IOLTA rule which directs unidentified property to the Lawyers Trust Fund of Illinois (the name of that state's IOLTA program). The Court was persuaded that the rule change would be a law office management tool to provide clearer guidance on how lawyers could dispose of unidentified funds in their trust accounts, as well as providing a new revenue source for civil legal aid. In the first two years of the rule amendment, \$1,007,000 was generated.

Washington is similar to Illinois in that the practice of law is under the supervision of the state Supreme Court and participation in the IOLTA program is mandatory for all lawyers who handle client funds. The Lawyers Trust Fund of Illinois is an independent 501 (c) 3 organization.

#### Attachments:

"Court Rule Change" article from Illinois Bar News

Illinois Rule of Professional Conduct 1.15 (amended April 7, 2015)

Unidentified Funds for Financial Institutions

Instructions for Remitting Unidentified Funds

### Louisiana

On March 23, 2016, the Louisiana Supreme Court amended the Louisiana Rules of Professional Conduct 1.15 concerning how lawyers and law firms should handle unidentified funds accumulated in their IOLTA accounts. The amended rule directs lawyers who discover unidentified funds defined as funds in an IOLTA account for at least one year that after reasonable due diligence cannot be documented as belonging to a client, a third person or the lawyer or law firm, to be remitted to the Louisiana Bar Foundation.

#### Attachments:

Louisiana Rule of Professional Conduct 1.15

Instructions for Remitting Unidentified Funds

Unidentified Funds Remittance Report

### Why Implement a Similar Rule Amendment in Washington?

The Legal Foundation of Washington was established by the Washington Supreme Court thirty five years ago to administer the Interest on Lawyers Trust Account program and other available funds. We have decades of expertise working with lawyers, financial institutions and the WSBA on issues related to IOLTA accounts, and reporting on the use of those funds. Amending the RPC 1.15A to move unidentified property in trust accounts under the management of the Legal Foundation of Washington would be an easy expansion for our organization. The Legal Foundation has simple remittance and refund procedures that could easily be expanded to include unidentified property.

### Next Steps

We would like WSBA to be a co-sponsor of this amendment to RPC 1.15. We submit this memo as an outline/genesis of what we hope will eventually be a GR 9 cover memo. We look forward to speaking with you about the rulemaking timeline, and how we could work with WSBA to co-sponsor this simple rule change.



**ILLINOIS STATE  
BAR ASSOCIATION™**

# THE BAR NEWS



## Court Rule Change on Unidentified IOLTA Funds Raises Over \$1 Million for Legal Aid

A recent change to the rule governing how lawyers deal with unidentified funds in their pooled client trust accounts has generated over \$1,000,000 for legal aid in Illinois.

In March 2015, the Supreme Court of Illinois amended Rule 1.15 of the Illinois Rules of Professional Conduct to require Illinois lawyers to remit unidentified funds in these client trust accounts to the Lawyers Trust Fund of Illinois after a 12-month due diligence process to determine who owns the funds. Since the new rule went into effect on July 1, 2015, the Lawyers Trust Fund (LTF) has received \$1,007,829.21.

“For the 1.8 million Illinoisans living in poverty, legal aid is the only realistic option when confronted with a serious legal problem,” said LTF executive director Mark Marquardt. “Unfortunately, legal aid groups are facing serious financial headwinds in terms of both state and federal funding, which make this new source of revenue even more critical.”

The amended rule creates a process for lawyers to clear unidentified funds from client trust accounts that are part of the Interest on Lawyer Trust Account (IOLTA) program. An IOLTA account is a pooled interest-bearing trust account established to hold funds from multiple clients that are nominal in amount and/or held for a short period of time. Interest on these accounts is paid to the LTF, which uses IOLTA revenue to support not-for-profit legal aid programs that assist low-income Illinois residents.

The amended rule defines unidentified funds as “amounts accumulated in an IOLTA account that cannot be documented as belonging to a client, a third person, or the lawyer or law firm.”

“The Supreme Court is extremely pleased with how well the new mechanism is working,” Illinois Supreme Court Chief Justice Lloyd A. Karmeier said. “Until the court implemented the new system, handling

unidentified funds was a cumbersome and difficult problem for lawyers. The new rules greatly simplify the process. At the same time, they have opened up an important new source of funding for legal aid programs just as demand for such services is growing, but traditional funding is being threatened. It looks to be a win-win for everyone concerned.”

Unidentified funds are distinct from unclaimed funds, which are funds that belong to a known client or third party who cannot be located or does not respond to communications from the lawyer. Only unidentified funds should be sent to LTF under the new rule. Lawyers should continue to remit unclaimed funds to the state treasurer pursuant to the Uniform Disposition of Unclaimed Property Act.

After determining that the funds are unidentified, lawyers complete a simple, one-page form and send it, along with a check, to LTF. The form, along with a copy of the rule, written instructions, and an informational video, are available on the LTF website at [www.ltf.org/lawyers/unidentified-funds/](http://www.ltf.org/lawyers/unidentified-funds/).

“Thanks to the foresight of the Supreme Court of Illinois, LTF is better positioned to support the legal aid system as it exists today, and to invest in new technologies and service strategies to help even more people in the future,” said Marquardt.

The Lawyers Trust Fund is a charitable foundation established by the Illinois State Bar Association and Chicago Bar Association in 1983. The Supreme Court of Illinois designated the Lawyers Trust Fund as the administrator of the Interest on Lawyer Trust Account program and as the recipient of a \$95 legal aid fee paid by Illinois attorneys as part of the annual registration process. The Lawyers Trust Fund is the largest single Illinois-based source of funding for civil legal services, providing approximately one out of every six dollars spent on legal aid in the state. For more information on the Lawyers Trust Fund, please visit [www.ltf.org](http://www.ltf.org).

Posted on April 17, 2017 by Sara Anderson

Filed under: **Practice News**

Topic: **Legal aid Illinois Supreme Court**

**LOGIN TO POST COMMENTS**

M.R. 3140

**IN THE  
SUPREME COURT  
OF  
THE STATE OF ILLINOIS**

Order entered April 7, 2015.

(Deleted material is struck through and new material is underscored.)

Effective July 1, 2015, Rule 1.15 of the Illinois Rules of Professional Conduct of 2010 is amended, as follows.

**Amended Rule 1.15**

**Rule 1.15. SAFEKEEPING PROPERTY**

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be deposited in one or more separate and identifiable interest- or dividend-bearing client trust accounts maintained at an eligible financial institution in the state where the lawyer's office is situated, or elsewhere with the informed consent of the client or third person. For the purposes of this Rule, a client trust account means an IOLTA account as defined in paragraph ~~(i)(2)~~ (j)(2), or a separate, interest-bearing non-IOLTA client trust account established to hold the funds of a client or third person as provided in paragraph (f). Funds of clients or third persons shall not be deposited in a non-interest-bearing or non-dividend-bearing account. Other, tangible property shall be identified as such and appropriately safeguarded. Complete records of client trust account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after termination of the representation.

Maintenance of complete records of client trust accounts shall require that a lawyer:

(1) prepare and maintain receipt and disbursement journals for all client trust accounts required by this Rule containing a record of deposits and withdrawals from client trust accounts specifically identifying the date, source, and description of each item deposited, and the date, payee and purpose of each disbursement;

(2) prepare and maintain contemporaneous ledger records for all client trust accounts showing, for each separate trust client or beneficiary, the source of all funds deposited, the date of each deposit, the names of all persons for whom the funds are or were held, the amount of such funds, the dates, descriptions and amounts of charges or withdrawals, and the names of all persons to whom such funds were disbursed;

(3) maintain copies of all accountings to clients or third persons showing the disbursement of funds to them or on their behalf, along with copies of those portions of clients' files that are reasonably necessary for a complete understanding of the financial transactions pertaining to them;

(4) maintain all client trust account checkbook registers, check stubs, bank statements,

records of deposit, and checks or other records of debits;

(5) maintain copies of all retainer and compensation agreements with clients;

(6) maintain copies of all bills rendered to clients for legal fees and expenses;

(7) prepare and maintain reconciliation reports of all client trust accounts, on at least a quarterly basis, including reconciliations of ledger balances with client trust account balances;

(8) make appropriate arrangements for the maintenance of the records in the event of the closing, sale, dissolution, or merger of a law practice.

Records required by this Rule may be maintained by electronic, photographic, or other media provided that printed copies can be produced, and the records are readily accessible to the lawyer.

Each client trust account shall be maintained only in an eligible financial institution selected by the lawyer in the exercise of ordinary prudence.

(b) A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(c) A lawyer shall deposit in a client trust account funds received to secure payment of legal fees and expenses, to be withdrawn by the lawyer only as fees are earned and expenses incurred. Funds received as a fixed fee, a general retainer, or an advance payment retainer shall be deposited in the lawyer's general account or other account belonging to the lawyer. An advance payment retainer may be used only when necessary to accomplish some purpose for the client that cannot be accomplished by using a security retainer. An agreement for an advance payment retainer shall be in a writing signed by the client that uses the term "advance payment retainer" to describe the retainer, and states the following:

(1) the special purpose for the advance payment retainer and an explanation why it is advantageous to the client;

(2) that the retainer will not be held in a client trust account, that it will become the property of the lawyer upon payment, and that it will be deposited in the lawyer's general account;

(3) the manner in which the retainer will be applied for services rendered and expenses incurred;

(4) that any portion of the retainer that is not earned or required for expenses will be refunded to the client;

(5) that the client has the option to employ a security retainer, provided, however, that if the lawyer is unwilling to represent the client without receiving an advance payment retainer, the agreement must so state and provide the lawyer's reasons for that condition.

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such



property.

(e) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

(f) All funds of clients or third persons held by a lawyer or law firm which are nominal in amount or are expected to be held for a short period of time, including advances for costs and expenses, and funds belonging in part to a client or third person and in part presently or potentially to the lawyer or law firm, shall be deposited in one or more IOLTA accounts, as defined in paragraph ~~(i)(2)~~ (j)(2). A lawyer or law firm shall deposit all funds of clients or third persons which are not nominal in amount or expected to be held for a short period of time into a separate interest- or dividend-bearing client trust account with the client designated as income beneficiary. Funds of clients or third persons shall not be deposited in a non-interest-bearing or non-dividend-bearing account. Each IOLTA account shall comply with the following provisions:

(1) Each lawyer or law firm in receipt of nominal or short-term client funds shall establish one or more IOLTA accounts with an eligible financial institution authorized by federal or state law to do business in the state of Illinois and which offers IOLTA accounts within the requirements of this Rule as administered by the Lawyers Trust Fund of Illinois.

(2) Eligible institutions shall maintain IOLTA accounts that pay the highest interest rate or dividend available from the institution to its non-IOLTA account customers when IOLTA accounts meet or exceed the same minimum balance or other account eligibility guidelines, if any. In determining the highest interest rate or dividend generally available from the institution to its non-IOLTA accounts, eligible institutions may consider factors, in addition to the IOLTA account balance, customarily considered by the institution when setting interest rates or dividends for its customers, provided that such factors do not discriminate between IOLTA accounts and accounts of non-IOLTA customers, and that these factors do not include that the account is an IOLTA account.

(3) An IOLTA account that meets the highest comparable rate or dividend standard set forth in paragraph (f)(2) must use one of the identified account options as an IOLTA account, or pay the equivalent yield on an existing IOLTA account in lieu of using the highest-yield bank product:

(a) a checking account paying preferred interest rates, such as money market or indexed rates, or any other suitable interest-bearing deposit account offered by the eligible institution to its non-IOLTA customers.

(b) for accounts with balances of \$100,000 or more, a business checking account with automated investment feature, such as an overnight sweep and investment in repurchase agreements fully collateralized by U.S. Government securities as defined in paragraph (h).

(c) for accounts with balances of \$100,000 or more, a money market fund with, or tied to, check-writing capacity, that must be solely invested in U.S. Government securities or securities fully collateralized by U.S. Government securities, and that has total assets of at least \$250 million.

(4) As an alternative to the account options in paragraph (f)(3), the financial institution

may pay a “safe harbor” yield equal to 70% of the Federal Funds Target Rate or 1.0%, whichever is higher.

(5) Each lawyer or law firm shall direct the eligible financial institution to remit monthly earnings on the IOLTA account directly to the Lawyers Trust Fund of Illinois. For each individual IOLTA account, the eligible financial institution shall provide: a statement transmitted with each remittance showing the name of the lawyer or law firm directing that the remittance be sent; the account number; the remittance period; the rate of interest applied; the account balance on which the interest was calculated; the reasonable service fee(s) if any; the gross earnings for the remittance period; and the net amount of earnings remitted. Remittances shall be sent to the Lawyers Trust Fund electronically unless otherwise agreed. The financial institution may assess only allowable reasonable fees, as defined in paragraph ~~(i)(8)~~ (j)(8). Fees in excess of the earnings accrued on an individual IOLTA account for any month shall not be taken from earnings accrued on other IOLTA accounts or from the principal of the account.

(g) A lawyer or law firm should exercise reasonable judgment in determining whether funds of a client or third person are nominal in amount or are expected to be held for a short period of time. No charge of ethical impropriety or other breach of professional conduct shall attend to a lawyer’s or law firm’s exercise of reasonable judgment under this rule or decision to place client funds in an IOLTA account or a non-IOLTA client trust account on the basis of that determination. Ordinarily, in determining the type of account into which to deposit particular funds for a client or third person, a lawyer or a law firm shall take into consideration the following factors:

- (1) the amount of interest which the funds would earn during the period they are expected to be held and the likelihood of delay in the relevant transaction or proceeding;
- (2) the cost of establishing and administering the account, including the cost of the lawyer’s services;
- (3) the capability of the financial institution, through subaccounting, to calculate and pay interest earned by each client’s funds, net of any transaction costs, to the individual client.

(h) All trust accounts, whether IOLTA or non-IOLTA, shall be established in compliance with the following provisions on dishonored instrument notification:

(1) A lawyer shall maintain trust accounts only in eligible financial institutions that have filed with the Attorney Registration and Disciplinary Commission an agreement, in a form provided by the Commission, to report to the Commission in the event any properly payable instrument is presented against a client trust account containing insufficient funds, irrespective of whether or not the instrument is honored. Any such agreement shall apply to all branches of the financial institution and shall not be canceled except upon 30 days notice in writing to the Commission. The Commission shall annually publish a list of financial institutions that have agreed to comply with this rule and shall establish rules and procedures governing amendments to the list.

(2) The overdraft notification agreement shall provide that all reports made by the financial institution shall be in the following format:

- (a) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and should include a copy of the

dishonored instrument, if such a copy is normally provided to depositors; and

(b) In the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the lawyer or law firm, the account number, the date of presentation for payment and the date paid, as well as the amount of overdraft created thereby. Such reports shall be made simultaneously with, and within the time provided by law for, notice of dishonor, if any. If an instrument presented against insufficient funds is honored, then the report shall be made within five banking days of the date of presentation for payment against insufficient funds.

(3) Every lawyer practicing or admitted to practice in this jurisdiction shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements mandated by this Rule.

(4) Nothing herein shall preclude a financial institution from charging a particular lawyer or law firm for the reasonable cost of producing the reports and records required by paragraph (h) of this Rule. Fees charged for the reasonable cost of producing the reports and records required by paragraph (h) are the sole responsibility of the lawyer or law firm, and are not allowable reasonable fees for IOLTA accounts as those are defined in paragraph ~~(i)(8)~~ (i)(8).

(i) A lawyer who learns of unidentified funds in an IOLTA account must make periodic efforts to identify and return the funds to the rightful owner. If after 12 months of the discovery of the unidentified funds the lawyer determines that ascertaining the ownership or securing the return of the funds will not succeed, the lawyer must remit the funds to the Lawyers Trust Fund of Illinois. No charge of ethical impropriety or other breach of professional conduct shall attend to a lawyer's exercise of reasonable judgment under this paragraph (i).

A lawyer who either remits funds in error or later ascertains the ownership of remitted funds may make a claim to the Lawyers Trust Fund, which after verification of the claim will return the funds to the lawyer.

~~(i)~~(j) Definitions

(1) "Funds" denotes any form of money, including cash, payment instruments such as checks, money orders or sales drafts, and electronic fund transfers.

(2) "IOLTA account" means a pooled interest- or dividend-bearing client trust account, established with an eligible financial institution with the Lawyers Trust Fund of Illinois designated as income beneficiary, for the deposit of nominal or short-term funds of clients or third persons as defined in paragraph (f) and from which funds may be withdrawn upon request as soon as permitted by law.

(3) "Eligible financial institution" is a bank or a savings bank insured by the Federal Deposit Insurance Corporation or an open-end investment company registered with the Securities and Exchange Commission that agrees to provide dishonored instrument notification regarding any type of client trust account as provided in paragraph (h) of this Rule; and that with respect to IOLTA accounts, offers IOLTA accounts within the requirements of paragraph (f) of this Rule.

(4) "Properly payable" refers to an instrument which, if presented in the normal course of

business, is in a form requiring payment under the laws of this jurisdiction.

(5) “Money market fund” is an investment company registered under the Investment Company Act of 1940, as amended, that is qualified to hold itself out to investors as a money market fund or the equivalent of a money market fund under Rules and Regulations adopted by the Securities and Exchange Commission pursuant to said Act.

(6) “U.S. Government securities” refers to U.S. Treasury obligations and obligations issued by or guaranteed as to principal and interest by any AAA-rated United States agency or instrumentality thereof. A daily overnight financial repurchase agreement (“repo”) may be established only with an institution that is deemed to be “well capitalized” or “adequately capitalized” as defined by applicable federal statutes and regulations.

(7) “Safe harbor” is a yield that if paid by the financial institution on IOLTA accounts shall be deemed as a comparable return in compliance with this Rule. Such yield shall be calculated as 70% of the Federal Funds Target Rate as reported in the Wall Street Journal on the first business day of the calendar month.

(8) “Allowable reasonable fees” for IOLTA accounts are per-check charges, per deposit charges, a fee in lieu of a minimum balance, federal deposit insurance fees, automated investment (“sweep”) fees, and a reasonable maintenance fee, if those fees are charged on comparable accounts maintained by non-IOLTA depositors. All other fees are the responsibility of, and may be charged to, the lawyer or law firm maintaining the IOLTA account.

(9) “Unidentified funds” are amounts accumulated in an IOLTA account that cannot be documented as belonging to a client, a third person, or the lawyer or law firm.

(j)(k) In the closing of a real estate transaction, a lawyer’s disbursement of funds deposited but not collected shall not violate his or her duty pursuant to this Rule 1.15 if, prior to the closing, the lawyer has established a segregated Real Estate Funds Account (REFA) maintained solely for the receipt and disbursement of such funds, has deposited such funds into a REFA, and:

(1) is acting as a closing agent pursuant to an insured closing letter for a title insurance company licensed in the State of Illinois and uses for such funds a segregated REFA maintained solely for such title insurance business; or

(2) has met the “good-funds” requirements. The good-funds requirements shall be met if the bank in which the REFA was established has agreed in a writing directed to the lawyer to honor all disbursement orders drawn on that REFA for all transactions up to a specified dollar amount not less than the total amount being deposited in good funds. Good funds shall include only the following forms of deposits: (a) a certified check, (b) a check issued by the State of Illinois, the United States, or a political subdivision of the State of Illinois or the United States, (c) a cashier’s check, teller’s check, bank money order, or official bank check drawn on or issued by a financial institution insured by the Federal Deposit Insurance Corporation or a comparable agency of the federal or state government, (d) a check drawn on the trust account of any lawyer or real estate broker licensed under the laws of any state, (e) a personal check or checks in an aggregate amount not exceeding \$5,000 per closing if the lawyer making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the REFA, (f) a check drawn on the account of or issued by a

lender approved by the United States Department of Housing and Urban Development as either a supervised or a nonsupervised mortgagee as defined in 24 C.F.R. § 202.2, (g) a check from a title insurance company licensed in the State of Illinois, or from a title insurance agent of the title insurance company, provided that the title insurance company has guaranteed the funds of that title insurance agent. Without limiting the rights of the lawyer against any person, it shall be the responsibility of the disbursing lawyer to reimburse the trust account for such funds that are not collected and for any fees, charges and interest assessed by the paying bank on account of such funds being uncollected.

Adopted July 1, 2009, effective January 1, 2010; amended July 1, 2011, effective September 1, 2011; amended April 7, 2015, eff. July 1, 2015.

### **Comment**

[1] A lawyer should hold property of others with the care required of a professional fiduciary. Securities should be kept in a safe deposit box, except when some other form of safekeeping is warranted by special circumstances. All property that is the property of clients or third persons, including prospective clients, must be kept separate from the lawyer's business and personal property and, if monies, in one or more client trust accounts. Client trust accounts should be made identifiable through their designation as "client trust account" or "client funds account" or words of similar import indicating the fiduciary nature of the account. Separate trust accounts may be warranted when administering estate monies or acting in similar fiduciary capacities. A lawyer should maintain on a current basis complete records of client trust account funds as required by paragraph (a), including subparagraphs (1) through (8). These requirements articulate recordkeeping principles that provide direction to a lawyer in the handling of funds entrusted to the lawyer by a client or third person. Compliance with these requirements will benefit the attorney and the client or third party as these fiduciary funds will be safeguarded and documentation will be available to fulfill the lawyer's fiduciary obligation to provide an accounting to the owners of the funds and to refute any charge that the funds were handled improperly.

[2] While normally it is impermissible to commingle the lawyer's own funds with client funds, paragraph (b) provides that it is permissible when necessary to pay bank service charges on that account. Accurate records must be kept regarding which part of the funds are the lawyer's.

[3] Lawyers often receive funds from which the lawyer's fee will be paid. The lawyer is not required to remit to the client funds that the lawyer reasonably believes represent fees owed. However, a lawyer may not hold funds to coerce a client into accepting the lawyer's contention. The disputed portion of the funds must be kept in a trust account and the lawyer should suggest means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the funds shall be promptly distributed. Specific guidance concerning client trust accounts is provided in the Client Trust Account Handbook published by the Illinois Attorney Registration and Disciplinary Commission as well as on the website of the Illinois Attorney Registration and Disciplinary Commission.

[3A] Paragraph (c) relates to legal fees and expenses that have been paid in advance. The

reasonableness, structure, and division of legal fees are governed by Rule 1.5 and other applicable law.

[3B] Paragraph (c) must be read in conjunction with *Dowling v. Chicago Options Associates, Inc.*, 226 Ill. 2d 277 (2007). In *Dowling*, the Court distinguished different types of retainers. It recognized advance payment retainers and approved their use in limited circumstances where the lawyer and client agree that a retainer should become the property of the lawyer upon payment. Prior to *Dowling*, the Court recognized only two types of retainers. The first, a general retainer (also described as a “true,” “engagement,” or “classic” retainer) is paid by a client to the lawyer in order to ensure the lawyer’s availability during a specific period of time or for a specific matter. This type of retainer is earned when paid and immediately becomes property of the lawyer, regardless of whether the lawyer ever actually performs any services for the client. The second, a “security” retainer, secures payment for future services and expense, and must be deposited in a client trust account pursuant to paragraph (a). Funds in a security retainer remain the property of the client until applied for services rendered or expenses incurred. Any unapplied funds are refunded to the client. Any written retainer agreement should clearly define the kind of retainer being paid. If the parties agree that the client will pay a security retainer, that term should be used in any written agreement, which should also provide that the funds remain the property of the client until applied for services rendered or expenses incurred and that the funds will be deposited in a client trust account. If the parties’ intent is not evident, an agreement for a retainer will be construed as providing for a security retainer.

[3C] An advance payment retainer is a present payment to the lawyer in exchange for the commitment to provide legal services in the future. Ownership of this retainer passes to the lawyer immediately upon payment; and the retainer may not be deposited into a client trust account because a lawyer may not commingle property of a client with the lawyer’s own property. However, any portion of an advance payment retainer that is not earned must be refunded to the client. An advance payment retainer should be used sparingly, only when necessary to accomplish a purpose for the client that cannot be accomplished by using a security retainer. An advance payment retainer agreement must be in a written agreement signed by the client that contains the elements listed in paragraph (c). An advance payment retainer is distinguished from a fixed fee (also described as a “flat” or “lump-sum” fee), where the lawyer agrees to provide a specific service (*e.g.*, defense of a criminal charge, a real estate closing, or preparation of a will or trust) for a fixed amount. Unlike an advance payment retainer, a fixed fee is generally not subject to the obligation to refund any portion to the client, although a fixed fee is subject, like all fees, to the requirement of Rule 1.5(a) that a lawyer may not charge or collect an unreasonable fee.

[3D] The type of retainer that is appropriate will depend on the circumstances of each case. The guiding principle in the choice of the type of retainer is protection of the client’s interests. In the vast majority of cases, this will dictate that funds paid to retain a lawyer will be considered a security retainer and placed in a client trust account, pursuant to this Rule.

[4] Paragraph (e) also recognizes that third parties may have lawful claims against specific funds or other property in a lawyer’s custody, such as a client’s creditor who has a lien on funds recovered in a personal injury action. A lawyer may have a duty under applicable law to protect such third-party claims against wrongful interference by the client. In such cases, when the third-party claim is not frivolous under applicable law, the lawyer must refuse to surrender the

property to the client until the claims are resolved. A lawyer should not unilaterally assume to arbitrate a dispute between the client and the third party, but, when there are substantial grounds for dispute as to the person entitled to the funds, the lawyer may file an action to have a court resolve the dispute.

[5] The obligations of a lawyer under this Rule are independent of those arising from activity other than rendering legal services. For example, a lawyer who serves only as an escrow agent is governed by the applicable law relating to fiduciaries even though the lawyer does not render legal services in the transaction and is not governed by this Rule.

[6] Paragraphs (a), (f) and (g) requires that nominal or short-term funds belonging to clients or third persons be deposited in one or more IOLTA accounts as defined in paragraph ~~(i)(2)~~~~(j)(2)~~ and provides that the interest earned on any such accounts shall be submitted to the Lawyers Trust Fund of Illinois. The Lawyers Trust Fund of Illinois will disburse the funds so received to qualifying organizations and programs to be used for the purposes set forth in its by-laws. The purposes of the Lawyers Trust Fund of Illinois may not be changed without the approval of the Supreme Court of Illinois. The decision as to whether funds are nominal or short-term shall be in the reasonable judgment of the depositing lawyer or law firm. Client and third-person funds that are neither nominal or short-term shall be deposited in separate, interest- or dividend-bearing client trust accounts for the benefit of the client as set forth in paragraphs (a) and (f).

[7] Paragraph (h) requires that lawyers maintain trust accounts only in financial institutions that have agreed to report trust account overdrafts to the ARDC. The trust account overdraft notification program is intended to provide early detection of problems in lawyers' trust accounts, so that errors by lawyers and/or banks may be corrected and serious lawyer transgressions pursued.

[8] Paragraph (i) applies when accumulated balances in an IOLTA account cannot be documented as belonging to an identifiable client or third party, or to the lawyer or law firm. This paragraph provides a mechanism for a lawyer to remove these funds from an IOLTA account when, in the lawyer's reasonable judgment, further efforts to account for them after a period of 12 months are not likely to be successful. This procedure facilitates the effective management of IOLTA accounts by lawyers; addresses situations where an IOLTA account becomes the responsibility of a lawyer's successor, law partner, or heir; and supports the provision of civil legal aid in Illinois.

The Lawyers Trust Fund of Illinois will publish instructions for lawyers remitting unidentified funds. Proceeds of unidentified funds received under paragraph (i) will be distributed to qualifying organizations and programs according to the purposes set forth in the by-laws of the Lawyers Trust Fund. When a lawyer learns that funds have been remitted in error or later identifies the owner of remitted funds, the lawyer may make a claim to the Lawyers Trust Fund for the return of the funds. After verification of the claim, the Lawyers Trust Fund will return the funds to the lawyer who then ensures the funds are restored to the owner.

Paragraph (i) relates only to unidentified funds, for which no owner can be ascertained. Unclaimed funds in client trust accounts—funds whose owner is known but have not been claimed—should be handled according to applicable statutes including the Uniform Distribution of Unclaimed Property Act (765 ILCS 1025 et seq.).

[8][9] Paragraph ~~(i)~~~~(j)~~ provides definitions that pertain specifically to Rule 1.15. Paragraph

(1) defines expansively the meaning of “funds,” to include any form of money, including electronic fund transfers. Paragraph (2) defines an IOLTA account and paragraph (3) defines an eligible financial institution for purposes of the overdraft notification and IOLTA programs. Paragraph (4) defines “properly payable,” a term used in the overdraft notification provisions in paragraph (h)(1). Paragraphs (5) through (8) define terms pertaining to IOLTA accounts. Paragraph (9) defines “unidentified funds” as that term is used in paragraph (i).

~~{9}~~[10] Paragraph ~~(j)~~(k) applies only to the closing of real estate transactions and adopts the “good-funds” doctrine. That doctrine provides for the disbursement of funds deposited but not yet collected if the lawyer has already established an appropriate Real Estate Funds Account and otherwise fulfills all of the requirements contained in the Rule.

Adopted July 1, 2009, effective January 1, 2010; amended July 1, 2011, effective September 1, 2011; amended April 7, 2015, eff. July 1, 2015.



## Lawyers' Trust Fund of Illinois

### Unidentified Funds Information for Financial Institutions

In 2015, the rule governing lawyers' use of IOLTA and other client trust accounts was changed to address unidentified funds in IOLTA accounts. The change to Rule of Professional Conduct 1.15 defines unidentified funds as ***"amounts accumulated in an IOLTA account that cannot be documented as belonging to a client, a third person, or the lawyer or law firm"***. The rule directs lawyers to make periodic efforts over a period of 12 months to identify the owner and return the unidentified funds. If after 12 months the lawyer believes that continued efforts will not succeed, the unidentified funds are to be remitted to the Lawyers Trust Fund.

#### **A resource for lawyers**

The amended rule provides a new resource that banks can highlight for their lawyer customers. The requirement to deal with accumulated balances that are unidentified is particularly relevant for lawyers who are nearing retirement or transition from the active practice of law. By taking proactive steps to manage the IOLTA account and either return or remit unidentified funds, a lawyer can avoid leaving a dormant account with a balance on deposit that ultimately will be administered by an executor or heir, or become the responsibility of the bank to remit to the state treasurer as unclaimed property.

What does this mean for banks?

The new rule applies to lawyers and has no direct impact on financial institutions. Management of each IOLTA account is left to the lawyer, and banks must continue to follow the requirements of the Uniform Disposition of Unclaimed Property Act (765 ILCS secs. 1025/1 et seq.) when holding accounts that are unclaimed or abandoned.

#### **Unclaimed or unidentified funds?**

The new rule only addresses only funds that cannot be documented as belonging to a client, a third person, or the lawyer or law firm. If the lawyer knows the accumulated funds belong to someone who cannot be located or who will not cash a check for payment of the funds, the funds are **unclaimed**. Under the Uniform Disposition of Unclaimed Property Act, funds in an IOLTA account that remain unclaimed for five years should be remitted by the lawyer to the treasurer through the I-CASH program. Lawyers should not remit unclaimed funds to LTF.

#### **Instructions for remitting unidentified funds**

Lawyers should remit unidentified funds to LTF by (1) submitting a completed Unidentified Funds Report (PDF) and (2) sending a check for the amount of the funds payable to the Lawyers Trust Fund of Illinois. Use of the reporting form is required in all cases. LTF cannot accept remittances made via ACH or wire transfer

## LAWYERS TRUST FUND OF ILLINOIS

### INSTRUCTIONS FOR REMITTING UNIDENTIFIED FUNDS

Illinois Rule of Professional Conduct 1.15 requires lawyers to address any unidentified funds accumulated in their IOLTA accounts:

*A lawyer who learns of unidentified funds in an IOLTA account must make periodic efforts to identify and return the funds to the rightful owner. If after 12 months of the discovery of the unidentified funds the lawyer determines that ascertaining the ownership or securing the return of the funds will not succeed, the lawyer must remit the funds to the Lawyers Trust Fund of Illinois. No charge of ethical impropriety or other breach of professional conduct shall attend to a lawyer's exercise of reasonable judgment under this paragraph (i). (The complete rule, along with additional information is available at [www.ltf.org](http://www.ltf.org).)*

#### Remitting Unidentified Funds

If you believe you are holding unidentified funds in an IOLTA account, please follow these instructions:

**Step 1: Are the funds unidentified?** Rule 1.15 defines unidentified funds as “amounts accumulated in an IOLTA account that cannot be documented as belonging to a client, a third person, or the lawyer or law firm.”

- If the accumulated funds belong to a known owner (a client or third person) who cannot be located or who will not cash a check for payment of the funds, the funds are **unclaimed**. Under the Uniform Disposition of Unclaimed Property Act ( 765 ILCS secs. 1025/1 *et seq.*), funds that remain unclaimed for five years may be remitted to the Illinois State Treasurer through the I-CASH program. (More information is available at [icash.illinois.gov](http://icash.illinois.gov).) **Do not remit unclaimed funds to the Lawyers Trust Fund.**
- If you determine that the accumulated funds cannot be identified as belonging to a client or third person, or documented as belonging to the lawyer or law firm, proceed to Step 2.

**Step 2: Have you met the 12-month requirement?** After the discovery of unidentified funds, Rule 1.15(i) requires lawyers to make periodic efforts over 12 months to identify the owner of the funds and return them.

- If ownership of the unidentified funds is ascertained during the 12-month period, the lawyer should return the funds to the owner. If the owner cannot be located or does not accept payment of the funds, the lawyer should treat them as unclaimed funds. **These funds should not be remitted to the Lawyers Trust Fund.**
- After 12 months of periodic efforts to identify and return the funds, if the lawyer determines that further efforts will not succeed, **the funds must be remitted to the Lawyers Trust Fund.**

**Step 3: Remit unidentified funds using this report.** To remit funds, complete page 2 of this form with required information and signed verification. Send the completed form and a check for the amount of the unidentified funds **payable to the Lawyers Trust Fund of Illinois** to:

Lawyers Trust Fund of Illinois  
12976 Collections Center Drive  
Chicago, IL 60693

The Lawyers Trust Fund will send an electronic acknowledgement of the remittance and report to the email address supplied in Section A on page 2 of this form.

**Step 4 (optional): Are you closing your IOLTA account?** If you are remitting unidentified funds because you have retired or are leaving practice, you should close your IOLTA account by contacting your bank. Please send a Notice of Account Closing to LTF (available here: <https://goo.gl/fv5NeS>).

**Do you need assistance?** Contact us: Director of Banking Terri-Smith Ashford: 312-938-3001, [terri@ltf.org](mailto:terri@ltf.org) or LTF General Counsel David Holtermann: 312-938-3076, [david@ltf.org](mailto:david@ltf.org)

**LAWYERS TRUST FUND OF ILLINOIS**  
**12976 Collections Center Drive**  
**Chicago, IL 60693**

**UNIDENTIFIED FUNDS REMITTANCE REPORT**

*This form is for the remittance of unidentified funds from IOLTA accounts pursuant to Illinois Rule of Professional Conduct 1.15*

**A. PERSON MAKING REPORT**

<p>1. Name: _____</p> <p>Address: _____</p> <p>_____</p>	<p>2. Law Firm Name: <i>(if applicable)</i> _____</p> <p>Address: _____</p> <p>_____</p>
<p>3. Phone: _____</p> <p>_____</p>	<p>4. ARDC Number: <i>(if applicable)</i> _____</p> <p>_____</p>
<p>5. Email: _____</p> <p>_____</p>	

**B. IOLTA ACCOUNT OWNER INFORMATION: *(Complete only if different from reporting lawyer)***

<p>1. Name: _____</p> <p>Address: _____</p> <p>_____</p>	<p>2. Law Firm Name: <i>(if applicable)</i> _____</p> <p>Address: _____</p> <p>_____</p>
<p>3. Phone: _____</p> <p>_____</p>	<p>4. ARDC Number: <i>(if applicable)</i> _____</p> <p>_____</p>

**C. IOLTA ACCOUNT & UNIDENTIFIED FUNDS INFORMATION:**

<p>1. Bank Name/Address: _____</p> <p>_____</p> <p>_____</p>	<p>2. Account Information: _____</p> <p style="text-align: center;"><i>Routing Number</i></p> <p>_____</p> <p style="text-align: center;"><i>Account Number</i></p> <p>_____</p>
<p>3. Amount of Unidentified Funds Remitted: _____</p> <p style="text-align: center;"><i>(Enclose check for above amount payable to: Lawyers Trust Fund of Illinois)</i></p>	
<p>4. Provide additional details <i>(optional)</i>. _____</p> <p>_____</p>	

**REMINDER:** Remit only funds that are **unidentified** and after satisfying the **12-Month requirement**.

**D. VERIFICATION:** I verify that the information reported on this form is true and correct, and that I am remitting the unidentified funds referenced above pursuant to Rule of Professional Conduct 1.15.

Signature <i>(if unsigned, report will be returned)</i>	Date
Print Name	

**Mail the report & remittance check to Lawyers Trust Fund, 12976 Collections Center Drive, Chicago IL 60693**

FOR OFFICE USE ONLY				
BATCH NUMBER	BANK NAME	ROUTING NO.	CHECK NO.	DATE POSTED

**SUPREME COURT OF LOUISIANA**

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**ORDER**

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Acting in accordance with Article V, Sections 1 and 5 of the Louisiana Constitution of 1974, and the inherent power of this Court,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Rule 1.15, Sections (g)(7) and (h) of the Louisiana Rules of Professional Conduct be and are hereby enacted to read as follows:

**Rule 1.15. Safekeeping Property**

\* \* \* \* \*

(g)(7) "Unidentified Funds" are funds on deposit in an IOLTA account for at least one year that after reasonable due diligence cannot be documented as belonging to a client, a third person, or the lawyer or law firm.

(h) A lawyer who learns of Unidentified Funds in an IOLTA account must remit the funds to the Louisiana Bar Foundation. No charge of misconduct shall attend to a lawyer's exercise of reasonable judgment under this paragraph (h).

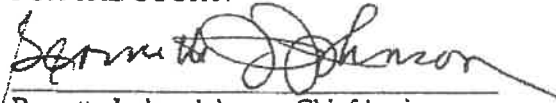
A lawyer who either remits funds in error or later ascertains the ownership of remitted funds may make a claim to the

Louisiana Bar Foundation, which after verification of the claim will return the funds to the lawyer.

These rule changes shall become effective upon signing, and shall remain in full force and effect thereafter, until amended or changed through future Orders of this Court.

New Orleans, Louisiana, this 23rd day of March, 2016

FOR THE COURT:



Bernette Joshua Johnson, Chief Justice

SUPREME COURT OF LOUISIANA  
A TRUE COPY



Robin A. Burras  
Deputy Clerk of Court

**LOUISIANA BAR FOUNDATION**  
**INTEREST ON LAWYERS TRUST ACCOUNTS (IOLTA) Program**  
**INSTRUCTIONS FOR REMITTING UNIDENTIFIED FUNDS**

Effective March 23, 2016, amendments to the Louisiana Rules of Professional Conduct 1.15 require lawyers to change how they handle unidentified funds in IOLTA accounts. The amended rule states in part:

*Unidentified Funds are funds on deposit in an IOLTA account for at least one year that after reasonable due diligence cannot be documented as belonging to a client, a third person, or the lawyer or law firm. A lawyer who learns of Unidentified Funds in an IOLTA account must remit the funds to the Louisiana Bar Foundation. No charge of misconduct shall attend to a lawyer's exercise of reasonable judgment under this paragraph. A lawyer who either remits funds in error or later ascertains the ownership of remitted funds may make a claim to the Louisiana Bar Foundation, which after verification of the claim will return the funds to the lawyer.*

**Remitting Unidentified Funds**

If you believe you are holding unidentified funds in an IOLTA account, please follow these instructions:

**Step 1: Are the funds unidentified?** Rule 1.15 defines unidentified funds as “funds on deposit in an IOLTA account for at least one year that after reasonable due diligence cannot be documented as belonging to a client, a third person, or the lawyer or law firm.”

- If you determine that the accumulated funds cannot be identified as belonging to a client or third person, or documented as belonging to the lawyer or law firm, proceed to Step 2.

**Step 2: Have you met the one year requirement?** Rule 1.15(g)(7) states that unidentified funds are funds on deposit in an IOLTA account for at least one year that after reasonable due diligence cannot be documented as belonging to a client, a third person, or the lawyer or law firm.

- If ownership of the unidentified funds is ascertained, the lawyer should return the funds to the owner.
- If after at least one year and reasonable due diligence, the lawyer cannot document the funds as belonging to the client, a third person or the lawyer or law firm, **the funds must be remitted to the Louisiana Bar Foundation.**
- Unidentified funds discovered before the effective date of the new rule (March 23, 2016) may be remitted to the Louisiana Bar Foundation as long as there has been reasonable due diligence beyond a one-year period to identify the owner and return the funds. However, no lawyer is required to begin efforts to identify and return previously discovered funds until the March 23, 2016 effective date.

**Step 3: Remit unidentified funds using this report.** To remit funds, complete page 2 of this form with required information and signed verification. Send the completed form and a check for the amount of the unidentified funds **payable to the Louisiana Bar Foundation** to:

Louisiana Bar Foundation  
Attn: Unidentified Funds  
1615 Poydras Street, Suite 1000  
New Orleans, LA 70112

The Louisiana Bar Foundation will send an electronic acknowledgment of the remittance and report to the email address supplied in Section A on page 2 of this form.

**Do you need assistance?** Contact us at the LBF Office 504-561-1046: IOLTA Program Coordinator Tina Ferrera at [tina@raisingthebar.org](mailto:tina@raisingthebar.org) or Executive Director Donna C. Cuneo at [donna@raisingthebar.org](mailto:donna@raisingthebar.org)

**LOUISIANA BAR FOUNDATION**  
**1615 Poydras Street, Suite 1000**  
**New Orleans, LA 70112**  
**(504) 561-1046**

**UNIDENTIFIED FUNDS REMITTANCE REPORT**

This form is for the remittance of unidentified funds from IOLTA accounts pursuant to the Louisiana Rules of Professional Conduct 1.15

**A. PERSON MAKING REPORT:**

1. Name: \_\_\_\_\_
2. Law Firm Name: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Phone: \_\_\_\_\_
5. Email: \_\_\_\_\_

**B. IOLTA ACCOUNT OWNER INFORMATION: (Complete only if different from reporting lawyer)**

1. Name: \_\_\_\_\_
2. Law Firm Name: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Phone: \_\_\_\_\_
5. Email: \_\_\_\_\_

**C. IOLTA ACCOUNT & UNIDENTIFIED FUNDS INFORMATION:**

1. Bank Name: \_\_\_\_\_
2. Bank Address: \_\_\_\_\_
3. Bank Account Number: \_\_\_\_\_
4. Bank Account Routing Number: \_\_\_\_\_
5. Amount of Unidentified Funds Remitted: \_\_\_\_\_  
(Enclose check for above amount payable to Louisiana Bar Foundation)
6. Other Details (optional): \_\_\_\_\_  
\_\_\_\_\_

**REMINDER: Remit only funds that are unidentified and meet requirements of Rule 1.15.**

**D. VERIFICATION:** I verify that the information reported on this form is true and correct, and that I am remitting the unidentified funds referenced above pursuant to the Louisiana Rules of Professional Conduct 1.15.

\_\_\_\_\_  
**Signature (if unsigned, report will be returned)**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Print Name**

.....  
**FOR OFFICE ONLY: Check No.** \_\_\_\_\_ **Date Posted:** \_\_\_\_\_

NOTICE: All slip opinions and orders are subject to formal revision and are superseded by the advance sheets and bound volumes of the Official Reports. If you find a typographical error or other formal error, please notify the Reporter of Decisions, Supreme Judicial Court, John Adams Courthouse, 1 Pemberton Square, Suite 2500, Boston, MA, 02108-1750; (617) 557-1030; SJCRReporter@sjc.state.ma.us

SJC-12730

IN THE MATTER OF GREGORY M. OLCHOWSKI.

Suffolk. February 11, 2020. - October 1, 2020.

Present: Gants, C.J., Lenk, Gaziano, Lowy, Budd, Cypher,  
& Kafker, JJ.<sup>1</sup>

Board of Bar Overseers. Treasurer and Receiver General.  
Attorney at Law, Disciplinary proceeding, Client funds.  
Abandoned Property.

Information filed in the Supreme Judicial Court for the county of Suffolk on September 21, 2012.

A motion to remit funds, filed on October 18, 2018, was reported by Kafker, J.

Maureen Mulligan (Kristyn M. Kelley also present) for Massachusetts IOLTA committee.

Timothy J. Casey, Assistant Attorney General, for Treasurer and Receiver General.

Robert M. Daniszewski, Assistant Bar Counsel, was present but did not argue.

Michael J. Serduck, for the respondent, was present but did not argue.

The following submitted briefs for amici curiae:

Karen D. O'Toole for Massachusetts Clients' Security Board & another.

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<sup>1</sup> Chief Justice Gants participated in the deliberation on this case and authored this opinion prior to his death.



Jeffrey D. Woolf for Board of Bar Overseers.

Mary K. Ryan, Micah W. Miller, Martin W. Healy, Thomas J. Carey, Jr., & Francis C. Morrissey for Boston Bar Association & others.

Georgia D. Katsoulomitis, Jacquelynne Bowman, Jonathan Mannina, Elizabeth A. Soule, George Weber, Susan Nagl, Richard Dubois, Elizabeth Matos, John A. Froio, Jay McManus, Kathleen B. Boundy, Cathy Costanzo, & Janine Solomon for Massachusetts Law Reform Institute & others.

GANTS, C.J. The question presented in this case concerns the proper disposition of unidentified client funds on deposit in an Interest on Lawyers' Trust Account (IOLTA or IOLTA account): should they be remitted to the Commonwealth's general fund under the abandoned property statute, G. L. c. 200A, or to the IOLTA committee pursuant to this court's inherent authority to govern the conduct of Massachusetts attorneys? We conclude that trust funds on deposit in an IOLTA account do not fall within the statutory definition of "abandoned property" and therefore the disposition of these funds is not governed by G. L. c. 200A. We also conclude that unidentified IOLTA funds should be transferred to the IOLTA committee for disposition, as set forth in this opinion.<sup>2</sup>

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<sup>2</sup> We acknowledge the amicus briefs submitted by the Board of Bar Overseers; the Massachusetts Clients' Security Board and the Massachusetts Clients' Security Fund; the Boston Bar Association, the Massachusetts Bar Association, and the Real Estate Bar Association for Massachusetts, Inc.; and the Massachusetts Law Reform Institute.

Background. We recite the facts of this case as stated in the parties' joint statement of undisputed facts. On November 23, 2012, this court issued an order temporarily suspending Gregory M. Olchowski from the practice of law. As part of this order, in accordance with our rules governing bar discipline and clients' security protection, Olchowski was directed to notify each of his clients that he had been suspended from the practice of law and could no longer represent them, to make all files available to clients, to refund fees not earned, to close every IOLTA, client, trust or other fiduciary account, and to disburse all client and fiduciary funds in his possession. See S.J.C. Rule 4:01, § 17 (1), as amended, 426 Mass. 1301 (1997).

At the time of Olchowski's temporary suspension, he maintained two IOLTA accounts, one with Bank of America and one with Citizens Bank, which held a combined total of \$29,927. Olchowski was unable to identify the owners of the funds in the IOLTA accounts, so Olchowski's accountant, a Massachusetts-certified public accountant, undertook to try to identify the owners of the unidentified funds. However, the accountant was unable to discover the identity of any of the owners of the funds in Olchowski's IOLTA accounts.<sup>3</sup>

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<sup>3</sup> In May 2013, we issued a judgment disbaring Gregory M. Olchowski, retroactive to November 23, 2012.

On December 11, 2017, Olchowski's attorney notified the Office of Bar Counsel (bar counsel) that there were unidentified funds in Olchowski's IOLTA accounts. Subsequently, a financial investigator from the office examined Olchowski's IOLTA accounts to try to determine the owners of the funds. Bar counsel obtained the records for the two IOLTA accounts from the office of Olchowski's former accountant and subpoenaed records from the two banks where the accounts were opened. After reviewing these records, the investigator was unable to determine the owner or owners of the unidentified funds in either of Olchowski's IOLTA accounts.

While efforts were being made to identify the owners of the funds, Olchowski's attorney transferred the unidentified funds from the IOLTA accounts into an escrow account. At the time briefs were filed in this case, the escrow account balance was \$29,952, including the unidentified funds and twenty-five dollars deposited to open the account. Automatic withdrawals transferring monthly interest payments to the IOLTA committee continued to be made from this account.

In October 2018, Olchowski's attorney moved that the single justice order the transfer of the unidentified funds from Olchowski's two IOLTA accounts to the IOLTA committee. The motion was served on the director of the unclaimed property division of the office of the Treasurer and Receiver General

(Treasurer), and the director of the IOLTA committee. The Treasurer moved to intervene and requested that the funds be remitted to the treasury as "abandoned property" under G. L. c. 200A. The IOLTA committee then moved to intervene and requested that the funds be remitted to it. Bar counsel took "no position on the issue of whether IOLTA funds whose owners cannot be identified . . . should escheat to the [Treasurer] or be remitted to the IOLTA [c]ommittee," but requested that it be notified of the existence of unidentified funds and have the opportunity to complete "any investigation and review it deems necessary" to determine whether the attorney responsible for the IOLTA accounts should be disciplined and "to ensure that the owners in fact are unknown."

The single justice reserved and reported the matter to the full court, stating that "[t]he ultimate question for the court to decide is where these particular unidentified client funds should go" -- either to the Commonwealth as unclaimed property or to the IOLTA committee. Additionally, the single justice noted that in answering this ultimate question, we would likely have to address three subsidiary questions: (1) "Do unidentified client funds on deposit in an IOLTA account fall within the statutory definition of 'abandoned property' under G. L. c. 200A?"; (2) "Does Mass. R. Prof. C. 1.15, [as appearing in 471 Mass. 1380 (2015),] or any other rule of this court,

govern the disposition of such funds?"; and (3) "Are any constitutional issues raised by the parties' proposed disposition(s) of the funds?"

Discussion. 1. Supreme Judicial Court's superintendence authority over the practice of law. To address these issues, we first explain our governance of the bar and the practice of law. Among the inherent superintendence powers of the Supreme Judicial Court is the authority to govern the conduct of attorneys in the practice of law. See Collins v. Godfrey, 324 Mass. 574, 576 (1949) ("It must now be regarded as settled that in the distribution of powers under art. 30 [of the Massachusetts Declaration of Rights] the ultimate power of general control over the practice of law by its own officers fell to the judicial department"). See also Opinion of the Justices, 375 Mass. 795, 813 (1978) ("As to attorneys admitted to practice before the courts of the Commonwealth, we retain the ultimate authority to control their conduct in the practice of law"). This superintendence authority includes determining who is qualified to be admitted to the bar to practice law, controlling the practice of law through rules of professional conduct, disciplining attorneys who violate those rules, and suspending and disbarring those attorneys who are no longer fit to practice law. See Opinion of the Justices, 279 Mass. 607, 609-610 (1932) ("It is an inherent power of [the judicial]

department of government ultimately to determine the qualifications of those to be admitted to practice in its courts, for assisting in its work, and to protect itself in this respect from the unfit, those lacking in sufficient learning, and those not possessing good moral character").

In the exercise of this superintendence authority, we have promulgated several rules, including S.J.C. Rule 3:07, as amended, 480 Mass. 1315 (2018) (Massachusetts Rules of Professional Conduct), which governs the conduct of attorneys; S.J.C. Rule 4:01, which governs bar discipline, and establishes the Board of Bar Overseers (board) to adjudicate disciplinary matters and bar counsel to investigate and prosecute such matters; and S.J.C. Rules 4:04 through 4:06,<sup>4</sup> which establish the Clients' Security Board to reimburse clients for losses arising from the misappropriation of funds by members of the bar acting either as attorneys or fiduciaries. In short, this court has established a series of rules that together govern the conduct of attorneys, provide for the discipline of attorneys who violate the rules of professional conduct, and protect clients from losses arising from defalcations by members of the bar.

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<sup>4</sup> S.J.C. Rule 4:04, as appearing in 482 Mass. 1301 (2019); S.J.C. Rule 4:05, as appearing in 482 Mass. 1303 (2019); and S.J.C. Rule 4:06, as appearing in 482 Mass. 1304 (2019).

2. IOLTA accounts. Rule 1.15 of the Massachusetts Rules of Professional Conduct governs the safekeeping of property entrusted to an attorney. An attorney in possession of "trust property," defined as the "property of clients or third persons that is in a lawyer's possession in connection with a representation," is required to hold it "separate from [his or her] own property," and deposit trust funds in a "trust account." Mass. R. Prof. C. 1.15 (a) (1), (b) (1).

An attorney must deposit trust funds in one of two types of interest-bearing trust accounts: (1) where, in the judgment of the attorney, the trust funds "are nominal in amount, or are to be held for a short period of time," the attorney must deposit trust funds into an IOLTA account; or (2) where the amount of money is more than nominal and is to be held for longer than a short period of time, an attorney must deposit the money into an individual trust account. Mass. R. Prof. C. 1.15 (e) (6). With an individual trust account, the identity of the beneficial owner should always be known because the account is held in a client's name, with all accruing interest paid to the client. Mass. R. Prof. C. 1.15 (e) (3), (6). But an IOLTA account is a "pooled account" that may hold deposits from multiple clients and third persons at the same time. Mass. R. Prof. C. 1.15 (e) (6). A bank holding an IOLTA account does not receive any

identifying information about the client or third person whose funds may be pooled in the attorney's account.

Funds deposited into an IOLTA account may be retainers or advances paid by clients for legal fees that have yet to be actually earned by the attorney, client funds that are awaiting disbursement following judgment or a settlement, or third-party funds that are awaiting distribution, such as the funds distributed after a closing on the sale of real property. See Tyrrell and Casey, *Managing Clients' Funds and Avoiding Ethical Problems*, at 4-5 (Jan. 2018). Because an IOLTA account is "pooled," because the bank holding the account does not know to whom the funds in an IOLTA account belong, and because an attorney is responsible to "promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive," Mass. R. Prof. C. 1.15 (c), an attorney is required to adhere to strict record-keeping and reconciliation requirements for an IOLTA account. See Mass. R. Prof. C. 1.15 (f). An attorney with an IOLTA account is required to keep a ledger for each client matter that identifies every receipt or disbursement of trust funds for that matter, so that the attorney knows at all times how much money in the IOLTA account is beneficially owned by each client and third person. See id. And the attorney is required to prepare a reconciliation report no less than every sixty days to verify



the balance for each client and third person. See Mass. R. Prof. C. 1.15 (f) (1) (C), (E), (F).

Where an attorney fails to keep careful records and prepare periodic reconciliation reports, the risk arises that he or she may not know who is entitled to the trust funds in an IOLTA account, and that the clients and third persons who beneficially own these funds will be deprived of them. Because attorneys are not routinely required to submit reconciliation reports to anyone, neither a bank nor bar counsel will immediately learn if an attorney has failed to keep proper records. In order to assist with oversight of attorney record-keeping, financial institutions accepting IOLTA deposits must agree to report any dishonored checks on IOLTA accounts to the board. Mass. R. Prof. C. 1.15 (h) (1). Because a dishonored check in an IOLTA account may reflect an attorney's failure properly to manage an IOLTA account, receipt of such notice may trigger an investigation by bar counsel into the attorney's management of his or her IOLTA account, and a request for account documentation and reconciliation reports as part of that investigation. See Mass. R. Prof. C. 1.15 (h).

When an attorney is suspended from the practice of law, disbarred, or placed in disability inactive status, or resigns from the bar during a disciplinary investigation, the attorney, among other obligations, must within fourteen days close every

individual trust and IOLTA account, properly disburse or transfer all funds in those accounts, and refund any legal fees that were paid in advance but had not been earned. See S.J.C. Rule 4:01, § 17 (1) (f), (g). And the attorney within twenty-one days must furnish bar counsel with an affidavit attesting to compliance with these obligations and provide "a schedule describing the lawyer's disposition of all client and fiduciary funds in the lawyer's possession." S.J.C. Rule 4:01, § 17 (5) (c). If an attorney's poor record-keeping was not the impetus for bar discipline, an attorney's inability to identify the beneficial owners of IOLTA funds will become apparent when the attorney's IOLTA accounts are closed. Similarly, IOLTA funds may be unidentified where an attorney who is a sole practitioner is placed on disability inactive status, disappears, or dies, and has made no provisions for the transfer of IOLTA account documents and reconciliation reports, or for the disbursement of funds in an IOLTA account.

Where there are unidentified IOLTA funds arising from a bar disciplinary matter, bar counsel may conduct a forensic investigation to attempt to identify the owners of the funds, as happened in this case. Because the records in the custody of the bank holding the IOLTA account may not disclose the ownership of these funds, or the amount owned, bar counsel's investigation might require a confidential examination of the

attorney's records, including privileged attorney-client communications and attorney work product. Where unidentified IOLTA funds arise from the death, disability, or disappearance of an attorney, and where no partner, executor, or other responsible person is capable of conducting the attorney's affairs, a single justice of the county court may appoint a commissioner to make an inventory of the attorney's files and protect the interests of the attorney's clients, which includes identifying the owners of the unidentified funds. See S.J.C. Rule 4:01, § 14 (1), as appearing in 425 Mass. 1318 (1997). The commissioner's examination of the attorney's files is confidential; the commissioner "shall not disclose any information contained in any files listed in such inventory without the consent of the client to whom such file relates except as necessary to carry out the order of this court to make such inventory." S.J.C. Rule 4:01, § 14 (2).

Where bar counsel or a court-appointed commissioner identifies the owners of previously unidentified funds in an attorney's IOLTA account, the funds are provided to their rightful owner, assuming the owner can be located. When the owner of funds cannot be identified, it can be inferred that one or more unknown clients or third parties who had entrusted funds to the attorney who was responsible for the IOLTA account have been deprived of funds that are rightfully theirs. Clients who

can establish that they suffered losses arising from defalcations by members of the bar can seek reimbursement from the Clients' Security Board. See S.J.C. Rule 4:05, as appearing in 482 Mass. 1303 (2019). But where the true owner of IOLTA funds cannot be identified, he or she cannot be informed that the mismanagement of the attorney's IOLTA account might have caused him or her to suffer losses arising from an attorney's defalcation.

Under Mass. R. Prof. C. 1.15 (g), the interest on IOLTA accounts is distributed to the IOLTA committee, whose members are appointed by this court to oversee the operation of the IOLTA program. The IOLTA committee, in turn, disburses sixty-seven percent of all IOLTA-generated funds, net of expenses, to the Massachusetts Legal Assistance Corporation and the remaining thirty-three percent to "other designated charitable entities," in proportions ordered by this court, to improve the administration of justice and deliver legal services to those who cannot afford them. Mass. R. Prof. C. 1.15 (g) (4) (i). But neither rule 1.15 nor any other rule promulgated by this court declares what happens to the principal in IOLTA accounts when a true owner cannot be identified.

3. Abandoned property law. The Treasurer contends that the disposition of unidentified funds in an IOLTA account is governed by the abandoned property law, G. L. c. 200A. The

abandoned property law, first enacted in St. 1950, c. 801, "sets forth a comprehensive scheme governing the disposition of abandoned property." Biogen IDEC MA, Inc. v. Treasurer & Receiver Gen., 454 Mass. 174, 176 (2009). The legislative purposes of the law are threefold: "protecting true owners' rights, bringing additional revenues to the treasury, and providing a procedure for the transfer of abandoned property." Id.

The law requires every "person"<sup>5</sup> holding presumptively abandoned funds annually to furnish the Treasurer with a report identifying the name and last known address appearing in its records of the owner of any presumptively abandoned funds of one hundred dollars or more, and transfer those funds to the treasury. G. L. c. 200A, §§ 7, 8A. Sixty days before filing the report, the holder of the presumptively abandoned funds must send a notice to the apparent owner of the funds, at the last known address in the holder's records, informing the owner "of the process necessary to rebut the presumption of abandonment." G. L. c. 200A, § 7A. If the owner does not timely come forward

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<sup>5</sup> The statute defines "person" broadly to include "any individual, corporation, . . . trust, partnership, association, . . . savings bank, . . . national banks, . . . bank holding companies and bank subsidiaries." G. L. c. 200A, § 1.

to rebut the presumption, the funds are included in the holder's abandoned property report and transferred to the treasury.

Once abandoned property is reported and delivered, the Treasurer's unclaimed property division (division) takes various steps to reunite property with its true owner. The division manages an online database (findmassmoney.com) where individuals can search for abandoned property. The search tool displays, among other information, the apparent owner's name and last known address and the holder who reported the property abandoned. The division also publishes the apparent owners' names in Statewide newspapers twice per year. Consistent with the statute's purpose to reunite property with its true owner whenever possible, there is no statute of limitations for a putative owner of abandoned property to make a claim to the treasury; a person making such a claim may do so "at any time" after the property has been surrendered to the Treasurer. G. L. c. 200A, § 10 (a).

4. Application of the abandoned property law. Chapter 200A would govern unidentified funds in IOLTA accounts only if such funds constitute "abandoned property" under the law. "Abandoned property" is defined in G. L. c. 200A, § 1, as "property presumed unclaimed and abandoned pursuant to this chapter." For funds to be deemed "abandoned property" under c. 200A, they must satisfy two sets of statutory conditions.

First, "the conditions for presumption of abandonment" stated in one of eight enumerated sections in c. 200A must "exist."<sup>6</sup> G. L. c. 200A, § 1A. Second, one of the four conditions in § 1A must be met.<sup>7</sup> See id. As to the first set of required statutory

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<sup>6</sup> The eight enumerated sections are G. L. c. 200A, § 3 (abandonment of deposits of property); G. L. c. 200A, § 4 (abandonment of security deposits); G. L. c. 200A, § 5 (abandonment of instruments, documents, and money); G. L. c. 200A, § 5A (abandonment of life insurance proceeds and the like); G. L. c. 200A, § 5B (abandonment of dividends, distributions, and interest in business); G. L. c. 200A, § 6A (abandonment of distribution due in liquidation); G. L. c. 200A, § 6B (abandonment of traveler's checks and other guaranteed instruments); and G. L. c. 200A, § 6D (abandonment of property payable from insurance company demutualization).

<sup>7</sup> The four conditions in G. L. c. 200A, § 1A, are the following:

"(a) the last known address of the apparent owner is in the commonwealth as shown on the records of the person in possession of property;

"(b) no address of the apparent owner appears on the records of the person in possession of the property and

"(1) the last known address of the apparent owner is in the commonwealth, or

"(2) the person in possession of property subject to this chapter is domiciled in the commonwealth and has not previously paid the property to the state of the last known address of the apparent owner, or

"(3) the holder is a government or governmental subdivision or agency of the commonwealth and has not previously paid the property to the state of the last known address of the apparent owner;

"(c) the last known address, as shown on the records of the person in possession of property, is in a state that does not provide by law for the escheat or custodial taking of

conditions, none of the designated sections specifically addresses IOLTA accounts, but the Treasurer contends that § 3, which concerns "deposits" of funds, applies to the unidentified funds in IOLTA accounts. We disagree. A careful review of this section reveals that attempting to apply § 3 to IOLTA accounts would be the legal equivalent of trying to fit a square peg into a round hole.

Section 3 provides that a deposit of funds in a bank shall be presumed abandoned unless the "owner" within three years has "[c]ommunicated in writing with the person concerning the deposit," "[b]een credited with interest on a passbook or certificate of deposit at his request," or otherwise done some act with respect to the account, such as depositing or withdrawing funds, transferring funds, or engaging in some transaction regarding the account.<sup>8</sup> Under § 3, the "owner" of

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such property and the person in possession of property is domiciled in the commonwealth or is a government or governmental subdivision or agency of the commonwealth; or

"(d) the last known address, as shown on the records of the person in possession of property, of the apparent owner is in a foreign nation and the person in possession of property is domiciled in the commonwealth or is a subdivision or agency of the commonwealth."

<sup>8</sup> The full text of G. L. c. 200A, § 3, provides:

"Any deposit of property with a person having a residence or place of business in the commonwealth, or authorized to do business therein, together with the increments thereon, shall be presumed abandoned unless the owner has, within



the funds in the account is the person named on the account who is also presumed to be the person who actually owns the funds in the account. In fact, the Treasurer's regulations define an "owner" as "[a] person or entity having a legal or equitable claim to abandoned property." 960 Code Mass. Regs. § 4.02 (2004). But with an IOLTA account, the attorney named on the

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three years next preceding the date as of which reports are required by [G. L. c. 200A, § 7]:

"(1) Communicated in writing with the person concerning the deposit; or

"(2) Been credited with interest on a passbook or certificate of deposit at his request; or

"(3) Had a transfer, disposition of interest or other transaction noted of record in the books or records of the person; or

"(4) Increased or decreased the amount of deposit; or

"(5) Owned other property for which clause (1), (2), (3) or (4) is applicable; provided, however, that the holder communicates in writing with the owner with regard to such property that would otherwise be presumed abandoned under this section at the address at which communications regarding such other property regularly are received; or

"(6) Had another relationship with the holder concerning which the owner has:

"(i) communicated in writing with the holder, or

"(ii) otherwise indicated an interest as evidenced by a memorandum on file prepared by an employee of the holder; provided, however, that if the holder communicates in writing with the owner with regard to the property that would otherwise be presumed abandoned under this section at the address at which communications regarding the other relationship regularly are received."

account is not the true owner of the funds; those funds are the property of the clients or third persons who entrusted those funds to the attorney. See Matter of Sharif, 459 Mass. 558, 565 n.7 (2011). See also ZVI Constr. Co. v. Levy, 90 Mass. App. Ct. 412, 419 (2016), quoting Phillips v. Washington Legal Found., 524 U.S. 156, 164 (1998) ("the principal held in IOLTA trust accounts is the 'private property' of the client").

The bank has no way to learn the identity of the true owners of the funds, and therefore no way to provide them with the advance notice required under § 7A to prevent these funds from being deemed presumptively abandoned and included in the bank's report of abandoned property it must provide to the Treasurer under § 7. Additionally, § 7 (b) (1) requires the bank in its report to provide the name and last known address of "each person appearing from the records of the holder to be the owner of any property of the value of one hundred dollars or more presumed abandoned under this chapter," but the bank's records will reveal only the attorney's name and address, not the name and address of the true owner of the funds in the IOLTA account. Therefore, if IOLTA accounts could be deemed "abandoned property" under § 3, the true owners of these funds would not receive notice by the bank that the account was to be reported abandoned (that notice would go only to the attorney whose name is on the IOLTA account), nor be able to take one of

the six listed actions in § 3 to prevent their IOLTA funds from being presumed abandoned by the bank.

The claims process established by the Treasurer to allow true owners of presumptively abandoned property to claim those funds also does not fit the unique nature of IOLTA accounts. Under the Treasurer's regulations, "the original owner" of the funds is required to submit documentation in support of his or her claims. See 960 Code Mass. Regs. § 4.04(1), (2) (2004). But the usual required documentation, such as the monthly statement of the bank or the holder's certification, is not applicable to an IOLTA account because these documents would not establish a purported owner's beneficial ownership of the funds. The attorney named on the IOLTA account may make a claim on behalf of the true owner, but only if he or she is the "legal representative" of the owner, which is defined as an executor or administrator of an estate, a conservator or guardian, "or an authorized agent appointed in accordance with a properly-executed power of attorney." 960 Code Mass. Regs. §§ 4.02, 4.04(2)(b).

In short, the careful procedures established by c. 200A to identify presumptively abandoned funds, report and remit those funds to the treasury, and allow the true owner of those funds to reclaim them by proof of ownership simply do not fit when applied to IOLTA accounts. This is not a criticism of the

Legislature; there were no pooled IOLTA accounts in 1950 when the law was enacted, and although the law has since been amended,<sup>9</sup> none of the amendments addresses the unique nature of an IOLTA account.<sup>10</sup>

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<sup>9</sup> See, e.g., St. 1958, c. 283; St. 1969, c. 377; St. 1975, c. 277; St. 1975, c. 608; St. 1980, c. 130, §§ 3, 4, 7; St. 1984, c. 458; and St. 2000, c. 198.

<sup>10</sup> The IOLTA committee contends that G. L. c. 200A, § 3, does not apply to IOLTA accounts because, under Mass. R. Prof. C. 1.15 (g) (2) (i), banks must remit interest to the committee no less than quarterly, so the account may never be presumed abandoned where G. L. c. 200A, § 3 (2), provides that a bank account is not to be presumed abandoned if the account each quarter has "[b]een credited with interest on a passbook or certificate of deposit at his request." This argument ignores the phrase, "at his request," which requires some act by the owner of the account (here, the attorney) to request the credit of interest. If the passive receipt of automatic interest payments was sufficient to show that a bank account was not presumptively abandoned, any bank account with an established automatic transfer schedule would never be considered abandoned under the statute nor ever be remitted to the treasury -- undermining the statute's aim to "provide a smooth and simple procedure for transferring such property into the state treasury and out of the hands of those in unjust possession." Treasurer & Receiver Gen. v. John Hancock Mut. Life Ins. Co., 388 Mass. 410, 423 (1983), quoting 1950 Senate Doc. No. 1, at 22. Moreover, the Treasurer's regulations reflect that an owner's property should not be deemed presumptively abandoned where "the owner maintains an active relationship with a holder with respect to any property of the same owner." 960 Code Mass. Regs. § 4.03(11) (2004). "Activity" is defined in the regulations as an "[a]ction taken by an owner with respect to his or her property which indicates that the owner intends for the property not to be presumed abandoned." 960 Code Mass. Regs. § 4.02. The passive receipt of interest is not an "activity" and is insufficient to rebut a presumption of abandonment.

The Treasurer seeks to fit IOLTA accounts into § 3 by arguing, in the alternative, that the definition of "person" holding unclaimed property who is required to report and transmit the property to the treasury is broad enough to include the attorney responsible for the IOLTA account. It is certainly true that the definition of "person" under the abandoned property law is broad enough to include an attorney or law firm holding funds on behalf of a client or third person. See G. L. c. 200A, § 1 ("person" includes "any individual" or "partnership"). However, in the context of § 3, this would require the attorney responsible for the account, and not the bank, to report to the Treasurer that the funds in an IOLTA account are presumptively abandoned where the client or the third person who is the beneficial owner of the funds has not communicated with the attorney for three years regarding the funds. There are two problems with this alternative argument.

First, G. L. c. 200A, § 7, requires the "holder" of funds deposited in a bank that are presumptively abandoned to file a report based on "the records of the holder." There is nothing in the Treasurer's regulations or in the record to suggest that the Treasurer has informed banks that, with regards to IOLTA accounts, the attorney is the holder of the funds, not the bank. Under the Treasurer's regulations, "holder" is defined as "[t]he entity that has custody of abandoned property," which suggests

that, at least with respect to bank deposits, the holder is expected to be an entity rather than an individual attorney. 960 Code Mass. Regs. § 4.02. Nor is there any language in c. 200A or the regulations to suggest that there may be multiple "holders" of the same funds, and any such suggestion would be a recipe for confusion, because it would mean that multiple reports would be filed regarding the same abandoned funds. To be sure, law firms and legal service agencies at times have filed abandoned property reports regarding an IOLTA account with the Treasurer, but the vast majority of such reports are filed by banks. According to the director of audit and compliance for the division, as of December 1, 2019, 572 "IOLTA-type properties" were unclaimed in the abandoned property database, but only thirteen of the submitted reports were from law firms; one was from a legal aid organization.

Second, if the attorney responsible for an IOLTA account is deemed the "holder" of the account, the Treasurer or her agents "may at any reasonable time and upon reasonable notice examine or audit a holder's books, papers or other records to verify proper compliance with the reporting requirements of [c. 200A]." 960 Code Mass. Regs. § 4.07 (2004). Section 3 cannot be reasonably understood to mean that, by opening an IOLTA account, which an attorney may be required to do under our rules of professional conduct, the attorney opens the door to treasury

agents examining all of his or her books, papers, and other records, which may contain confidential client information, attorney-client communications, or attorney work product. Allowing that to happen in the ordinary course might result in a breach of an attorney's obligations to his or her client. See Commonwealth v. Perkins, 450 Mass. 834, 851 (2008) ("It is axiomatic that among the highest duties an attorney owes a client is the duty to maintain the confidentiality of client information" [citation omitted]); Mass. R. Prof. C. 1.6 comment 2, as amended, 474 Mass. 1301 (2016) ("A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent or as otherwise permitted by these Rules, the lawyer must not reveal confidential information relating to the representation. . . . This contributes to the trust that is the hallmark of the client-lawyer relationship"); Mass. R. Prof. C. 1.6 (providing for protection of confidential client information).

We therefore conclude, given the incongruent fit between § 3 and IOLTA accounts, that G. L. c. 200A, § 3, does not apply to unidentified funds deposited in IOLTA accounts. Where the Treasurer does not contend that any of the other seven enumerated sections in c. 200A apply to these funds, we conclude

that IOLTA accounts fall outside the scope of the abandoned property law.<sup>11</sup>

5. Identification, investigation, and disposition of abandoned IOLTA funds. Our conclusion that c. 200A does not govern IOLTA accounts does not mean that there will be no process to identify abandoned funds in IOLTA accounts, to investigate bank and attorney records to determine the true owners of those funds, to restore the funds to those true owners, and to transfer any funds whose true owner cannot be identified despite diligent investigation. It simply means that we must put that process in place through our superintendence authority over the bar and the practice of law. We do so here, and direct this court's standing advisory committee on the rules of professional conduct (standing committee) to propose amendments to Mass. R. Prof. C. 1.15 to incorporate the following guidance into our rule.

Just as a dishonored check in an IOLTA account is an indicator of a possible disciplinary violation by an attorney regarding his or her management of an IOLTA account, so, too, is the absence of any activity in an IOLTA account over an extended

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<sup>11</sup> Because we conclude that the first set of required statutory conditions is not met, we need not address whether unidentified funds in IOLTA accounts meet the second set of required conditions in § 1A for the funds to be "presumed abandoned" under the statute.



period of time. We currently require lawyers to maintain IOLTA accounts only in financial institutions that agree to notify the board when a check is dishonored for insufficient funds. See Mass. R. Prof. C. 1.15 (h). See also Go-Best Assets Ltd. v. Citizens Bank of Mass., 463 Mass. 50, 60 (2012). Such notification permits bar counsel to investigate the attorney to determine whether the dishonored check arises from a disciplinary violation regarding the attorney's management of client funds, from financial mismanagement that could be remedied with appropriate guidance or supervision, or from a simple careless mistake. We shall now require similar agreements to impose an obligation on financial institutions to notify the board when there is no activity in an IOLTA account for more than two years, apart from automatic interest payments to the IOLTA committee.<sup>12</sup> This notification will allow bar counsel, where appropriate, to conduct a forensic examination of the attorney's IOLTA account records, and other books and records, to ascertain whether the funds are abandoned and determine the true owner of any such funds so that they may be disbursed. In addition, such notice will allow bar counsel to

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<sup>12</sup> This court's standing advisory committee on the rules of professional conduct, in proposing amendments to Mass. R. Prof. C. 1.15, may consider whether a different time period is more appropriate to accomplish our purpose for requiring such notification.

determine whether the prolonged inactivity of the account is a sign of possible disciplinary violations or financial mismanagement by the attorney.

Of course, bar counsel need not wait for two years of IOLTA account inactivity to examine whether there are presumptively abandoned funds in certain IOLTA accounts. As discussed supra, Supreme Judicial Court rules are already in place requiring an attorney who is suspended from the practice of law, disbarred, or placed on disability inactive status, or has resigned from the bar during a disciplinary investigation, to close every IOLTA account, disburse or transfer all IOLTA funds, and report to bar counsel the disposition of all such funds, which should reveal the existence of any unclaimed or unidentified funds. See S.J.C. Rule 4:01, § 17 (1), (5) (c). And where an attorney dies, disappears, or becomes inactive because of disability, and where no partner, executor, or other responsible person disburses or transfers the funds in the attorney's IOLTA account, a single justice of the county court may appoint a commissioner to identify the owners of the funds in the IOLTA accounts and disburse the monies. See S.J.C. Rule 4:01, § 14 (1). With vigilant bar counsel and commissioners, the number and dollar amount of unidentified IOLTA funds should be minimized.

But as this case demonstrates, there will still be unidentified funds in IOLTA accounts that, despite exhaustive forensic investigation, will elude all reasonable efforts to determine and locate their true owner.<sup>13</sup> There are two reasonable alternative dispositions of these funds: the Commonwealth's general fund, where abandoned property within the scope of G. L. c. 200A is ultimately transferred pursuant to G. L. c. 200A, § 9 (e); or the IOLTA committee, where the interest on IOLTA accounts is transferred, which is in turn distributed pursuant to Mass. R. Prof. C. 1.15 (g) to entities that will deliver civil legal services to those who cannot afford them or improve the administration of justice. Some

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<sup>13</sup> We are of course concerned about the 572 "IOLTA-type properties" currently unclaimed in the abandoned property database. It is unclear whether bar counsel was alerted to their existence before this litigation, or how bar counsel would otherwise be alerted to abandoned IOLTA accounts in order to begin an investigation or disciplinary proceeding. It is also unclear whether bar counsel has conducted, or will be able to conduct, investigations into whether the funds in these 572 accounts are truly unidentified or simply unclaimed.

States have chosen the first alternative.<sup>14</sup> Others have chosen the second alternative.<sup>15</sup>

Even though the disposition of these funds is not governed by c. 200A because IOLTA funds fall outside the scope of the abandoned property law, we recognize and respect the legislative purpose that all abandoned property be transferred to the general fund. We would, pursuant to our superintendence authority, transfer these funds to the general fund out of respect for that legislative purpose if funds deemed abandoned could never be claimed by their rightful owner. But such claims may be made, with no limitations period, and therein lies the rub.

If we were to determine that unidentified IOLTA funds should be transferred to the Treasurer, we would expect the Treasurer to apply the same claims process to IOLTA funds, which fall outside the scope of c. 200A, as she applies to abandoned

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<sup>14</sup> See, e.g., Alaska Bar Association Ethics Opinion No. 90-3 (1990); State Bar of Arizona Ethics Opinion No. 97-03 (1997); State Bar of Georgia Formal Advisory Opinion No. 98-2 (1998); State Bar of Michigan Ethics Opinion No. RI-38 (1989); Mississippi Ethics Opinion No. 178 (1990); N.C. R. Prof. C. 1.15-2(r); Washington Bar Association, Ethics FAQ ("What do I do with unclaimed trust account funds?"), citing Wash. Rev. Code § 63.29, <https://www.wsba.org/for-legal-professionals/ethics/ethics-faqs#unclaimed> [<https://perma.cc/2R3H-GUFW>].

<sup>15</sup> See, e.g., Ark. R. Prof. C. 1.15(c)(1)-(2); Colo. R. Prof. C. 1.15B(k); Ill. R. Prof. C. 1.15(i); La. R. Prof. C. 1.15(g)(7)-(8), (h); N.J. Court Rule 1:21-6(j); N.Y. R. Prof. C. 1.15(f); Pa. R. Prof. C. 1.15(v).

funds that are within the scope of c. 200A. Under that process, when someone claims an interest in property surrendered to the State, the Treasurer has "full and complete authority to determine all such claims" and, in doing so, may take testimony under oath, subpoena the attendance of witnesses, and subpoena the production of all "books, papers and documents which may be pertinent to such hearing." G. L. c. 200A, § 10 (b)-(c). This is precisely the type of inquiry that we are reluctant to relinquish to the Treasurer should a claim be made on unidentified IOLTA funds by an attorney's client. Attorney records concerning IOLTA accounts are necessarily intertwined with attorney-client confidences. Any such inquiry by the Treasurer poses the risk of impermissible disclosure of confidential client information, attorney-client communications, and attorney work product.

We conclude that there is a better approach that is more protective of the confidential information so fundamental to the attorney-client relationship: where bar counsel determines after reasonable investigation that the owner of IOLTA funds cannot be identified or located, bar counsel should request the single justice of the county court to find that the funds are presumptively abandoned and to order the transfer of the

abandoned funds to the IOLTA committee.<sup>16</sup> The transfer of these funds to the IOLTA committee, in order to avoid constitutional concerns, carries with it an obligation by the committee to return those funds to their true owner, with interest, if the true owner establishes ownership at any time. Therefore, we will revise our rules of professional conduct to memorialize that obligation after considering language recommended by our standing committee.<sup>17</sup> Where such a claim is made, the investigation of its merits should be conducted by bar counsel, whose obligation to maintain the confidentiality of information arising from an investigation is already established by rule. See S.J.C. Rule 4:01, § 20, as amended, 438 Mass. 1301 (2002).

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<sup>16</sup> Where the owner of the IOLTA funds has been identified but cannot be located, the Board of Bar Overseers shall publish the name on a webpage on its website to allow the missing client or third person to reclaim his or her abandoned funds from the IOLTA committee. Nothing in this opinion is intended to prevent the board from seeking the agreement of the Treasurer to include these names on her abandoned property website, with the proviso that any persons claiming ownership of such property will be referred to bar counsel for investigation.

<sup>17</sup> The Treasurer does not allege that there is any constitutional bar to the transfer of funds to the IOLTA committee but instead contends that "constitutional problems could arise" under the takings clause of the Fifth Amendment or under the First Amendment to the United States Constitution, if the transfer were deemed compelled speech. The Treasurer does not have standing to raise such claims, see Tax Equity Alliance for Mass. v. Commissioner of Revenue, 423 Mass. 708, 715-716 (1996), and in any event she recognizes that the weight of these claims is diminished if a claimant who can establish ownership of previously unidentified IOLTA funds will be able to recover those funds from the IOLTA committee, with interest, at any time.

Any dispute concerning the adjudication of ownership shall be resolved by the single justice.

Conclusion. In answer to the questions posed by the single justice in his reservation and report, we conclude that unidentified client funds on deposit in an IOLTA account do not fall within the statutory definition of "abandoned property" under G. L. c. 200A; that neither Mass. R. Prof. C. 1.15 nor any other rule of this court presently governs the disposition of such funds; and that such funds shall be transferred to the IOLTA committee for disposition under the conditions set forth in this opinion, which shall later be incorporated in revisions to Mass. R. Prof. C. 1.15.

So ordered.

LOWY, J. (dissenting). The court holds, without an adequate factual record to support it, that Interest on Lawyers' Trust Accounts (IOLTAs or IOLTA accounts) fall outside the abandoned property act (act), in part because the alternative would allow the Treasurer and Receiver General (Treasurer) to inspect attorneys' records in a manner that could allow the Treasurer to maintain and to investigate IOLTA accounts, as she does with other abandoned property. This, according to the court, would improperly risk "disclosure of confidential client information, attorney-client communications, and attorney work product," all of which fall under the attorney-client privilege governed by the judicial branch. Ante at . Because the court concludes as such, it avoids having to decide whether classifying orphaned IOLTA funds as abandoned property would impede upon the judiciary's authority under art. 30 of the Massachusetts Declaration of Rights to regulate the practice of law, or whether keeping unclaimed IOLTA accounts within the province of the judiciary would unduly interfere with the executive or legislative powers as outlined in art. 30.

I, on the other hand, believe that the plain meaning and legislative intent of the act require categorizing unclaimed or orphaned IOLTA funds as abandoned property, a conclusion that prevents us from avoiding the lurking separation of powers issues. I therefore do not believe that we should draw any



definitive conclusions from the bare factual record. Instead, we should remand to a trial court to develop a more complete record.

First, orphaned IOLTA funds, at least based on this limited record, seem to fit within the act's definition of abandoned property, specifically as intangible property, property on deposit in a bank, or, perhaps, as security deposits.<sup>18</sup> See G. L. c. 200A, §§ 1A, 3, 4. Because IOLTA funds are deposited into "trust accounts" in a bank by attorneys operating on behalf of their clients in a fiduciary capacity, such funds facially qualify as abandoned property under the act absent some compelling factual or legal reason to the contrary. See Mass. R. Prof. C. 1.15, as appearing in 471 Mass. 1380 (2015). Aside from plain meaning, the Legislature intended the act to "set[] forth a comprehensive scheme governing the disposition of abandoned property," Biogen IDEC MA, Inc. v. Treasurer & Receiver Gen., 454 Mass. 174, 176 (2009), including "all kinds"

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<sup>18</sup> The Treasurer contended that IOLTA accounts fall within G. L. c. 200A, § 3, and the court cabined its analysis to that section of the act. In whole, G. L. c. 200A, § 4 states: "Subject to the provisions of section one A, any deposit of property made to secure payment for services rendered or to be rendered, or to guarantee the performance of service or duties, or to protect against damage or harm, and the increments thereof, shall be presumed abandoned, unless claimed by the person entitled thereto within three years after the occurrence of the event that would obligate the holder or depository to return it or its equivalent."

of unclaimed property "whose owner is unknown or had neglected to claim it during a specific number of years," Treasurer & Receiver Gen. v. John Hancock Mut. Life Ins. Co., 388 Mass. 410, 412-413, 423 (1983). Whether one conceives of the owner as the attorney who opened the IOLTA account or the clients whose funds constitute the account, the legislative intent facially captures IOLTA accounts.

The court argues that "attempting to apply § 3 to IOLTA accounts would be the legal equivalent of trying to fit a square peg into a round hole." Ante at . Statutory interpretation, however, does not pursue a perfect fit when effectuating legislative intent, and some square pegs can fit into round holes. See Plymouth Retirement Bd. v. Contributory Retirement Appeal Bd., 483 Mass. 600, 604 (2019). To that end, the court contends that orphaned IOLTA funds do not qualify as abandoned property because the true owner is the client, not the attorney listed on the account, and the holder of the account, the bank, could not therefore notify the true owner in advance of deeming the property presumptively abandoned. See G. L. c. 200A, § 7 (b) (1) (bank must report name and last known address of "each person appearing from the records of the holder to be the owner"); G. L. c. 200A, § 7A (if holder has accurate address of "apparent owner" of property presumed abandoned, then holder

must send notice "of the process necessary to rebut the presumption of abandonment").

This apparent "square peg" actually fits quite nicely into the act, even though the statute does not define "owner," see G. L. c. 200A, § 1, because attorneys acting as fiduciaries have a "legal . . . claim to abandoned property" on behalf of their clients and therefore qualify as "owners" under the Treasurer's regulations.<sup>19</sup> 960 Code Mass. Regs. § 4.02 (2004). See Matter of Sharif, 459 Mass. 558, 565 n.7 (2011) (explaining ways that attorney must act as fiduciary for trust accounts). See also Biogen IDEC MA, Inc., 454 Mass. at 186-187 (in absence of clear statutory language to contrary, we must defer to Treasurer's regulations). Because the attorney is the owner of the IOLTA account, I am not convinced on this record that the bank could not comply with its statutory obligations to notify the owner in advance of reporting the IOLTA account as abandoned property.<sup>20</sup> See G. L. c. 200A, §§ 7 (b) (1), 7A.

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<sup>19</sup> I presume that, in the context of this case, Gregory M. Olchowski's counsel, who requested the transfer of the IOLTA account, would have legal claim to the property.

<sup>20</sup> The court seems to recognize that attorneys acting as fiduciaries for IOLTA funds are owners of those accounts when refuting an argument made by the IOLTA committee that trust-bearing accounts cannot qualify as abandoned property under the act. Under the act, earning interest rebuts the presumption of abandonment only "at his request," which, according to the court, "requires some act by the owner of the account (here, the

Moreover, the regulations appear to account for circumstances where an attorney or other fiduciary may be the "owner" of an account that becomes abandoned for which the "true owners" of the funds, the clients, can file to reclaim property that was abandoned due to their fiduciaries' irresponsibility. See John Hancock Mut. Life Ins. Co., 388 Mass. at 426 ("The focus of the statute is to reunite the owners with their property, and therefore it is irrelevant that John Hancock does not own [or control] the property"). The Treasurer's regulations outlining the claims process note that only the "original owner" can make a claim by presenting certain documents, such as a "monthly statement, if applicable." 960 Code Mass. Regs. § 4.04(2)(a) (2004). Although clients may not have documents, such as the specific IOLTA account information, they could still make a claim by presenting "other documentation as may be required by the [unclaimed property division] to substantiate the validity of the claim," since the Treasurer would likely recognize that those other documents were not "applicable." Id. Alternatively, the owner's "legal representative" may make a claim on behalf of the client. 960 Code Mass. Regs. § 4.04(2)(b). The record shows that banks and law firms have transferred 572 IOLTA accounts to the Treasurer

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attorney) to request the credit of interest." Ante at note 10, quoting G. L. c. 200A, § 3 (2).

as abandoned property, but the record does not reflect the claims process to which clients with funds in those accounts have adhered. The existing framework seems capable of handling claims by the true owners of funds within IOLTA accounts.

The court next alleges that it would be improper for an attorney to be a "holder" under the act -- the individual who would have to file reports about presumptively abandoned property -- even though the statute's definition of a person who can hold property is broad enough to encompass an attorney acting as the fiduciary for IOLTA funds. See G. L. c. 200A, § 1. The court worries that this would create an unmanageable scenario with multiple persons with statutory responsibilities as holders of one pool of property under the act. To the contrary, it is perfectly plausible that the bank would be a holder for the IOLTA account and the attorney would be a holder for the apportioned IOLTA funds within the account. In fact, it makes logical sense that responsible attorneys would report abandoned IOLTA funds to the Treasurer as abandoned property if they could not contact clients for three years, and that the bank would report the entire IOLTA account if it qualified as presumptively abandoned under the act. See 960 Code Mass. Regs. § 4.02. Although the court claims that this scenario "would be a recipe for confusion," ante at , the factual record provides no indication of such confusion, especially considering

that some attorneys and law firms have reported IOLTA funds as abandoned property. We simply need more information.

Even if I were to agree with the court's statutory analysis, my foundational concern about the inadequate record remains for the court's apparent primary concern: that the Treasurer might need to investigate attorneys' books to determine to whom the unclaimed IOLTA funds belong, see G. L. c. 200A, § 10 (b)-(c), or to ensure that attorneys complied with their requirements as holders. See 960 Code Mass. Regs. § 4.07 (2004). The court raises the understandable concern that "[a]llowing [such an investigation] to happen in the ordinary course might result in a breach of an attorney's obligations to his or her client," ante at , but only hints at the second-level implication of that statement; allowing the Treasurer such access as the statute would require might invade upon the judiciary's art. 30 power to protect attorney-client privilege and attorney confidentiality as part of its power to regulate the practice of law.

Of course, the court does not need to reach whether those fears would come true, because its version of statutory interpretation keeps IOLTA accounts outside the realm of abandoned property and therefore out of the possible reach of the Treasurer. The court accordingly has no obligation to provide evidence that such breaches occur or that investigations

by the Treasurer would impede upon our art. 30 authority. I view the matter differently.

Because I conclude that orphaned IOLTA funds qualify as abandoned property under the act, we can only keep the Treasurer from exercising her statutory obligations regarding those funds based on some interpretation of our constitutional authority to regulate the practice of law. We could hold that the act is unconstitutional as applied to orphaned IOLTA funds, or we could craft an alternative solution that gives the Treasurer control over the orphaned IOLTA funds without unduly impeding the attorney-client privilege. Either solution necessarily implicates separation of powers concerns, as both could interfere with the Legislature's and the executive branch's powers under art. 30. In sum, concluding that unclaimed IOLTA funds constitute abandoned property requires me to consider how the court's proposed solution, one that still might be constitutionally or statutorily permissible even though I determined that IOLTA accounts are abandoned property under the act, affects art. 30, and to consider whether it does so appropriately on the facts before the court.

Before we reach such a significant decision, I believe that we need a factual record to help answer critical questions beyond the bare joint statement of facts presented to the single justice. The record does not reflect whether investigating

unclaimed funds in IOLTA accounts would necessarily violate the attorney-client privilege. The amicus briefs presented by the Boston Bar Association and others and by the Board of Bar Overseers (BBO) suggest that it does, but the factual record only explains that a financial investigator subpoenaed records from banks and examined records held by Gregory M. Olchowski's former accountant. There is no indication that the investigation necessarily pierced the veil of attorney-client privilege, which, if accurate, would lessen the art. 30 concerns for orphaned IOLTA funds constituting abandoned property because the Treasurer would not therefore be impeding upon the judiciary's art. 30 authority to regulate the practice of law.<sup>21</sup>

Moreover, there might be an alternative path that neither ignores the act's plain meaning nor imposes on or interferes with our art. 30 obligations, and that simultaneously respects the Legislature's and executive branch's powers. However, the parties only briefed opposing absolutes: the Treasurer claimed complete authority to investigate and to manage orphaned IOLTA

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<sup>21</sup> As stated supra, the record notes that entities have transferred 572 IOLTA accounts to the Treasurer as abandoned property. The record makes no reference to whether the Treasurer has investigated these properties to determine the true owner and, if so, whether those investigations pierced the veil of attorney-client privilege. Moreover, the record does not reflect whether investigations into other types of abandoned property, such as trust funds or remainders of estates, which I presume are under the authority of the Treasurer, would also pierce the veil of attorney-client privilege.



accounts, no matter attorney-client privilege, while the IOLTA committee and Olchowski, who the court largely followed, put the power squarely with the judiciary. I agree with the court that it is possible that classifying IOLTA accounts as abandoned property could interfere with the judiciary's art. 30 authority to regulate the practice of law. On the other hand, mitigating that concern by following the court's chosen path, which would transfer abandoned IOLTA funds to the judiciary's control rather than to the general fund, or by ordering the Treasurer to respect attorney-client privilege could also offend art. 30 by unduly interfering with legislative or executive authority.<sup>22</sup>

We simply need to know more before we meddle with the separation of powers, a principle that is the foundation of our

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<sup>22</sup> The court contemplates that someone will have to review attorney-client privileged materials to determine the true owners of the IOLTA funds, but it does not discuss any precise procedures for doing so beyond keeping the funds within the judiciary and having the BBO conduct an inquiry in a manner similar to how it assesses attorney accounts during disciplinary procedures. There may be alternatives. For example, it may be constitutionally permissible to require that the Treasurer transfer investigatory responsibilities to an agent of the judiciary, namely the BBO, if an examination of orphaned IOLTA accounts threatened to pierce the veil of attorney-client privilege. It also might be possible to maintain the privilege if the BBO hired outside counsel to conduct the review. It may even be possible to rely on an interpleader action, with the Treasurer and the IOLTA committee as nominal parties, so that the unclaimed IOLTA funds are deposited with the court until appropriate disposition of the matter. See Mass. R. Civ. P. 67, 365 Mass. 835 (1974). Perhaps these ideas would not be possible or constitutionally permissible, but the parties understandably did not brief this matter.

constitutional system. I therefore dissent and recommend that we remand to the Chief Justice of the Trial Court for assignment of the case to create a more thorough factual record.

**TO:** WSBA Board of Governors  
**CC:** Terra Nevitt, Executive Director  
**FROM:** Committee on Professional Ethics  
**DATE:** September 8, 2021  
**RE:** Unidentifiable Funds in Lawyers' Trust Account

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**INFORMATION:** CPE Memorandum on Unidentifiable Funds in Lawyers' Trust Account

**A. Introduction**

This memorandum provides a recommendation in response to the letter of October 23, 2020 to Pamela Anderson, Chair of the WSBA Committee on Professional Ethics (CPE) from Kyle Sciuchetti, WSBA President, and Terra Nevitt, WSBA Interim Executive Director. That letter requested a recommendation as to whether WSBA should support, and potentially serve as a co-proponent of, an amendment to RPC 1.15A proposed by the Legal Foundation of Washington (LFW).

By memorandum dated September 15, 2020 to Ms. Nevitt and Doug Ende, WSBA Chief Disciplinary Counsel, LFW's Executive Director, Caitlin Davis, proposed that lawyers be required to remit any unidentified funds in their trusts account to the LFW, rather than to the Department of Revenue (DOR) as unclaimed property under the Unclaimed Property Act (UPA), Chapter 63.20 RCW. The LFW distinguishes unidentified funds that cannot be traced to an owner from unclaimed property, the owner of which is known but cannot be located. The LFW believes that, in the aggregate, these unidentifiable trust account funds could supply meaningful revenue for access-to-justice programs.

Among other resources, the LFW identified Illinois RPC 1.15 as a useful model. That rule provides in pertinent part:

(i) A lawyer who learns of unidentified funds in an IOLTA account must make periodic efforts to identify and return the funds to the rightful owner. If after 12 months of the discovery of the unidentified funds the lawyer determines that ascertaining the ownership or securing the return of the funds will not succeed, the lawyer must remit the funds to the Lawyers Trust Fund of Illinois. No charge of ethical impropriety or other breach of professional conduct shall attend to a lawyer's exercise of reasonable judgment under this paragraph (i).

A lawyer who either remits funds in error or later ascertains the ownership of remitted funds may make a claim to the Lawyers Trust Fund, which after verification of the claim will return the funds to the lawyer.

(j) Definitions

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(9) “Unidentified funds” are amounts accumulated in an IOLTA account that cannot be documented as belonging to a client, a third person, or the lawyer or law firm.

Currently Washington's Comment [6] to RPC 1.15A addresses funds held by a lawyer when the owner cannot be located:

A lawyer has a duty to take reasonable steps to locate a client or third person for whom the lawyer is holding funds or property. If after taking reasonable steps, the lawyer is still unable to locate the client or third person, the lawyer should treat the funds as unclaimed property under the Uniform Unclaimed Property Act, RCW 63.29.

The comment does not specifically address situations when the owner cannot be identified.

**B. Activities Undertaken by CPE**

The CPE formed a subcommittee, which undertook the following activities:

1. Review of the materials provided by Ms. Davis with her memorandum of September 15, 2020, including background concerning RPC amendments in Illinois and Louisiana.
2. Review of the decision in a Massachusetts case, *In re Olchowski*, which interpreted a similar Massachusetts statute as not applicable to unidentified funds in lawyer trust accounts.
3. Telephone conversations with representatives of the Illinois Trust Fund and Louisiana Bar Foundation, which are analogous in mission to the LFW, and review of additional information provided by them. These representatives recommended reaching out to all stakeholders, which the subcommittee understood to include relevant state agencies such as DOR and the Attorney General's Office (AGO).
4. Preparation of a discussion draft of a potential amendment to Washington RPC 1.15A, modeled on the Illinois language quoted above.
5. Consultation with Mr. Ende regarding ethics issues presented by the discussion draft, which issues the CPE believes can be appropriately addressed.
6. Multiple consultations with, or reports to, Ms. Davis, including on April 4, May 5, May 12, June 7, and September 3, 2021, regarding the discussion draft, the LFW refund policy, the issues raised by Mr. Ende, approaches for addressing those issues, and the status of discussions with the AGO and DOR.
7. Multiple telephone conferences with Rosann Fitzpatrick, Assistant Attorney General for the Revenue Division, one of which occurred on August 10, 2021 and included Gil Brewer, Senior Assistant Director of Tax Policy for the DOR.

8. Review of "Director's Briefing Document" prepared by Rex Munger on DOR letterhead dated July 26, 2021, which was received following the August 10, 2021 conference and which is attached hereto.<sup>1</sup>
9. Telephone conference on September 3, 2021 with Ms. Nevitt and Ms. Davis.

### **C. Positions of Department of Revenue and the Attorney General's Office**

Mr. Brewer (DOR) and Ms. Fitzpatrick (AGO) are each engaged in dialogue within their agencies and are collaborating with each other. The gist of their comments on August 10, 2021 was that unidentified IOLTA funds are unclaimed property within the scope of the UPA, such that it would be appropriate to achieve the LFW's objective by amending that statute. The tenor of the conversation was cordial and collaborative.

Mr. Brewer mentioned an internal DOR memo and treated our conversation as a Public Records Act request for that document. Shortly after, he provided the attached copy, which contains minor redactions to protect attorney-client privilege. In summary, the document cites portions of the UPA that refer to unidentified property, concludes that the UPA is intended to apply to unclaimed property when the owner cannot be identified, and states that the LFW proposal would be contrary to the UPA.

Mr. Brewer and Ms. Fitzpatrick both expressed willingness to assist with a legislative solution, if approved by their superiors. Ms. Fitzpatrick noted that the UPA already contains a number of "carved out" exceptions.<sup>2</sup> Mr. Brewer said the DOR participates in legislative action frequently, whether or not it agrees with the change, to ensure that any amendments are technically correct.

Ms. Fitzpatrick noted that she was in discussion with colleagues in the AGO regarding the LFW's preference for amending RPC 1.15A. However, the effort to develop a consensus is presently a work in progress. She has not as of yet estimated a timeline for completion of those discussions.

### **D. Options Available to the Board of Governors**

The assigned CPE subcommittee could not quantify the revenue stream that may result from the LFW's proposal. The CPE subcommittee, however, also did not encounter any express opposition to the proposal's goal of directing unidentified trust account funds to the LFW for access-to-justice programs. The issue identified to date is whether

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<sup>1</sup> Mr. Munger's document incorrectly refers to a proposal by the WSBA, rather than the LFW. He has been notified of this misstatement and asked to attach our clarifying email to his document to avoid confusion.

<sup>2</sup> "Carved out" exceptions to the Unclaimed Property Act include:

1. Unclaimed property held by a museum or historical society (RCW 63.26)
2. Unclaimed property in the hands of a bailee (RCW 63.24)
3. Motor vehicles under RCW 46.52 per RCW 63.21.080
4. Uniform disposition of unclaimed property under RCW 63.29 (RCW 63.21.080)
5. Secured vessels under RCW 88.27 (RCW 63.21.080)

the LFW goal should be accomplished by statutory amendment or RPC amendment. With the available information, therefore, the CPE has identified four potential options for the Board:

1. The Board could defer taking action until after receipt of information about the position of the AGO concerning the LFW proposal.
2. The Board could direct the WSBA Legislative Review Committee to explore collaboration with the DOR on an amendment to the UPA. Assistance with legislative matters is outside the purview of the CPE.
3. The Board could decide to support the LFW proposal to amend RPC 1.15A (which should also include amending Comment [6] thereto), subject to addressing the implementation issues raised by Mr. Ende and conveyed by the CPE to LFW. If the Board chooses this option, the CPE would be pleased to assist, having already reviewed those issues. This option, however, could place the RPC in conflict with DOR interpretation of the UPA. We do not yet have the position of the AGO, but it may be forthcoming prior to the Board's September meeting.
4. The Board could go further and act as a co-proponent of the LFW proposal, subject to the same condition, and with the same offer, as Option 3.

These options are not necessarily mutually exclusive.

*Attachment:*

DOR Director's Briefing Document dated July 26, 2021

*The deliberative process exemption from public records disclosure applies to the development of an agency decision or position up to the point where a final decision or position is made.*

*Once complete, send this document as a link to the Director's Executive Assistant*

### UCP: Can "unidentified property" be diverted from being reported as UCP by rule of the WSBA?

<b>Date</b>	July 26, 2021
<b>From</b>	Rex N. Munger, ITA (360) 534-1554
<b>Purpose</b>	<input type="checkbox"/> Information <input type="checkbox"/> Decision
<b>Issue</b>	Can the WSBA by rule require that IOLTA funds described as "unidentified property" be turned over to the Legal Foundation of Washington for their use, rather than being remitted to the Department as unclaimed property as required by statute?

**Executive Summary** *This section contains opinions, recommendations, or deliberations that may be subject to the deliberative process exemption.*

The WSBA proposal is contrary to the law because it is in conflict with existing UCP statutes. Having attorneys remit "unidentified property" in their IOLTA accounts to the Foundation is not permitted under the UCP statutes.

**Executive Decision** *This section should be used if the Director has been asked to make a decision regarding the information in this briefing. If the purpose of the briefing is only informational, please delete this section.*

**Background** *Provide solely facts in this section. Do not include any opinions, recommendations, or deliberations.*

The WSBA (The Washington State Bar Association) has approached the Attorney General's office seeking their comment about a proposed WSBA rule.<sup>1</sup> The WSBA proposal is to require attorneys (who are regulated by the WSBA) to turn over "unidentified property" to the Legal Foundation of Washington. (The Foundation.)

<sup>1</sup> The concept of the rule is described in the October 23, 2020 WSBA correspondence. The WSBA does not yet have a specific draft rule.



The Foundation is a nonprofit organization created at the direction of the Washington Supreme Court. The proposal is designed to raise funds for the Foundation in a manner similar to what has been done in a few other states.

The Attorney General's office has sought the Department's input as this appears to impact the application of Washington's Unclaimed Property laws (UCP), which are administered by the Department. [1b]

The key issue is identified in the Foundation's memo, attached to the WSBA's letter. It makes the following distinction and comments on the UCP law:

Unidentified vs Unclaimed Property

- Unidentified property are funds or assets that cannot be traced to a specific owner.
- Unclaimed property are funds or assets that can be traced to a specific owner who cannot be located.

Currently in Washington State, all unclaimed property must be turned over to the State Department of Revenue after a period of due diligence in which the holder of the property attempts to locate the owner. Washington law is silent on how unidentified property should be disposed. However, in the Washington State Bar Association's publication called "Managing Client Trust Accounts," lawyers are advised to handle unidentified funds in their trust account as unclaimed property and remit them to the Department of Revenue.

The Foundation's memo makes no citation to any of the Washington state UCP statutes. The funds in question would be in attorney's IOLTA accounts. (These are trust accounts attorneys must maintain for their client's funds, and are regulated by the WSBA.)

**Analysis**

RCW Chapter 63.29 contains Washington State's Uniform Unclaimed Property Act. Nowhere in the Washington State UCP law, is there a distinction between "Unidentified Property" and Unclaimed Property. The Foundation's claim that the UCP Act is silent on Unidentified property is an incorrect statement of the law. In at least two sections of the UCP act, the statutes clearly refer to circumstances where the owner of the property is not known. In neither circumstance is the holder of the property allowed to keep the property, rather than remit it along with all other abandoned property.

Initially, the property in question would be "intangible property" as defined in RCW 63.29.010(12):



"Intangible property" does not include contract claims which are unliquidated but does include:

- (a) Moneys, checks, drafts, deposits, interest, dividends, and income;
- (b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances, but does not include discounts which represent credit balances for which no consideration was given;

All abandoned intangible property must be remitted to the Department. RCW 63.29.020 and RCW 63.29.170.

RCW 63.29.030 provides "General rules for taking custody of intangible unclaimed property." This is property to be turned over to the State (the Department). RCW 63.29.030(2), lists property to be turned over to the state and includes intangible property that:

*The records of the holder do not reflect the identity of the person entitled to the property and it is established that the last known address of the person entitled to the property is in this state;*

(Emphasis added.) Additionally, RCW 63.29.170(2)(a) describes the abandoned property report that the property holder must make to the Department. Among the requirements is that the report must:

- (a) Except with respect to travelers checks and money orders, *the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property with a value of more than fifty dollars presumed abandoned under this chapter;*

(Emphasis added.)

The "if known" reference is a clear statutory statement that unclaimed property may include property where the owner is not known. Finally, unused abandoned gift cards are an area where the holder of the funds routinely does not know who the owner is. RCW 63.29.140 and RCW chapter 19.240 address the statutory treatment of gift cards. This is another area of the UCP Act demonstrating that there is no legal distinction between UCP where the owner is known or unknown.

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**Decision**

*This section contains opinions, recommendations, or deliberations that may be subject to the deliberative process exemption. Note: any statements of the law should not be redacted from this section.*

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**Recommendation**

*This section contains opinions, recommendations, or deliberations that may be subject to the deliberative process exemption.*

[1b]

The UCP Act applies to "unidentified property." The WSBA proposal is contrary to the law because it is in conflict with existing UCP statutes. The change suggested by the WSBA would need to be accomplished by legislative changes to RCW Chapter 63.29. The WSBA's current instructions to attorneys to remit such funds to the Department as unclaimed property are correct.

Code	Description of Exemption	Brief Explanation (how the record meets the criteria of the exemption)	Statute
<b>[1b]</b>	Attorney-Client Privilege	This record contains communication from attorney to client for the purpose of providing legal advice	RCW 42.56.070(1) & RCW 5.60.060(2)(a)

# WASHINGTON STATE BAR ASSOCIATION

To: The President, President-elect, and The Board of Governors

From: Terra Nevitt, Executive Director  
Jorge Perez, Chief Financial Officer  
Julie Shankland, General Counsel

Date: September 14, 2021

Re: FY 2022 License Fee Keller Deduction

**ACTION:** Approve 2022 Keller deduction schedule.

Each year the annual license fee form provides an “optional Keller deduction” approved by the Board of Governors. This optional deduction is in response to the U. S. Supreme Court’s 1990 decision in *Keller v. State Bar of California*<sup>1</sup> holding that state bar mandatory fees may not be used over a member’s objection for activities that are *political or ideological in nature and which are not reasonably related to (1) regulating the practice of law, or (2) improving the quality of legal services*. In *Eugster v. WSBA*<sup>2</sup>, the court stated that “the WSBA provides robust procedural safeguards to ensure compliance with *Keller*.” During 2021, several federal district court decisions affirmed that *Keller* has not been overruled, but also provided additional lack of clarity in determining chargeable and non-chargeable activities. In addition to *Keller*’s Constitutional limitations, General Rules 12-12.3 set out the Washington Supreme Court’s plenary authority over the WSBA, its regulatory objectives for regulating the practice of law, and the WSBA’s purposes, authorized, and prohibited activities.

## OVERVIEW OF OPTIONAL KELLER DEDUCTION CALCULATION

The optional Keller deduction amount for FY 22 is the sum of the following three numbers divided by the expected number of license fee paying member expected in FY 22:

- (1) The actual direct and indirect costs of the WSBA’s legislative activities from August 1, 2020-July 31, 2021;
  - (2) The actual and indirect costs for ABA delegate activities from August 1, 2020-July 31, 2021;
- and

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<sup>1</sup> *Keller v. State Bar of California*, 496 U.S. 1 (1990)

<sup>2</sup> *Eugster v. WSBA*, No. C15-0375JLR 2015 WL 5175722 (W.D. Wash Sept. 3, 2015), *aff’d*, 684 F.App’x 618 (9<sup>th</sup> Cir. 2017)

- (3) The actual direct and indirect costs of other potentially non-chargeable activities in the current fiscal year, including staff salary, benefits and overhead, including meeting time, conference call costs and overhead. This amount includes the actual direct and indirect costs of the access to justice activities and the time spent discussing the legislative and access to justice activities during the Board meetings.

$$\begin{aligned} & \$153,780.64 \text{ (Legislative Activities) +} \\ & \$234,012.51 \text{ (Access to Justice Activities) +} \\ & \quad \$0 \text{ (ABA Delegate) +} \\ & \$2,865.86 \text{ (Board of Governors Meetings) =} \\ & \hline & \quad \quad \quad \$390,659.01 \text{ (Total)} \end{aligned}$$

$$\$390,659.01 \div 43,311 \text{ (FY license fee paying members)} = \$9.02$$

### **LEGISLATIVE ACTIVITY CALCULATION**

We reviewed a detailed list of the WSBA legislative staff's activity for the past year (FY 2021)<sup>3</sup> and decided that given the developing changes and trends in determining chargeable activities, members could disagree with the WSBA's determination to a greater extent than in previous years. Based on this determination, the WSBA included all of the actual expenses of the WSBA's legislative activity, \$153,780.64. In addition, the expenses for the time spent discussing these topics at the Board meeting were included.

The WSBA Bylaws require the WSBA to "use a conservative test for determining whether an individual activity is chargeable or non-chargeable. When in doubt, the Bar will err in favor of the membership by considering activities to be non-chargeable even when a reasonable argument could be made that such activities were chargeable." In compliance with the WSBA Bylaws, the amount of this year's Keller deduction includes activities that can reasonably be viewed as chargeable.

### **ABA DELEGATION EXPENSE CALCULATION**

The ABA delegates take political positions, so we treat the entire ABA Delegate expense as non-chargeable. The WSBA did not reimburse any ABA Delegate expenses during the time period<sup>4</sup>. Presumably this is because the ABA meetings were remote.

### **OTHER NON-CHARGEABLE EXPENSES/GENERAL STAFF TIME**

We reviewed all other WSBA activities to identify other activities that should be included in the Keller deduction based on the WSBA Bylaws conservative approach. The WSBA employees review meeting agendas and minutes and provide details of staff time and meeting expenses for activities that should be included in the deduction. In particular, we carefully review access to justice activities, including the Access to Justice Conference, CLE programming, Bar News and publications.

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<sup>3</sup> In order to make certain that we have a full year of expenses, we use the period August 1, 2020-July 31, 2021.

<sup>4</sup> August 1, 2020-July 31, 2021.

Given the developing changes and trends in determining chargeable activities, the WSBA decided that members could disagree with the WSBA’s determination to a greater extent than in previous years. Consequently, the WSBA included the expenses for the access to justice functions and time to discuss the access to justice matters during Board of Governors meetings in the Keller deduction. In compliance with the Bylaws, the access to justice activities were included even though they can be supported as chargeable.

**KELLER DEDUCTION RECOMMENDATION**

Based on these calculations, we recommend the following Keller deduction schedule for 2022 pro-rated by the amount of license fee paid by various categories of WSBA membership:

	<b>License Fee</b>	<b>Keller Deduction</b>
• Active Lawyer Admitted to any Bar before 2018	\$458.00	\$9.02
• Active Lawyer Admitted to any Bar in 2018 or 2019	\$229.00	\$4.51
• Inactive/Pro Bono Lawyer	\$200.00	\$3.94
• New Active Admittee (Jan 1-Jun 30)	\$229.00	\$4.51
• New Active Admittee (July 1-Dec 31)	\$114.50	\$2.26
• Limited Legal License Technician	\$200.00	\$4.51
• Limited Practice Officer	\$200.00	\$3.94
• Judicial	\$50.00	\$0.98

The comparison to previous years’ deductions are shown in this table:

<b>YEAR</b>	<b>DEDUCTION</b>
2021	\$3.85
2020	\$1.55
2019	\$1.25
2018	\$2.50
2017	\$3.50
2016	\$6.40
2015	\$4.40
2014	\$4.70
2013	\$6.40
2012	\$6.00
2011	\$4.40
2010	\$3.95
2009	\$3.45
2008	\$3.15
2007	\$3.80
2006	\$2.14
2005	\$3.70
2004	\$1.94
2003	\$1.79
2002	\$1.70
2001	\$2.70

2000	\$2.22
1999	\$1.88
1998	\$1.50

## LEGISLATIVE ACTIVITY DETAIL

MONTHS	ACTIVITIES
	Bill referrals to Sections, watching TVW hearings
	Updating website, generating LobbyGov reports, updating keywords and contacts from Sections and other entities
August 2020	
	Discussion with Nonprofit Corporations Committee representatives
	Discussion with RPPT section representatives
	Discussion with ADR section representatives
September 2020	
	Discussion with ADR section representatives
	Joint meeting with ADR and FLEC representatives
	Response to RPC Questions: Senate Law & Justice Committee
	Discussion with Sen. Pedersen RE Prepaid Legal Service Plans
	Call with Rep. Ormsby re: loan assistance repayment plan
	Senate Workgroup Coordination
October 2020	
	Call with Business Law Section's UCC Committee re: SB 6053
	WSBA Legislative Discussion with Taxation Section
November 2020	
	Discussion with RPPT Section re: e-wills
	BOG Meeting
December 2020	
January 2021	
	Call with wage lien bill representative
	Weekly Board Legislative Committee Meetings (3)
February 2021	
	Call with Civil Rights Law section representative
	Weekly Board Legislative Committee Meetings (3)



March 2021	
	Weekly Board Legislative Committee Meetings (3)
April 2021	
	Weekly Board Legislative Committee Meetings (3)
May 2021	
June 2021	
	Call with ADR section representative re: legislative liaison responsibilities
July 2021	
General Activities	
	Weekly meetings with contract lobbyists
	Weekly meetings with Sen. Pedersen
	Bill referrals to Sections, watching TVW hearings
	Updating website, generating LobbyGov reports, updating keywords and contacts from Sections and other entities



# FY2022 BUDGET

Submitted for Approval By the Budget and Audit Committee

September 24th 2021

# OVERVIEW

## General Assumptions

- FY22 budget is a hybrid of in-person and remote work, activities, and events.
- For historical comparison purposes a combination of FY19 actuals and FY21 reforecast numbers were used. FY19 represents the last full year of pre-pandemic operations.
- Client Protection Fund (CPF) member assessment is \$20 for 2022. 2021 saw a temporary reduction to \$10 and in 2020 the assessment was \$30.
- CLE is being affected by high demand in 2022 due to the Supreme Court MCLE extension. Revenue is assumed to be higher and closer to pre 2020 levels.
- Headcount is corrected from FY21 reforecast of 139.5 FTE's to 140.3 FTE's. Positions that were previously partially vacant are now budgeted for the full year.

# OVERVIEW

## Expense Assumptions

- Salaries assume a 3% increase + fulfillment of open positions from previous year + 6 proposed promotions (see Salaries slide)
- Payroll tax rates are not yet available, current budget assumption is based on average increase over past 5 years (5%).
- Rent increase as per lease schedule = \$110,167 less \$56,200 credit from CLE fund. Net increase \$53,967.
- Legal expense @ \$250k as per prior years budget.
- Based on recent pulse survey, an assumption of 90 Work From Home (WFH) employees was factored into the budget. Primarily affecting:
  - Transportation Allowance– Budgeted at \$47,733 vs FY19 actual \$133,095
  - Phone Reimbursement – Budgeted at \$0 vs FY21 reforecast \$33,480
  - Internet Reimbursement – Budgeted at \$21,600 vs FY21 reforecast \$33,480
  - WFH Setup – Budgeted at \$45,000 (\$500 per employee per year) vs FY21 reforecast \$0

**WFH Savings in FY22 is \$85,722.**

# OVERVIEW

## Revenue Assumptions

Member Type	# of Members	Revenue (\$)
Active	33,887	15,132,320
Foreign Law Consultant	18	8,244
House Counsel	350	160,300
Inactive	5700	1,140,000
Emeritus	120	24,000
Judicial	659	32,950
Pro Hac Vice	710	325,000
New Admittee	1440	439,680
<b>TOTAL</b>	<b>42,798</b>	<b>17,262,494*</b>

\*membership runs on a calendar year not our fiscal year

- Keller deduction – approximately 10% of members are expected to take the deduction based on historical data
- Late fees – 2% of members are expected to pay late based on historical data = \$261,819
- CPF assessment - \$20 for FY22 = \$795,753

# CLE FUND REVENUE ASSUMPTIONS

## Seminars

- FY22 Revenues projected to be on par w/pre pandemic (FY19).
- Est. \$514,755 in revenues from sections programs.

## Products

- Due to Supreme Court rule allowing deferral of CLE reporting in FY21 we anticipate double reporting in FY22. FY19 activity was used as a base reference point and increased by 25%.
- Q1 revenues will be weighted heavier due to double reporting in FY22.
- Q4 revenues will have a slight boost due to the summer sale.
- At this time, only planning one sale in FY22.

# FY2022 PROJECTED FUND BALANCES

	General Fund	CPF Fund	Sections	CLE
<b>2021 Projected Fund Balances</b>	<b>6,805,873</b>	<b>4,339,938</b>	<b>1,438,573</b>	<b>485,878</b>
<b>FY22 Revenue Budget</b>	<b>21,437,297</b>	<b>830,253</b>	<b>637,652</b>	<b>2,072,585</b>
<i>Licensing Revenue</i>	16,774,840			
<i>Other Revenue</i>	4,662,457			
<b>FY22 Expense Budget</b>	<b>21,495,262</b>	<b>660,516</b>	<b>899,652</b>	<b>1,760,886</b>
<i>Direct Expenses</i>	2,830,396	503,860	899,652	535,211
<i>Indirect Expenses</i>	18,664,866	156,656	-	1,225,675
<b>FY22 Net Income/(Loss) Budget</b>	<b>(57,966)</b>	<b>169,737</b>	<b>(262,000)</b>	<b>311,699</b>
<b>FY22 Fund Balance Budget</b>	<b>6,747,907</b>	<b>4,509,675</b>	<b>1,176,574</b>	<b>797,577</b>

Totals Include 2,550,000 of restricted funds

# FY2022 BUDGET V2 TO V3 COMPARISON

	General Fund		
	FY22 Budget v2	FY22 Budget v3	Variance F/(U)
<b>2021 Reforecasted Fund Balances</b>	<b>5,414,142</b>	<b>5,414,142</b>	<b>-</b>
<b>FY22 Revenue Budget</b>	<b>21,210,299</b>	<b>21,437,297</b>	<b>226,998</b>
<i>Licensing Revenue</i>	16,547,842	16,774,840	226,998
<i>Other Revenue</i>	4,662,457	4,662,457	-
<b>FY22 Expense Budget</b>	<b>21,902,785</b>	<b>21,495,262</b>	<b>407,522</b>
<i>Direct Expenses</i>	2,772,581	2,830,396	(57,814)
<i>Indirect Expenses</i>	19,130,203	18,664,866	465,337
<b>FY22 Net Income/(Loss) Budget</b>	<b>(692,486)</b>	<b>(57,966)</b>	<b>634,520</b>
<b>FY22 Fund Balance Budget</b>	<b>4,721,656</b>	<b>5,356,176</b>	<b>634,520</b>

- License revenue was recalculated based on calendar 2021 actuals & now includes actual Keller deduction.
- Direct expense mainly affected by addition of DEI consultant \$29,375 and BOG & ELT retreat \$17,000.
- Indirect expense mainly affected by input of actual retirement and medical expense.



# GENERAL FUND FUTURE FORECAST

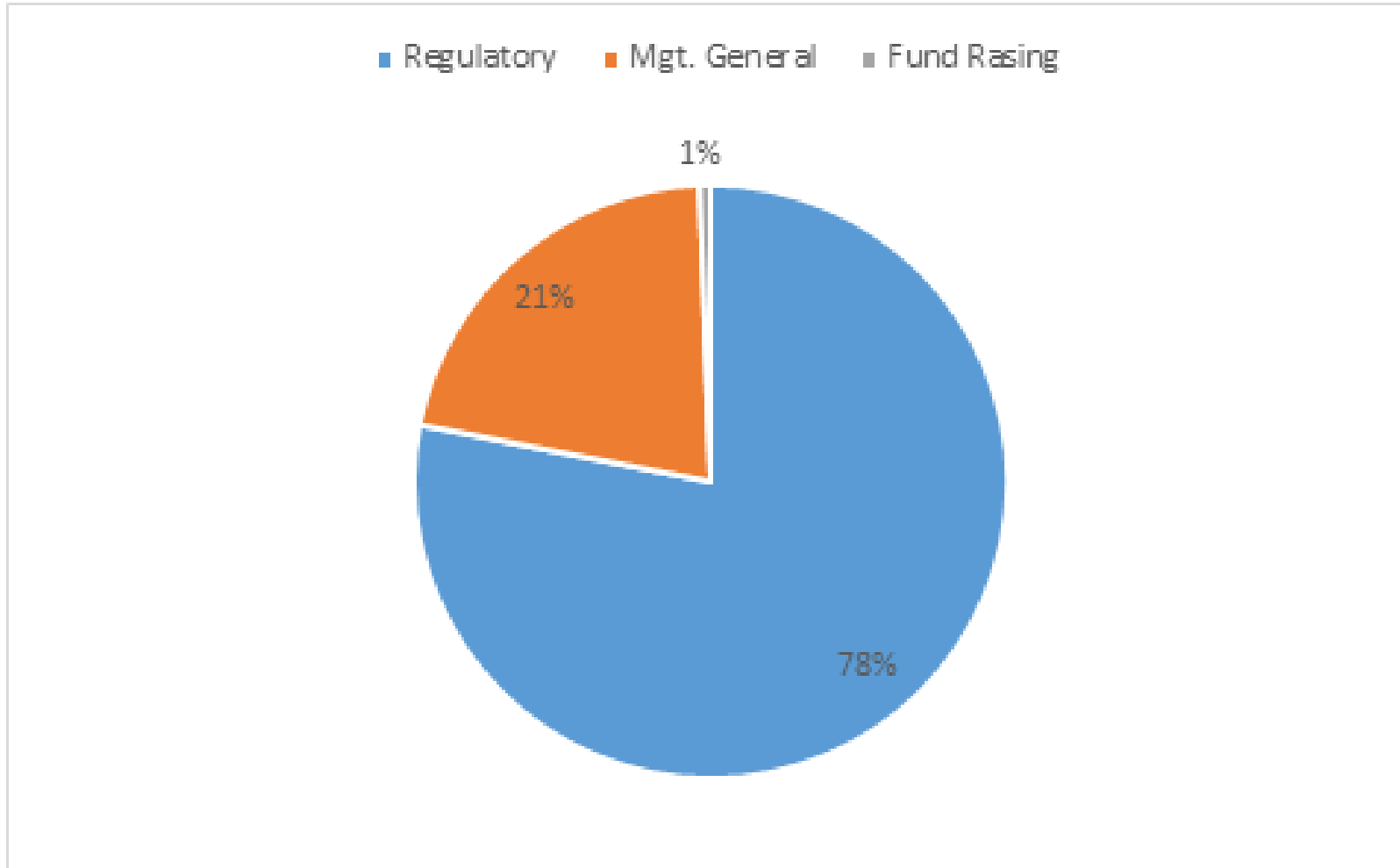
<u>FISCAL YEAR</u>	<u>Revenue (\$)</u>	<u>Expenses (\$)</u>	<u>Net Income/ (Loss) (\$)</u>	<u>Reserves (\$)</u>	<u>Restricted Funds (\$)</u>	<u>Unrestricted Funds (\$)</u>
FY2021 Reforecast	20,227,365	20,341,457	(114,092)	5,414,142	2,050,000	3,364,142
FY2021 Projection	20,952,082	19,560,351	1,391,731	6,805,873	2,550,000	4,255,873
Budget FY2022	21,437,297	21,495,262	(57,966)	6,747,907	2,550,000	4,197,907
Estimate FY2023	22,080,416	21,989,653	90,762	6,838,670	2,550,000	4,288,670
Estimate FY2024	22,742,828	22,495,415	247,413	7,086,083	2,550,000	4,536,083
Estimate FY2025	23,425,113	23,012,810	412,303	7,498,386	2,550,000	4,948,386
Estimate FY2026	24,127,866	23,542,105	585,762	8,084,147	2,550,000	5,534,147

Revenues assumed to grow at 3% annually (assumes interest income)

Expenses assumed to grow at 2.3% (3 year moving average)

Current projections support License fees constant through calendar year 2026

# EXPENSES FY2020

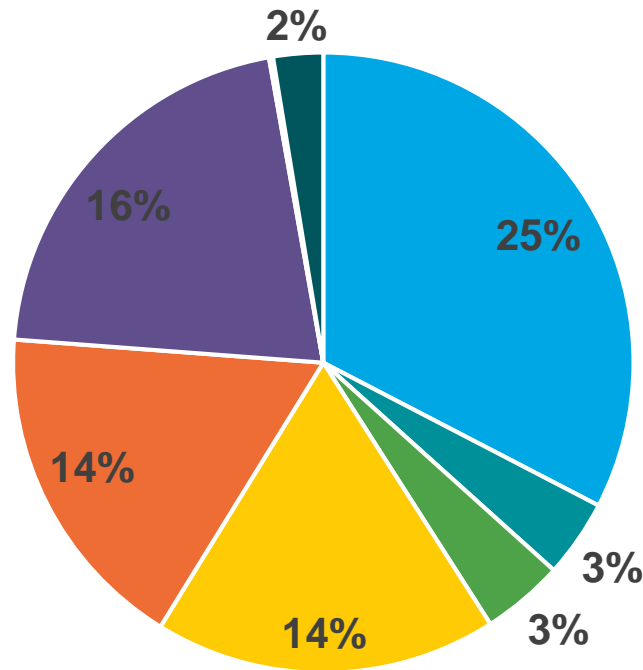


- Regulatory \$18,225,482
- Mgt. General \$4,979,936
- Fund Raising \$140,318

# REGULATORY EXPENSES FY2020

## Regulatory Expenses

■ Discipline ■ CPF ■ BOG/OED ■ Regulatory ■ Communications ■ Advancement ■ Foundation ■ Sections



Discipline	\$ 5,944,703
CPF	\$ 737,601
BOG/OED	\$ 780,504
Regulatory	\$ 3,253,482
Communications	\$ 3,170,180
Advancement	\$ 3,827,536
Foundation	\$ 37,904
Sections	\$ 473,572
Regulatory	\$ 18,225,482

## REVENUE BY FUND

	FY19 Actuals (\$)	FY21 Reforecast (\$)	FY22 v3 Budget (\$)
General Fund	21,195,816	20,227,365	21,437,297
CPF Fund	1,119,310	533,402	830,253
Sections	548,382	585,779	637,652
CLE	1,958,320	1,353,029	2,072,585

## EXPENSE BY FUND

	FY19 Actuals (\$)	FY21 Reforecast (\$)	FY22 v3 Budget (\$)
General Fund	20,244,896	20,341,457	21,495,262
CPF Fund	531,155	651,922	660,516
Sections	587,501	865,168	899,652
CLE	2,036,161	1,609,791	1,760,886

## DIRECT EXPENSE BY FUND

	FY19 Actuals (\$)	FY21 Reforecast (\$)	FY22 v3 Budget (\$)
General Fund	2,592,703	2,444,735	2,830,396
CPF Fund	383,382	493,352	503,860
Sections	587,501	865,168	899,652
CLE	498,129	376,803	535,211

## INDIRECT EXPENSE BY FUND

	FY19 Actuals (\$)	FY21 Reforecast (\$)	FY22 v3 Budget (\$)
General Fund	17,829,210	17,896,722	18,664,866
CPF Fund	147,772	158,569	156,656
Sections	0	0	0
CLE	1,361,016	1,232,988	1,225,675

# NET INCOME BY FUND

	FY19 Actuals (\$)	FY21 Reforecast (\$)	FY22 v3 Budget (\$)
General Fund	950,920	(114,092)	(57,966)
CPF Fund	588,155	(118,520)	169,737
Sections	(39,119)	(279,389)	(262,000)
CLE	(77,840)	(256,762)	311,699

**WASHINGTON STATE BAR ASSOCIATION**  
**BOARD OF GOVERNORS**  
**RESOLUTION IN MEMORIAM AND THANKS**

WHEREAS, the Washington State Bar Association (“WSBA”) strives to promote the independence of the judiciary and the legal profession, and promote an effective legal system, accessible to all; and

WHEREAS, the WSBA comprises over 40,000 members, comprising a wide variety of different political beliefs, backgrounds, and viewpoints; and

WHEREAS, WSBA members and the American public witnessed the horrific terrorist attacks on September 11, 2001 in Washington, DC and Shanksville, PA; and

WHEREAS, over the next twenty years, WSBA members served in Afghanistan as Judge Advocates with the United States military in support of Operation Enduring Freedom and Operation Freedom’s Sentinel; and

WHEREAS, WSBA members often served in harsh conditions, away from family and loved ones, in support of the rule of law and United States military operations; and

WHEREAS, United States military personnel withdrew from Afghanistan on or about August 30, 2021; and

Now therefore,

BE IT RESOLVED by the Board of Governors of the WSBA that we remember and honor the innocent people who lost their lives on September 11, 2001, and recognize the 20<sup>th</sup> anniversary of their deaths; and

BE IT FURTHER RESOLVED by the Board of Governors of the WSBA that we thank all WSBA members who served in Afghanistan as a Judge Advocate with the United States military at any point in time from September 11, 2001 until August 30, 2021; and

BE IT FURTHER RESOLVED by the Board of Governors of the WSBA that we thank all WSBA members who served in Afghanistan in a civilian capacity with any United States federal agency at any point in time from September 11, 2001 until August 30, 2021; and

BE IT FURTHER RESOLVED that the Board of Governors hereby directs that the Executive Director of the WSBA convey this resolution in memoriam and thanks to the leadership of the WSBA Legal Assistance for Military Personnel (“LAMP”) Section and the Military Veterans Bar Association for distribution as those organizations deem appropriate.

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS MEETING

### Minutes

Riverside Hotel, Boise, ID

August 20-21, 2021

#### 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 Kyle Sciuchetti on Friday, August 20, 2021 at 9:07 AM. Governors in attendance were:

Hunter Abell  
Sunitha Anjilvel  
Lauren Boyd  
Treas. Daniel D. Clark  
Matthew Dresden  
P.J. Grabicki  
Carla Higginson  
Serena Sayani  
Russell Knight  
Tom McBride  
Bryn Peterson  
Brett Purtzer  
Alec Stephens  
Brent Williams-Ruth

Also in attendance were President-Elect Brian Tollefson, Immediate Past President Rajeev Majumdar, Gov-Elect Francis Adewale, Gov-Elect Jordan Couch, Executive Director Terra Nevitt, General Counsel Julie Shankland, Executive Administrator Shelly Bynum, Chief Disciplinary Counsel Doug Ende, Chief Communications & Outreach Officer Sara Niegowski, Broadcast Services Manager Rex Nolte, Director of Advancement Kevin Plachy, Chief Equity & Justice Officer Diana Singleton, Chief Financial Officer Jorge Perez, Chief Regulatory Counsel Renata Garcia, Director of Human Resources & Chief Culture Officer Glynnis Klinefelter Sio, Betsylew Miale-Gix (WSAJ), Nancy Hawkins (Family Law Section), Kari Petrasek, Chalia Stallings-Ala'ilima, and Michael Cherry (Practice of Law Board).



### Swearing-in of Gov. Serena Sayani ([link](#))

Pres. Sciuchetti announced that Gov. Jean Kang resigned from the Board for family reasons and welcomed Justice Mary Yu to the meeting to swear Gov. Elect Serena Sayani into office. Gov. Williams-Ruth thanked Gov. Kang for her service and moved to appoint Serena Sayani to fill the vacant position representing district 7 south. The motion passed unanimously. Govs Abell, Anjilvel, Higginson, and Purtzer were not present for the vote. Justice Yu administered the oath of office.

### Consent Calendar ([link](#))

Pres. Sciuchetti asked if anyone would like to remove an item from the consent calendar. Gov. Williams Ruth moved to approve the consent calendar. Motion passed unanimously. Govs Abell, Anjilvel, Higginson, and Purtzer were not present for the vote.

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

The Board heard public comment from Peter Arkison regarding moving the WSBA office outside of the downtown Seattle area and difficulty navigating the WSBA website. Discussion followed.

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

Pres. Sciuchetti reported on a request to receive meeting materials at least one week in advance, with late materials being rare. He reported on an order from the Washington State Supreme Court mandating vaccines for all of its employees, including volunteers, and "strongly encouraging" the WSBA to adopt similar measures. He noted that he is working with Executive Director Nevitt to explore what that means for WSBA employees and volunteers and how best to implement those measures. He reported on the 2021 Listening Tour, which is an opportunity to meet with members throughout the state, noting that additional stops are being planned in eastern Washington. Pres. Sciuchetti also reported his attendance at the funeral of former City Attorney Jim Sloan in Spokane. Discussion followed.

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

Executive Director Terra Nevitt reported on the Listening Tour, noting stops in Kitsap, Island, Snohomish, Skagit, Pacific, and Mason counties. Director Nevitt updated the Board regarding the reopening of the WSBA office on August 1. She noted that masks are required and that there have been a handful of visitors each week. Director Nevitt reported that the comment period was extended for General Rule 40 regarding informal family law trials, noting that the BOG has until September 28, 2021 to submit any further comment. Finally, Director Nevitt reported on WSBA's work to notify members about the new malpractice insurance disclosure requirement in the Rules of Professional Conduct.

Discussion followed regarding the vaccine mandate; who will make decisions about whether or not to impose the mandate on employees and volunteers; whether the issue will be discussed later in the meeting; and any issues regarding notice. Pres. Sciuchetti indicated that he would add it to the agenda for discussion later in the meeting.

Pres. Sciuchetti announced that there would be changes to the September Board meeting as a result of the Court indicating that it will not meet with the Board in person as originally planned.

#### Reports of Standing or Ongoing BOG Committees ([link](#))

*Personnel Committee.* Gov. Stephens noted that Personnel Committee will present to the Board later in the meeting regarding the Climate Survey. He expressed appreciation to outgoing Gov. Jean Kang for her service on the Board and as the co-chair of the Personnel Committee.

*Equity & Disparity Work Group.* Gov. Stephens reported that the work group will meet this month and is looking at GR 12 and access to the courts.

*Diversity Committee.* Gov. Boyd directed the Board to the meeting materials which are intended to supplement the presentation at the July meeting. She thanked everyone that attended the joint meeting with the minority bar associations (MBAs), the Board, and the Diversity Committee and encouraged participation in the Diversity Committee meetings. Diversity Committee Co-Chair Andrea Jarmon reported on the CLE held the day prior. Discussion followed about feedback from the last presentation.

*Executive Committee.* Pres. Sciuchetti reported that the committee heard a report from the Discipline Advisory Round Table (DART) and the Continuing Legal Education (CLE) committee as part of the ongoing effort to increase dialogue with WSBA entities. He further reported that the committee had a discussion with the Personnel Committee about the issues to be discussed later in the meeting.

*APEX Awards Committee.* Gov. Knight reported that all of the honorees have been notified and the videos are under production for a fall celebration.

*Legislative Committee.* Gov. Grabicki reported that the committee and staff have been working on draft revisions to the legislative policy but have put that on hold following the 5<sup>th</sup> Circuit *Longley* decision and the 9<sup>th</sup> Circuit remand of the Oregon matter. He noted the Board will be receiving a report on these issues later in the meeting. The Board heard public comment from Nancy Hawkins expressing concern that the discussion of those issues will take place in executive session without the presence of sections. Discussion followed regarding the rationale for an executive session discussion and that no action would be taken without seeking the input

of stakeholders, especially sections. Gen. Counsel Julie Shankland clarified that the comment policy is not the subject of the executive session and that any changes to the policy should occur in public session.

*Nominations Review Committee.* Pres. Elect Tollefson reported that the committee met on August 17 and made a number of appointments and nominations. He noted that the decision on the Access to the Justice Board appointment was deferred. Gov. Boyd noted it was deferred pending additional information from the ATJ Board on the rationale for its recommendations.

*Long Range Strategic Planning Council.* Pres. Sculichetti reported on appointments made to the Council. He further reported that the Council may be coming forward with revision to its charter to address its size.

*Member Engagement Committee.* Gov. Peterson reported that the committee is expecting to launch a quarterly member survey in the next month or so and expressed appreciation for the work of Chief Communications Officer Sara Niegowski.

*Budget & Audit Committee.* Treas. Clark reported that the Board will discuss Budget & Audit Committee items later in the meeting.

Regarding the decision of the Nominations Review Committee to defer the Access to Justice Board's nominations, Gov. Elect Francis Adewale sought clarification as to what conditions trigger the need to provide additional information. Discussion followed about these kinds of requests, the role of the committee, the impact on timing, and the need for clarity of expectations at the outset.

*Bar Licensure Task Force.* Gov. Williams-Ruth reported that the most recent meeting was cancelled due to attendance. He noted that eight subcommittees have been created and will be meeting outside of the full task force. He also reported that Dean Rooksby has stepped aside as co-chair and thanked Hon. Montoya-Lewis for her service as co-chair.

#### Election of FY22 WSBA Treasurer ([link](#))

Pres. Sculichetti suggested that the Board strengthen the Treasurer Election process set forth in the Bylaws and walked through the process to be used for the election. Discussion followed regarding whether the process should be the same for the Treasurer as it is for the President Elect, given the difference in the rolls. Gov. Knight nominated Bryn Peterson. Gov. Boyd nominated Gov. Brent Williams-Ruth.

Pres. Sculichetti indicated that each candidate would have twenty minutes to address the Board with the other candidate out of the room. Gov. Williams-Ruth volunteered to go second. Gov.

Peterson made brief remarks and answered questions from the members of the Board. Gov. Williams-Ruth also made brief remarks and answered questions from the Board. Gov. Williams-Ruth's time was extended to 21 minutes to match the time Gov. Peterson was given.

Discussion followed regarding the candidates, including support for improving the budget process, appreciation for the candidates being willing to take on this important roll, and support for specific candidates. Pres. Sciuchetti conducted a roll call to confirm which governors were present and should receive a ballot for the secret, electronic ballot. Pres. Sciuchetti recessed the meeting pending announcement of the results.

Pres. Sciuchetti returned from recess and announced that the votes had been received, but that Gov. Higginson arrived during the voting process. He asked for a decision from the Board as to whether she should receive a ballot. Discussion followed. Gov. Stephens moved to allow all governors present to vote, even if they arrived after the roll call vote. Discussion followed. Motion passed 8-1 with Gov. Peterson abstaining. Govs. Abell, Anjilvel, Sayani, and Purtzer were not present for the vote. Pres. Sciuchetti directed that Gov. Higginson be forwarded a ballot and that the Board take up the next item pending the results of the treasurer election.

#### Presentation on the Washington Leadership Institute ([link](#))

James Williams thanked the Board of Governors for 17 years of investing in the program, which continues to yield results for the WSBA and the legal community. The fellows shared remarks about their experience in the program during a very difficult year and presented their community service project, "Dismantling White Supremacy and its Intersectional Impacts." Discussion followed regarding the impact of white supremacy in the legal system, the importance of WLI in our legal community, appreciation for the project, and support for continuing to support the program financially. When asked if there was a specific request for support, James Williams clarified that it was a generalized request for ongoing support at established levels, as well as for involvement in the program.

#### Committee & Board Chair Appointments ([link](#))

Pres. Elect Tollefson presented his appointments. Gov. Williams Ruth moved for approval. Motion passed unanimously. Govs. Abell, Anjilvel, Higginson, and Purtzer were not present for the vote.

#### Election of FY22 WSBA Treasurer (continued) ([link](#))

The Board recessed to count the votes in the treasurer election. Pres. Sciuchetti announced that there was a tie, which gave rise to questions about whether the president votes on a ballot and whether the President can vote to change the result. He reported that we did not have certainty as to how to answer those questions and, as a result, he would abstain from breaking the tie.

Discussion followed, including a suggestion for co-treasurers; whether it is the right result to vote tomorrow with potentially different governors present to vote; whether it is the right result to have Pres. Sciuchetti delay his decision about whether to abstain or vote until the Board has more information; whether the Bylaws provide for a coin toss; possible interpretations of the Bylaws and the interaction with Roberts Rules of Order; and whether the election should be held over to the September meeting.

#### Council on Public Defense Proposed Amendments to CrR 3.1 & 7.8 ([link](#))

Vice-Chair Jason Schwarz presented the proposed amendments the Council is seeking to support. The proposed changes, which were developed by the Washington Defenders Association, will provide a mechanism for representation of defendants in *Blake*-related matters. This will facilitate the use of funds that the legislature and the Office of Public Defense have allocated for *Blake* matters. Gov. Knight moved for approval of the request. Discussion followed regarding how the proposed changes might impact other non-*Blake* matters. Motion passed unanimously. Govs. Abell, Anjilvel, Higginson, and Purtzer were not present for the vote.

#### Proposal to Address Potential Conflicts for Judges Serving on the Board of Governors ([link](#))

Member Gabe Galanda presented the background for his request that the Board consider recognizing that a board member sitting as a *pro tem* judge can create an organizational conflict of interest. Discussion followed including whether judicial service by board members should be prohibited due to the appearance of a conflict (similar to the provision prohibiting governors from representing individuals engaged in the discipline system); that the approach seems reasonable; support for the general approach; that additional time is needed to make sure the proposed language is technically workable; whether the language is broad enough to address other potential conflicts that could arise and the timing of when a conflict arises; and clarification that the language is intended to recognize that a member in judicial status cannot serve on the Board per other provisions of the Bylaws.

#### Discussion with the Idaho State Bar Board of Commissioners ([link](#))

Pres. Sciuchetti opened the discussion with the Idaho State Bar Board of Commissioners with introductions and an invitation to share thoughts on the biggest issues facing the profession. Discussion followed about whether the ability to get malpractice insurance has been a problem in Idaho, which has not been an issue except for part-time practitioners; appropriate insurance minimums; that insurance prices have not increased; lack of ongoing questions and concerns about the requirement; the background of the proposal which went out to the membership based on the recommendation of the president of the Idaho State Bar and passed on a very close vote; information on the Idaho State Bar's decision-making process, which requires that all resolutions, including license fees, go to a referendum of the membership; turnout for referenda; whether this process engenders a greater feeling of connection with the members of the bar;

clarification that the process is largely for rules and occasionally policy questions or advisory issues will be addressed; drawbacks of the process, including that it's not nimble process; benefits of the process, including that it is deliberative and results in greater buy-in; the relative size of the Idaho State Bar and the Washington State Bar; efforts to engage out-of-state members; the history of Idaho State Bar's purchase of a building; the Idaho State Bar's lack of engagement in legislative lobbying; the pros and cons of having a small board, as is the case in Idaho; Washington's relationships with the Washington law schools; Idaho's handling of recent bar exams; rural practice challenges; demographics information maintained by each bar; how COVID has impacted the use of office space and whether attorneys would want to use state bar space; and the benefits of hybrid meetings and events.

#### Election of FY22 WSBA Treasurer (continued) ([link](#))

Pres. Sciuchetti reported that the idea of co-treasurers was considered and rejected and that his recommendation is to set the election over the September meeting. Gov. Stephens moved that the election be set over to the September meeting. Discussion followed regarding the motion. Gov. Higginson moved to amend the motion to provide that we take the matter up at 11:30 AM this morning. Discussion of the amendment followed. Gov. Higginson revised her motion to take up the matter immediately. Discussion followed, including whether it would be possible to achieve full participation of the Board and whether those governors not present for the interview portion of the election should have the opportunity to hear from the candidates on the issues. The motion to amend passed 13-1.

Pres. Sciuchetti directed that the Board repeat the interview process, with each candidate having twenty minutes to make a statement and answer questions. Discussion followed about timing. Gov. Peterson left the room and Gov. Williams-Ruth made his statement and answered questions. Gov. Williams-Ruth left the room while Gov. Peterson made his statement and answered questions.

The votes were delivered by secret electronic ballot and reviewed by Pres. Sciuchetti, Executive Director Nevitt, and General Counsel Shankland. Pres. Sciuchetti announced the winner, Treas. Elect Bryn Peterson.

#### Personnel Committee Items ([link](#))

Gov. Stephens introduced the topics for discussion, including a general discussion of the results of the WSBA Climate Survey.

*Discussion & Update of WSBA's Climate and Culture Survey.* Consultant Jeff Turner of Praxis HR presented a high-level summary of the results and recommendations from the survey conducted from September 21, 2020 to October 6, 2020. Discussion, questions, and answers followed

including understanding how the key strengths fit with the key weaknesses; how the recommendations will help impact key weaknesses, such as morale; how to address what appears to be leadership's lack of accountability; the nature of concerns regarding staff leadership; and the direction employees are seeking from the Board. Director Klinefelter Sio presented the work that has been done to respond to the climate survey, including recent pulse survey results.

*Personnel Committee Recommendations.* Govs. Williams-Ruth presented the committee's proposal regarding climate survey recommendation number one related to clarifying the governance operating model. He noted that this is an initial presentation and his expectation and hope is that governors will make proposals to revise it. Discussion followed regarding what sources were referenced to prepare the proposal. Gov. Stephens requested feedback from governors, staff, and the public for input on whether this proposal is hitting the mark and how it can be simplified.

#### Discussion of Vaccination Mandate ([link](#))

Pres. Sciuchetti reported that last week the Court issued a vaccination mandate, which strongly urged WSBA to adopt a similar mandate. Pres. Sciuchetti noted that he and Past Pres. Majumdar prepared a proposal to mandate vaccinations for volunteers.

Gov. Williams-Ruth moved to adopt the proposed policy. Discussion followed for and against the proposal; support for the Executive Director to adopt a similar policy for WSBA employees; whether there may be legal exposure for taking this action; that the Board has not had sufficient time to consider unintended consequences; that while the proposal is new, the issues are not new; that the proposal is unclear with regard to whether it applies when governors are performing their duties at events not organized by WSBA and suggestions for clarifying the language to be more or less restrictive. Gov. Higginson moved to table to the September meeting. Motion failed for a lack of a second. Discussion continued, including a view that the policy should be expanded to include employees. Gov. Grabicki moved to amend to strike "or on-site" and to add "or as a representative of the WSBA." It was considered a friendly amendment. Gov. Grabicki called the question. Motion to call the question passed 8-2. Govs. Abell, Anjilvel, Peterson, and Purtzer were not present for the vote. The underlying motion (to approve the proposal with changes to remove the words "or on site" and to add "or as a WSBA representative)" passed 10-1. Govs. Abell, Anjilvel, and Purtzer were not present for the vote.

#### Budget & Audit Committee Items ([link](#))

*Proposal Re Employee and Volunteer Safety at the WSBA Office.* Chief of Staff Ana LaNasa Selvidge presented the proposal and recommendation of the Budget and Audit Committee to approve expenditure of up to \$75,000 for the project to add glass safety doors on the sixth floor



of the WSBA office and to add access key cards to the seventh and eighth floor freight elevator doors. Gov. Grabicki moved for approval of the project. Motion passed unanimously. Govs. Abell, Anjilvel, Higginson, Sayani, and Purtzer were not present for the vote.

*2023 License Fee Recommendation.* CFO Jorge Perez presented the recommendation of the Budget & Audit Committee to maintain license fees at current levels, as presented in the meeting materials. Pres. Sciuchetti clarified that this is an action item. Gov. Peterson moved for approval. Chief Regulatory Counsel Renata Garcia clarified that the new admittee fee for a LLLT member should be \$114.50. Discussion followed in opposition to and in support of the motion; the need to look at the impacts of keeping the license fee steady; that the license fee has been kept at \$458 since 2020; that the cost of living has increased; and that attorney wages have not kept up with inflation. Motion passed 9-2. Govs. Abell, Anjilvel, and Purtzer were not present for the vote.

#### WSBA Court Rules & Procedures Committee ([link](#))

Chair Isham Reavis presented on the work of Court Rules & Procedures Committee, including an overview of the proposed rule amendments the committee has under consideration and will be presenting to the Board following the committee's final action on August 23. He noted that most of the proposed changes are not substantive.

#### Budget & Audit Committee Items (continued) ([link](#))

*Fiscal Year 2022 WSBA Budget Presentation.* CFO Perez presented the current version of the FY22 budget. Discussion followed regarding the timing of the budget and the ability to influence its results and the impact of having a different fiscal and license fee year. The Executive Director noted that while this budget responsibly funds all of our existing programs and services, it requires the use of reserves or an increase of revenue. Chair Crossland presented a request for funding a LLLT Board retreat next year. Discussion followed, including a concern the ability to get the information needed to meaningfully impact the budget; that there has not been a consensus of the Board or the Budget & Audit Committee to perform a program review; that a \$19 increase to license fees would close the gap; and whether the LLLT Budget can be increased to \$20,000.

Gov. Grabicki moved to increase LLLT Budget to \$20,000. Gov. Higginson raised a point of order as to whether it is appropriate to take up the issue given that the matter was not on for action. Pres. Sciuchetti ruled against the point of order, noting that the Board can take action even if it's not noted as such. Treas. Clark offered a friendly amendment that the motion be taken as a recommendation to add the funding into version three of the budget. Gov. Higginson moved to table. The motion to table failed for a lack of a second. Gov. Grabicki declined to accept the amendment as friendly. Discussion followed in opposition to the motion as being outside the



normal process and the significance of the motion. CFO Perez noted that he considers the impact of the motion to be a change in assumptions. Executive Director Nevitt restated the motion. Discussion continued about whether the motion was out-of-order and whether its impact would be binding on the final budget or was merely an instruction to update the budget accordingly. Motion failed 7-4. Govs. Abell, Anjilvel, and Purtzer were not present for the vote.

Gov. Grabicki moved to raise the license fee by \$19 to close the gap in the budget. Discussion followed regarding the whether the motion was in order. Gov. Grabicki clarified that the motion was for 2023 and changed his motion to a motion to reconsider. Discussion followed for and in opposition to the motion. Motion failed 8-3. Govs. Abell, Anjilvel, and Purtzer were not present for the vote. Discussion followed regarding the budget development process and the tools and information available to the Board. Executive Director Nevitt requested that moving forward the Board and/or Budget & Audit Committee provide guidance to the Executive Director and CFO with regard to the budget development process and expectations for the budget, and that it do so with one voice, at the outset of the process.

#### Announce Basis for Moving Into Executive Session ([link](#))

Pres. Sciuchetti announced that the Board will meet in executive session at 2:33 PM to continue discussion with legal counsel regarding a request to authorize collective bargaining for WSBA staff and to receive advice and discuss with legal counsel litigation affecting integrated bars as permitted under the WSBA Bylaws. He noted that executive session would end at 3:35 PM. Executive session was extended to 4:30 PM.

#### Proposed Amendments to the Late Fee Waiver Policy

This topic was deferred to the September Board meeting.

#### WSBA Career Center ([link](#))

Director Niegowski referred to the written materials for a description of and background about the WSBA Career Center. She noted feedback about the cost of advertising for employers. She reported on the existing discounts for non-profits, governments, and solo and small practice members and highlighted upcoming plans for special campaigns.

#### WSBA Legal Research Tools ([link](#))

Director Plachy introduced Practice Management Advisor Margeaux Green and presented the background on the free legal research tools offered by WSBA as a member benefit. He reported that Casemaker will be going away following the merger of that company with Fastcase, that members have been notified of the change, and that WSBA has negotiated with Fastcase to maintain Casemaker's availability through September 30 to give the members more time to transition, as well as to transition WSBA's online deskbooks. Director Plachy noted that WSBA is

under contract with Fastcase through December 2023 and has been on a month-to-month contract with Casemaker with no further obligations after September 30. He noted that it is not recommended that Docket Alarm be added to our offering at this time and that the recommendation is to maintain Fastcase for the next two years and focus on transitioning members, assessing member satisfaction, and assessing interest in the add-ons. This change will result in an annual savings of \$65,000/year.

Public Comment & Governor Roundtable ([link](#))

The Board heard public comment from Nancy Hawkins expressing concerns about not having the opportunity to provide comment before the executive session discussion occurred. Discussion followed about the timing of public comment.

Gov. Williams-Ruth commented on the retirement of Dean Annette Clark of Seattle University Law School.

Michael Cherry inquired as to whether we would be getting money back from Casemaker. Director Plachy clarified that the contract with Fastcase is not changing and the Casemaker contract is void.

Discussion followed in response to Nancy Hawkins' comment, including support for providing opportunities for member comment on all agenda items; the various ways the Board has conducted the member comment agenda item; that WSBA would benefit from more and longer meetings; and rejection of the idea that member input is not being taken.

**ADJOURNMENT**

There being no further business, Pres. Sciuchetti adjourned the meeting at 4:01 PM on Saturday, August 21, 2021.

Respectfully submitted,

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Terra Nevitt  
WSBA Executive Director & Secretary

# WASHINGTON STATE BAR ASSOCIATION

## BOARD OF GOVERNORS SPECIAL MEETING

### Minutes

### Held Virtually

September 9, 2021

#### Call to Order and Welcome

The meeting of the Board of Governors of the Washington State Bar Association (WSBA) was called to order by President Kyle Sciuchetti on Thursday, September 9, 2021 at 5:02 PM. Governors in attendance were:

Hunter Abell  
Sunitha Anjilvel  
Lauren Boyd  
Treas. Daniel D. Clark  
Matthew Dresden  
PJ Grabicki  
Carla Higginson  
Serena Sayani  
Tom McBride  
Bryn Peterson  
Brett Purtzer  
Alec Stephens  
Brent Williams-Ruth

Also in attendance were President Elect Brian Tollefson, Immediate Past President Rajeev Majumdar, Governor Elect Jordan Couch, Executive Director Terra Nevitt, General Counsel Julie Shankland, Director of Human Resources & Chief Culture Officer Glynnis Klinefelter Sio, Executive Administrator Shelly Bynum, Chief of Staff Ana LaNasa Selvidge, Chief Communications & Outreach Officer Sara Niegowski, and Nancy Hawkins (Family Law Section).

#### Public Comment

The Board heard public comment from Nancy Hawkins expressing concern regarding discussions taking place in executive session. The Board heard public comment from WSBA employees Collin Rigley and Karen Duncan in support of the request to authorize WSBA employees to engage in collective bargaining.

#### Announce Basis for Moving Into Executive Session

Pres. Sciuchetti announced that the Board would meet in executive session at 5:15 PM to continue discussion with legal counsel regarding a request to authorize collective bargaining for WSBA staff and to receive advice and discuss with legal counsel litigation affecting integrated bars as permitted under the WSBA Bylaws. He noted that public session would resume at 6:45 PM.

#### Report Re Matters Discussed in Executive Session

Pres. Sciuchetti reported that the Board only discussed the first issue and did not reach to the second topic.

#### Request to Authorize Collective Bargaining for WSBA Staff

Pres. Sciuchetti announced there was motion made and seconded in executive session to not authorize collective bargaining. The vote was taken in public session. Motion passed 8 to 5. Gov. Knight was not present for the vote. There was a request to know who moved and who seconded the motion. Treas. Clark identified himself as the maker of the motion. The seconder did not identify themselves.

#### Announce Basis for Moving Into Executive Session

Pres. Sciuchetti announced that the Board would meet in executive session at 6:58 PM to receive advice and discuss with legal counsel litigation affecting integrated bars as permitted under the WSBA Bylaws. He noted that public session would resume at 7:20 PM. Executive session was extended to 7:45 PM.

#### Report Re Matters Discussed in Executive Session

Pres. Sciuchetti announced that the Board had concluded executive session and that no action was taken.

#### Update and Request for Input Re October Teambuilding Retreat

Executive Director Nevitt reported on planning and budgeting for the teambuilding retreat the Board approved in July. She noted the Budget & Audit Committee is recommending to the Board that it be virtual only. Discussion followed. Pres. Sciuchetti directed that the topic be deferred to the September 23-25, 2021 meeting to be taken up as part of the discussion of the FY22 budget.

### **ADJOURNMENT**

There being no further business, Pres. Sciuchetti adjourned the meeting at 8:06 PM.

Respectfully submitted,

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Terra Nevitt  
WSBA Executive Director & Secretary

DRAFT

# WASHINGTON STATE BAR ASSOCIATION

## CHARTER

### Long Range Strategic Planning Council

*(Adopted by the WSBA Board of Governors on April 17, 2021; amended September , 2021)*

#### Background

The work delegated to the WSBA Long Range Planning Committee, as chartered in 1999, was tied directly to the 1999-2003 Strategic Plan and based on organizational and structural assumptions that are no longer current. The nature of WSBA's strategic planning has evolved significantly since the Committee's inception, and since 2007 the Committee has convened under the title "Strategic Planning Committee." It is appropriate for the Board's policymaking efforts to include focused development and implementation of durable organizational goals and objectives. For these reasons, the Board hereby withdraws the 1999 Long Range Planning Committee Charter and adopts this Charter to replace it. The Committee is reclassified as a Council under the WSBA Bylaws and renamed the Long Range Strategic Planning Council to better describe its purpose and to conform to recent practice.

#### Council Purpose

The Long Range Strategic Planning Council develops and makes recommendations to the Board of Governors for adoption of Organizational Goals and Objectives, together with policy-level recommendations for their implementation, subject to the following guidelines.

- The Council shall communicate to members and the public about the planning process and seek input.
- The Council shall provide timely updates to the Board of Governors and the Budget and Audit Committee about development of new Organizational Goals and Objectives and recommendations for modification of existing Goals and Objectives.
- The Council shall strive to ensure that its recommended Organizational Goals and Objectives are **specific, measurable, attainable, relevant** (to the WSBA's mission and purpose), and **time-bound**. In addition, recommended Organizational Goals and Objectives must be consistent with WSBA's organizational parameters as defined in General Rule 12.

#### Timeline

The Council shall be convened on an annual basis in alignment with WSBA's fiscal year. It shall submit an annual report to the Board setting forth its recommendations not later than August 1 of each year. It shall submit preliminary recommendations and fiscal projections to the Board of Governors at or before May 1 of each year for the purpose of integration into the organization's budget planning.

Every three years, the Council should conduct an in-depth review of existing Organizational Goals and Objectives to evaluate their ongoing viability and develop recommendations for new Goals and Objectives as appropriate. In other years, the Council's focus should be on measuring progress and determining whether existing Goals and Objectives, the strategies for their implementation, and/or the timeline for their completion, should be modified.

### **Council Membership**

The President, who shall serve as chair, shall have discretion to appoint voting members, and is encouraged to consider participation from the following:

- The President-Elect
- A first-, second-, and third-year governor
- An at-large governor
- The WSBA Treasurer
- The WSBA Immediate Past President
- The Diversity Committee
- The Young Lawyers Committee
- Local and specialty bar associations
- WSBA staff serving in a regulatory capacity
- WSBA Sections, Committees and other entities, and members not otherwise serving on WSBA entities
- Members of the public who are not licensed to practice law.

The Council shall consist of at least twelve and no more than 15 voting members, in addition to the President. The term of appointment for membership on the Council is three years. Terms of appointment shall be staggered to ensure continuity on the Council, with one-third of the positions being appointed each year. Inaugural positions should be filled by appointing one-third of the members to one-year terms and one-third of the members to two-year terms, as designated by the President, to permit as equal a number of positions as possible to be filled each year.

The Executive Director shall serve on the Council as a non-voting member and will designate a WSBA staff liaison.

In accordance with WSBA Bylaws, selection of persons to be appointed to the Council will be made by the President with confirmation by the Board of Governors. Bylaw Article IX.C is appended to this charter for ease of reference.

## **APPENDIX**

**WSBA BYLAWS ARTICLE IX.C** (as adopted on September 24, 2010, with amendments approved by the Board of Governors through October 7, 2020)

### **IX.C COUNCILS**

1. Councils are created and authorized by the BOG to serve as advisory committees to the BOG on matters and issues of particular import to the Bar.
2. Nominations to councils are made as set forth in the council's charter or originating document, and are confirmed by the BOG. Except as may be specifically required under the council's charter or originating document, council members are not required to be members of the Bar.
3. Terms of appointments to councils will be as set forth in the council's charter or originating document.
4. Each council will carry out the duties and tasks set forth in its charter or originating document.
5. Each council must submit an annual report, and such other reports as may be requested, to the BOG or Executive Director.
6. Bar staff will work with each council to prepare and submit an annual budget request as part of the Bar's budget development process.



**WASHINGTON STATE**  
**BAR ASSOCIATION**

**TO:** WSBA Board of Governors  
**FROM:** Michiko Fjeld, Chair, WSBA Judicial Recommendation Committee  
**CC:** Sanjay Walvekar, Staff Liaison to the Judicial Recommendation Committee  
**DATE:** September 23, 2021  
**RE:** WSBA Judicial Recommendation Committee August 17, 2021 Interviews and Recommendations

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**ACTION: Approve the recommendations of the WSBA Judicial Recommendation Committee.**

The WSBA Judicial Recommendation Committee met via Zoom on August 17, 2021 for the purpose of conducting interviews with five individuals interested in being considered for future openings on the Washington State Court of Appeals and the Washington Supreme Court. Per committee guidelines approved by the Board of Governors, the proceedings and records of the committee, including applicant names, committee discussions, and committee votes, are kept strictly confidential. The committee's recommendations are available in the Governor's materials via the WSBA BOX cloud-sharing service.

# 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:** September 2, 2021  
**RE:** Confidentiality of Client Protection Board Recommendations

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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. **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  
**FROM:** Executive Director Terra Nevitt  
**DATE:** September 14, 2021  
**RE:** Executive Director's Report

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#### Bar Exam Results & The Next Generation of the Bar Exam

Congratulations to the 482 applicants who passed the July 2021 lawyer bar exam! You can find a complete pass list and exam statistics on the [WSBA website](#). Additionally, 26 people passed the LLLT licensing exam and 18 passed the LPO licensing exam. The next licensing exams will be administered in-person in February 2022.

The National Conference of Bar Examiners (NCBE) has begun a process to develop the next generation of the bar exam. This project to implement recommendations arising out of a three-year research study, is slated to complete in 2026. You can learn more about the project at <https://nextgenbarexam.ncbex.org/>.

#### Roll Out of Volunteer & Employee Vaccination Mandate

The volunteer COVID-19 vaccination verification process is underway and running smoothly. Since the Board's approval of the policy requiring vaccination for all volunteers attending in-person events, we have published a [webpage](#) with instructions to upload proof of vaccination or submit an exemption request to a confidential folder in Box. Once verified, the file in Box is deleted. This webpage also contains helpful FAQs and links. For any questions, please contact Volunteer Engagement Advisor Paris Eriksen.

We are also requiring that all employees are fully vaccinated by November 1, 2021. All employees are required to present proof of vaccination status to the HR Department by this date unless they qualify for a medical or religious exemption.

#### WSBA Security

Due to increased criminal activity in and around our office building, the building owner has recommended that we temporarily lock elevator access to open public floors, including the WSBA's sixth floor. On August 25<sup>th</sup> we sent an eblast to members letting them know that while the elevators will be locked, members can still come to the WSBA office to access the 6<sup>th</sup> floor. We have continued to have a staff member at the front desk to provide services to those that need to come to the WSBA office. Elevator doors will remain locked until the glass door project is complete. Construction of the glass door project is expected to begin November 1 and to be complete by November 22.

### Bar News Letters to the Editor Policy Update

At its July meeting, the Editorial Advisory Committee (a group of WSBA members who help develop magazine content, recruit authors, and determine editorial policy) unanimously approved an updated letters to the editor policy for *Washington State Bar News*. The policy was updated to improve clarity, to condense the text in order for it to be published in each issue, and to make it more closely resemble the letters policies of other bar association magazines. Editorial Advisory Committee members played a vital role in shaping the policy and closely reviewing it over the course of several months. The updated policy, which took effect with the September 2021 issue of *Bar News*, can be found at [www.wsba.org/news-events/Bar-News](http://www.wsba.org/news-events/Bar-News).

### Seeking Input on the Draft Access to Justice Technology Plan

Over the last 16 years, the legal community in Washington state has created two [Access to Justice Technology Principles](#) frameworks and a corresponding Access to Justice Technology Plan. The last fundamental revision to the Access to Justice Technology Plan occurred in 2006. Much has been accomplished since that time, and the possibilities offered by technology in terms of access to justice have fundamentally shifted in the intervening years. After the approval of the most recent Access to Justice Technology Principles, the ATJ Technology Committee drafted a revised [Access to Justice Technology Plan](#) to identify current priority access to justice technology issues. The Plan can be used by any group identifying priorities for improving technology use, and the ATJ Technology Committee will develop specific projects based on the plan. The ATJ Technology Committee is seeking stakeholder feedback on the draft plan. Comments are due by October 29. You can review the draft [plan here](#).

### Celebrating a Successful Access to Justice Conference

Congratulations the Access to Justice Board, the conference planning committee, and the many WSBA hands involved in the 2021 Access to Justice Conference. This first all-virtual, three-day conference was a resounding success. With over 700 attendees and \$53,000 raised for sponsorships, this conference exceeded all of the planning goals through a tremendous staff and volunteer partnership. Read about the conference on the [website](#) of the Alliance for Equal Justice and watch sessions at the ATJ Board's [YouTube Channel](#).

### Attachments

Discipline Report  
Litigation Update  
WSBA Demographics Report

**MEMO**

To: Terra Nevitt, WSBA Executive Director

From: Douglas J. Ende, WSBA Chief Disciplinary Counsel & Director of the Office of Disciplinary Counsel

Date: August 17, 2021

Re: Quarterly Discipline Report, 2<sup>nd</sup> Quarter (April – June 2021)

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**A. Introduction**

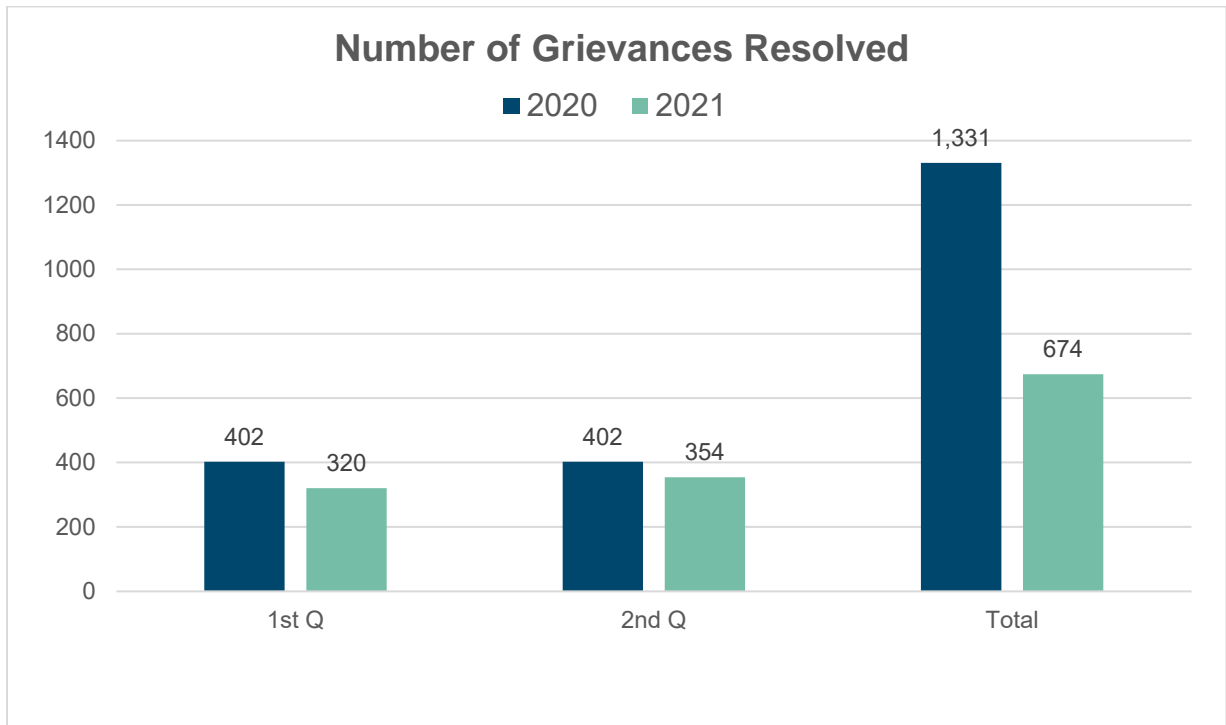
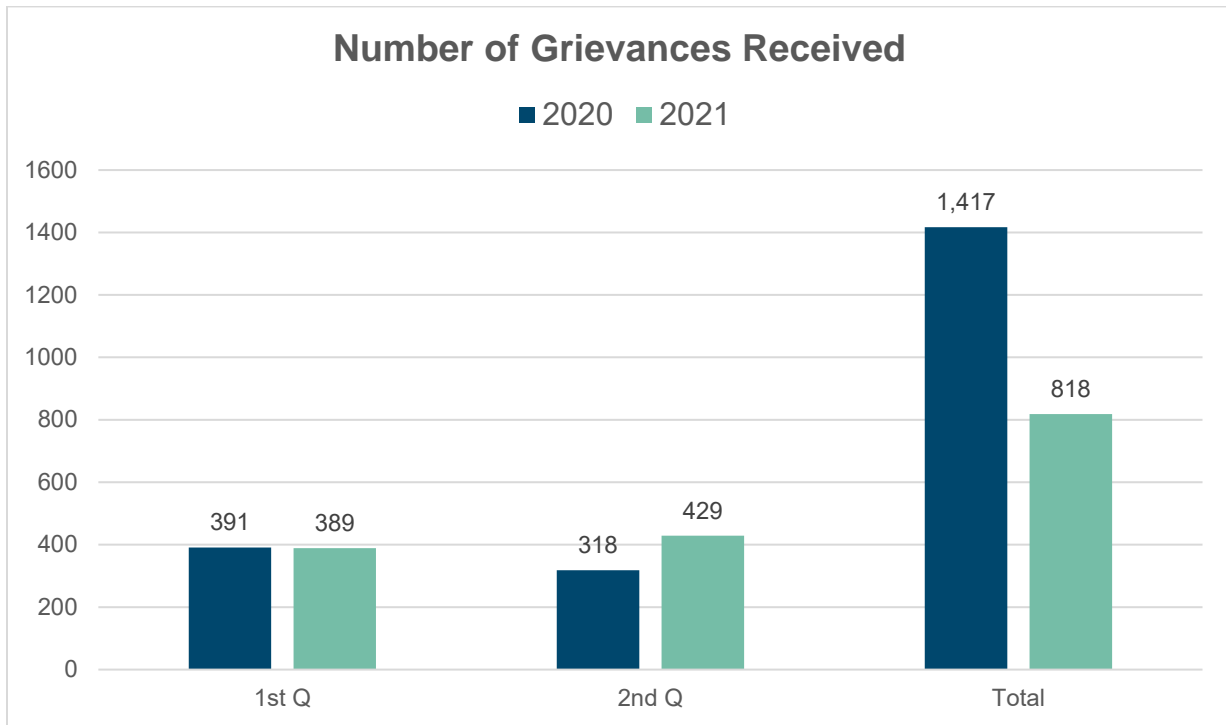
The Washington Supreme Court’s exclusive responsibility to administer the systems for discipline of licensed legal professionals (including disability systems) is delegated by court rule to WSBA. See GR 12.2(b)(6). Staff and volunteers carrying out the functions delegated by the Rules for Enforcement 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 2<sup>nd</sup> Quarter 2021. Note that all numbers and statistics herein are considered tentative/approximate. Final figures will be issued in the 2021 Discipline System Annual Report.

**B. Recent Supreme Court Opinions & Other Information**

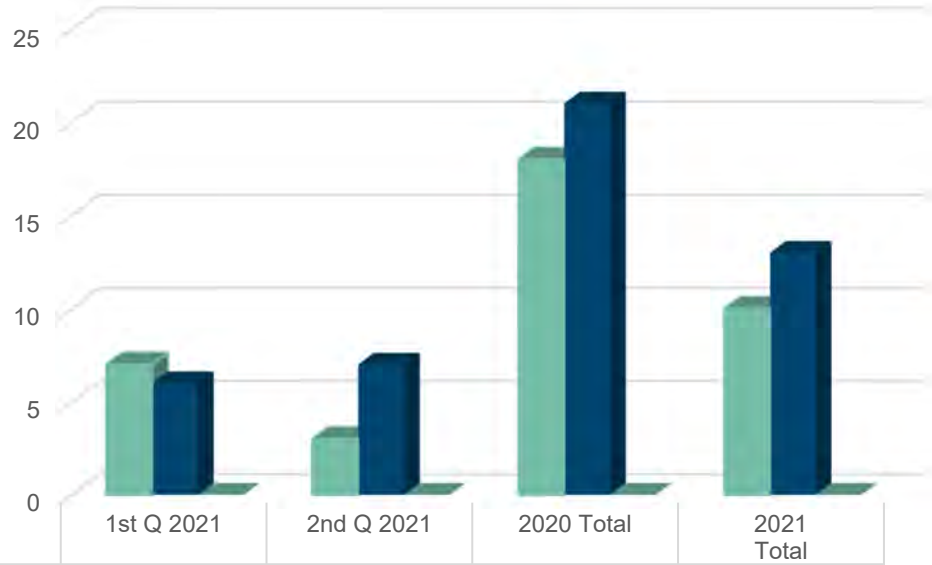
- **COVID-19-Related Changes to Operations.** Since March 2020, the majority of the ODC staff has continued to work remotely. However, with the reopening of the WSBA offices, some staff have returned to working in the WSBA offices. The number of grievances received monthly has returned to pre-COVID-19 levels. Three hearing were held this quarter and at present, three hearings are scheduled for the 3<sup>rd</sup> Quarter and eight for the 4<sup>th</sup> Quarter. With the 2020-2021 slowdown in contested hearings, there has been a corresponding lull in the number of pending appeals and review proceedings before the Disciplinary Board and Supreme Court.

**C. Grievances and Dispositions<sup>1</sup>**



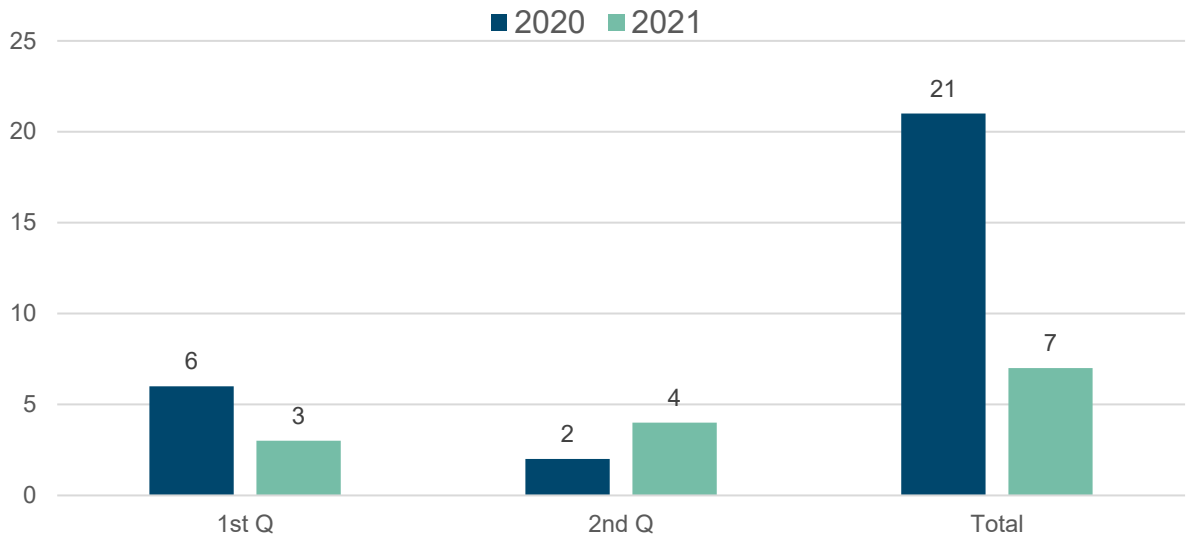
<sup>1</sup> These figures may vary from previous quarterly reports and statistical summaries owing to limitations on data availability at the time of issuance of these quarterly reports.

### Diversion Statistics



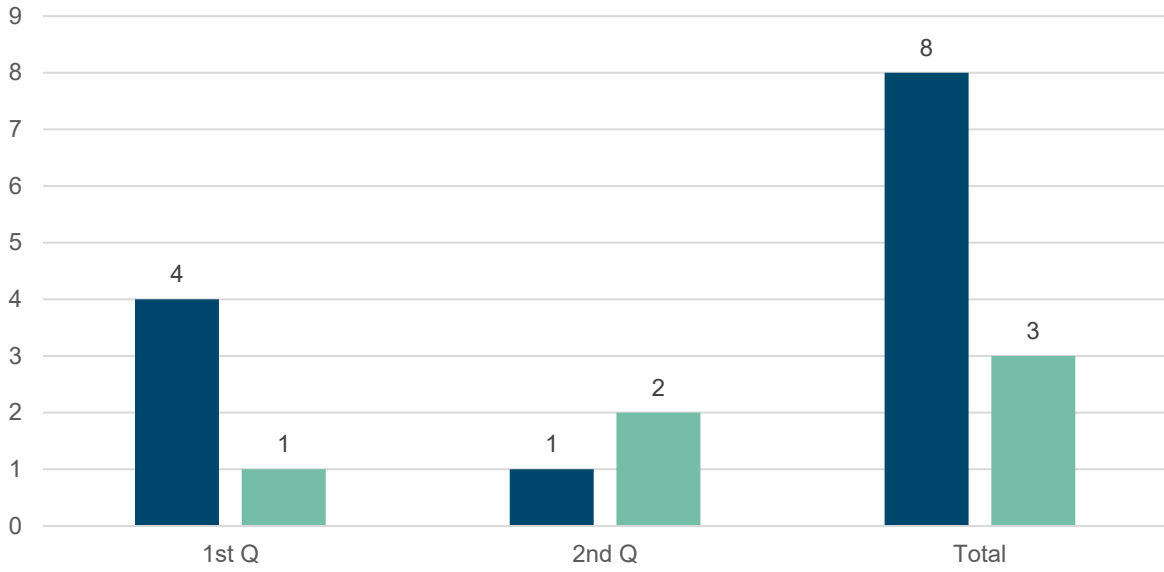
■ New Diversion Files	7	3	18	10
■ Completed Diversion Files	6	7	21	13
■ Terminated Diversion Files	0	0	0	0

### Formal Complaints Filed



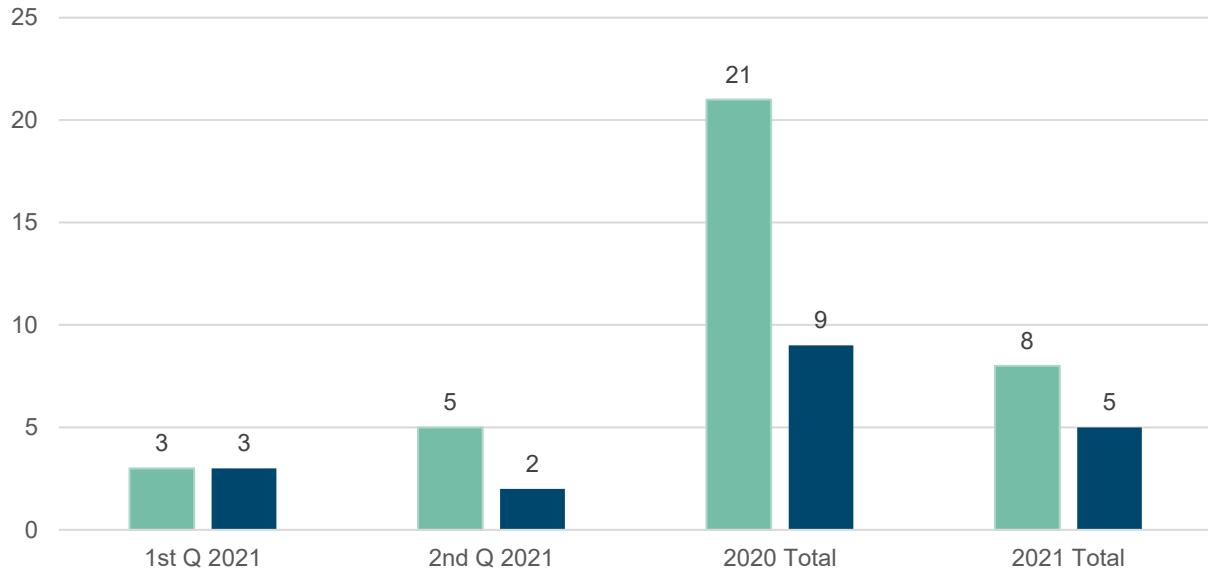
### Reciprocal Discipline Files Opened

■ 2020 ■ 2021



### Stipulations and Resignations in Lieu

■ Stipulation ■ Resignation in Lieu





Hearings Held	Quarter Total
1 <sup>st</sup> Quarter 2021	0
2 <sup>nd</sup> Quarter 2021	3
3 <sup>rd</sup> Quarter 2021	TBD
4 <sup>th</sup> Quarter 2021	TBD
2020 Total	3
2021 Total	3

**D. Pending Proceedings<sup>2</sup>**

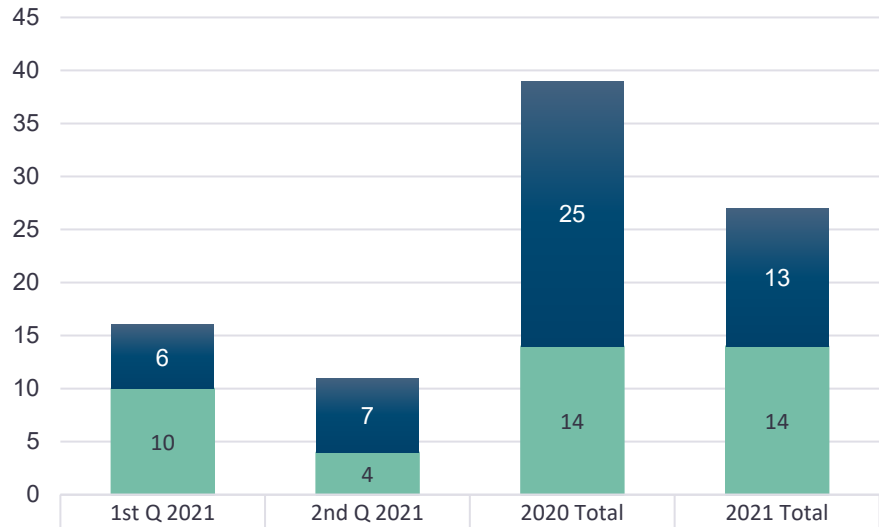
Open Proceedings	2020	2021
Ending 1 <sup>st</sup> Quarter	40	37
Ending 2 <sup>nd</sup> Quarter	40	38
Ending 3 <sup>rd</sup> Quarter	40	TBD
Ending 4 <sup>th</sup> Quarter	40	TBD

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<sup>2</sup> 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.

## Matters Acted on by Reviewing Bodies

■ Disciplinary Board Matters Acted on    ■ Supreme Court Matters Acted On

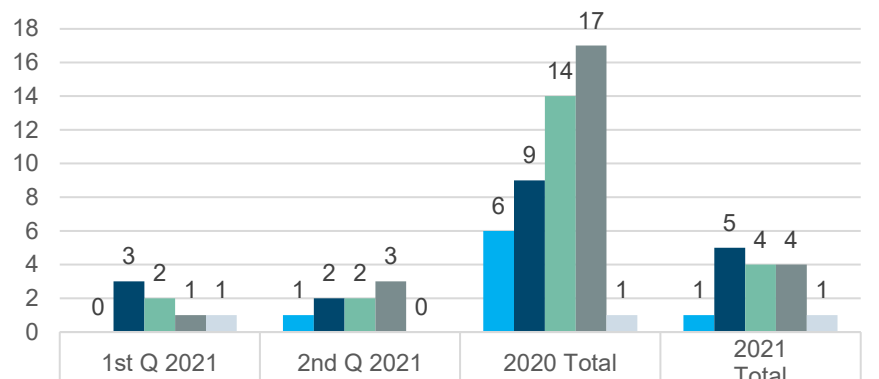


■ Supreme Court Matters Acted On	6	7	25	13
■ Disciplinary Board Matters Acted on	10	4	14	14

## E. Final Disciplinary Actions

### Final Disciplinary Actions

■ Disbarment   ■ Resignation in Lieu of Discipline   ■ Suspensions   ■ Reprimands   ■ Admonitions



■ Disbarment	0	1	6	1
■ Resignation in Lieu of Discipline	3	2	9	5
■ Suspensions	2	2	14	4
■ Reprimands	1	3	17	4
■ Admonitions	1	0	1	1

**F. Disability Inactive Transfers**

<b>Disability Inactive Transfers</b>	<b>Quarter Total</b>
<b>1<sup>st</sup> Quarter 2021</b>	3
<b>2<sup>nd</sup> Quarter 2021</b>	1
<b>3<sup>rd</sup> Quarter 2021</b>	TBD
<b>4<sup>th</sup> Quarter 2021</b>	TBD
<b>2020 Total</b>	7
<b>2021 Total</b>	4

**G. Discipline Costs<sup>3</sup>**

<b>Quarterly Discipline Costs Collected</b>	<b>Total</b>
<b>1<sup>st</sup> Quarter 2021</b>	\$30,648.71
<b>2<sup>nd</sup> Quarter 2021</b>	\$27,730.33
<b>3<sup>rd</sup> Quarter 2021</b>	TBD
<b>4<sup>th</sup> Quarter 2021</b>	TBD
<b>2020 Total</b>	<b>\$93,512.44</b>
<b>2021 Total</b>	<b>\$58,379.04</b>

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<sup>3</sup> 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

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: September 8, 2021  
 Re: Litigation Update

No.	Name	Brief Description	Status
1.	<i>Sangha v. Knapp et al</i> , No. 21-2-00-769-37 (Whatcom Sup. Ct.)	Addresses handling of letters of complaint.	Complaint filed 08/02/21; WSBA filed motion to dismiss on 08/24/21.
2.	<i>Block v. Scott et al</i> , No. 21-2-01394-31 (Snohomish Sup. Ct.) (" <i>Block IV</i> ")	Alleges civil rights and public records violations.	Complaint filed 03/26/21. This matter is dismissed as of 08/12/21.
3.	<i>Block v. WSBA et al.</i> , No. 18-cv-00907 (W.D. Wash.) (" <i>Block II</i> ")	See <i>Block I</i> (below).	<p>On 03/21/19, the Ninth Circuit stayed <i>Block II</i> pending further action by the district court in <i>Block I</i>. On 12/17/19, Block filed a status report with the Ninth Circuit informing the Court of the <i>Block I</i> Court's reimposition of the vexatious litigant pre-filing order against Block. On 06/18/20, the Ninth Circuit lifted the stay order and ordered the appellees who have not yet filed their answering briefs to do so by 08/17/20 (WSBA filed its answer brief before the stay order was entered). Block's reply was due 10/09/20, then extended to 12/28/20.</p> <p>Block filed a reply brief four months late along with a motion for extension of time. The Ninth Circuit Court denied Block's motion for an extension and declined to accept the reply brief. Block has filed a Motion for Reconsideration of the Order denying her motion for an 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>Block filed in the district court a Motion to Issue Indicative ruling and an amended version of the same motion, which was denied.</p> <p>Block filed a second notice of appeal in this matter. Block’s opening brief and excerpts of record were due 06/07/21. On 08/27/21, the Ninth Circuit denied the appellees’ requests for dismissal of the appeal for failure to prosecute and set a new briefing schedule; Block’s opening brief is now due 09/22/21, answering briefs are due 10/22/21:</p> <p>On 05/05/21, Block filed a motion to consolidate her total of three appeals in <i>Block I</i> and <i>Block II</i>; WSBA filed an opposition to this motion on 05/17/21. This motion was denied.</p> <p>On 07/17/21, Block filed a Petition for Rehearing in the Ninth Circuit in relation to the Block I Appeal (No. 20-35025, noted below) and the Block II Appeal (No. 18-35690); this petition was denied.</p>
4.	<i>Eugster v. WSBA, et al.</i> , No. 18201561-2, (Spokane Sup. Ct.)	Challenges dismissal of <i>Spokane County 1</i> (case no. 15-2-04614-9).	Dismissal order signed 01/06/20. On 01/16/20, WSBA filed a supplemental brief on fees under CR 11 and RCW 4.84.185. Fee award of \$28,586 granted on 02/14/20; Eugster filed a notice of appeal on 03/02/20. WSBA filed its response brief on 12/14/20. Appeals briefing is complete; fees on appeal requested. On 06/07/21 the Court of Appeals affirmed and awarded fees on appeal for frivolity. Mandate to superior court issued on 08/16/21, directing that fees and costs of \$12,465.53 be awarded against Eugster as judgment debtor.
5.	<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	On 02/11/19, 9th Cir. affirmed dismissal of claims against WSBA and individual WSBA defendants; the Court also vacated the pre-filing order and remanded this issue to

		<p>exercising 1st Amendment rights.</p>	<p>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 filed an opening brief 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>As noted above in <i>Block II</i>, on 05/05/21, Block filed a motion to consolidate her three appeals in <i>Block I</i> and <i>Block II</i>; WSBA filed an opposition to this motion on 05/17/21. This motion was denied.</p> <p>On 07/17/21, Block filed a Petition for Rehearing in the Ninth Circuit in relation to the Block I Appeal (No. 20-35025) and the Block II Appeal (No. 18-35690, noted above); this petition was denied.</p>
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# WSBA Member\* Licensing Counts 9/1/21 1:36:03 PM GMT-07:00

Member Type	In WA State	All
Attorney - Active	26,581	33,664
Attorney - Emeritus	113	121
Attorney - Honorary	323	371
Attorney - Inactive	2,527	5,587
Judicial	633	663
LLLT - Active	51	51
LLLT - Inactive	3	3
LPO - Active	783	795
LPO - Inactive	146	164
	31,160	41,419

By District		
	All	Active
0	5,658	4,644
1	2,819	2,338
2	2,080	1,667
3	2,059	1,715
4	1,345	1,144
5	3,170	2,579
6	3,282	2,748
7N	4,906	4,196
7S	6,294	5,196
8	2,202	1,873
9	4,761	4,032
10	2,843	2,378
	41,419	34,510

By State and Province	
Alabama	28
Alaska	203
Alberta	10
Arizona	362
Arkansas	18
Armed Forces Americas	2
Armed Forces Europe, Middle East	23
Armed Forces Pacific	13
British Columbia	99
California	1,904
Colorado	266
Connecticut	49
Delaware	7
District of Columbia	338
Florida	276
Georgia	89
Guam	14
Hawaii	135
Idaho	480
Illinois	166
Indiana	44
Iowa	29
Kansas	28
Kentucky	34
Louisiana	48
Maine	13
Maryland	118
Massachusetts	88
Michigan	74
Minnesota	105
Mississippi	5
Missouri	67
Montana	171
Nebraska	18
Nevada	154
New Hampshire	13
New Jersey	66
New Mexico	77
New York	247
North Carolina	83
North Dakota	11
Northern Mariana Islands	6
Nova Scotia	1
Ohio	80
Oklahoma	31
Ontario	16
Oregon	2,754
Pennsylvania	82
Puerto Rico	6
Quebec	2
Rhode Island	14
South Carolina	28
South Dakota	9
Tennessee	59
Texas	390
Utah	185
Vermont	15
Virginia	282
Virgin Islands	2
Washington	31,160
Washington Limited License	1
West Virginia	6
Wisconsin	45
Wyoming	21

By WA County	
Adams	15
Asotin	26
Benton	413
Chelan	257
Cllallam	164
Clark	969
Columbia	8
Cowlitz	153
Douglas	43
Ferry	10
Franklin	61
Garfield	3
Grant	137
Grays Harbor	117
Island	165
Jefferson	118
King	17,468
Kitsap	842
Kittitas	99
Klickitat	28
Lewis	118
Lincoln	15
Mason	108
Okanogan	96
Pacific	29
Pend Oreille	14
Pierce	2,429
San Juan	91
Skagit	290
Skamania	20
Snohomish	1,703
Spokane	2,042
Stevens	57
Thurston	1,700
Wahkiakum	12
Walla Walla	118
Whatcom	610
Whitman	79
Yakima	449

By Admit Yr	
1946	1
1947	2
1948	2
1949	1
1950	5
1951	13
1952	18
1953	16
1954	21
1955	9
1956	32
1957	21
1958	25
1959	28
1960	28
1961	23
1962	29
1963	29
1964	32
1965	46
1966	57
1967	54
1968	79
1969	88
1970	90
1971	96
1972	151
1973	236
1974	223
1975	286
1976	340
1977	346
1978	383
1979	411
1980	438
1981	470
1982	453
1983	493
1984	1,091
1985	555
1986	755
1987	725
1988	632
1989	693
1990	869
1991	841
1992	817
1993	914
1994	871
1995	817
1996	798
1997	907
1998	888
1999	903
2000	903
2001	909
2002	993
2003	1,054
2004	1,084
2005	1,116
2006	1,188
2007	1,262
2008	1,095
2009	976
2010	1,073
2011	1,057
2012	1,086
2013	1,220
2014	1,360
2015	1,594
2016	1,312
2017	1,392
2018	1,315
2019	1,369
2020	1,563
2021	720

Misc Counts	
All License Types **	41,788
All WSBA Members	41,419
Members in Washington	31,160
Members in western Washington	27,106
Members in King County	17,468
Members in eastern Washington	3,970
Active Attorneys in western Washington	23,195
Active Attorneys in King County	15,363
Active Attorneys in eastern Washington	3,327
New/Young Lawyers	6,864
MCLE Reporting Group 1	10,911
MCLE Reporting Group 2	11,621
MCLE Reporting Group 3	11,616
Foreign Law Consultant	18
House Counsel	341
Indigent Representative	10

By Section ***		
	All	Previous Year
Administrative Law Section	237	232
Alternative Dispute Resolution Section	318	314
Animal Law Section	81	88
Antitrust, Consumer Protection and Unfair Business Practice	197	199
Business Law Section	1,240	1,236
Cannabis Law Section	93	108
Civil Rights Law Section	179	165
Construction Law Section	520	510
Corporate Counsel Section	1,085	1,092
Creditor Debtor Rights Section	460	450
Criminal Law Section	381	369
Elder Law Section	618	644
Environmental and Land Use Law Section	796	767
Family Law Section	984	960
Health Law Section	392	392
Indian Law Section	329	322
Intellectual Property Section	860	867
International Practice Section	226	243
Juvenile Law Section	144	138
Labor and Employment Law Section	984	982
Legal Assistance to Military Personnel Section	68	66
Lesbian, Gay, Bisexual, Transgender (LGBT) Law Section	107	115
Litigation Section	1,037	1,004
Low Bono Section	83	120
Real Property Probate and Trust Section	2,311	2,268
Senior Lawyers Section	242	237
Solo and Small Practice Section	891	894
Taxation Section	623	615
World Peace Through Law Section	145	128

\* Per WSBA Bylaws 'Members' include active attorney, emeritus pro-bono, honorary, inactive attorney, judicial, limited license legal technician (LLLT), and limited practice officer (LPO) license types.

\*\* All license types include active attorney, emeritus pro-bono, foreign law consultant, honorary, house counsel, inactive attorney, indigent representative, judicial, LPO, and LLLT.

\*\*\* The values in the All column are reset to zero at the beginning of the year (Jan 1). The Previous Year column is the total from the last day of the prior year (Dec 31). WSBA staff with complimentary membership are not included in the counts.

**WSBA Member\* Demographics Report 9/1/21 1:37:21 PM GMT-07:00**

By Years Licensed	
Under 6	8,357
6 to 10	6,107
11 to 15	5,510
16 to 20	4,879
21 to 25	4,074
26 to 30	3,731
31 to 35	2,909
36 to 40	2,472
41 and Over	3,380
<b>Total:</b>	<b>41,419</b>

By Age	All	Active
21 to 30	1,712	1,658
31 to 40	9,135	8,287
41 to 50	10,146	8,539
51 to 60	9,063	7,189
61 to 70	7,578	5,680
71 to 80	3,191	2,138
Over 80	594	173
<b>Total:</b>	<b>41,419</b>	<b>33,664</b>

By Gender	
Female	12,246
Male	16,383
Non-Binary	21
Not Listed	25
Selected Mult Gender	26
Transgender	1
Two-spirit	4
<b>Respondents</b>	<b>28,706</b>
<b>No Response</b>	<b>12,713</b>
<b>All Member Types</b>	<b>41,419</b>

By Disability	
Yes	1,226
No	19,863
<b>Respondents</b>	<b>21,089</b>
<b>No Response</b>	<b>20,330</b>
<b>All Member Types</b>	<b>41,419</b>

By Sexual Orientation	
Asexual	22
Gay, Lesbian, Bisexual, Pansexual, or Queer	525
Heterosexual	4,831
Not Listed	110
Selected multiple orientations	20
Two-spirit	5
<b>Respondents</b>	<b>5,513</b>
<b>No Response</b>	<b>35,906</b>
<b>All Member Types</b>	<b>41,419</b>

By Ethnicity	
American Indian / Native American / Alaskan Native	230
Asian-Central Asian	26
Asian-East Asian	256
Asian-South Asian	67
Asian-Southeast Asian	74
Asian—unspecified	1,064
Black / African American / African Descent	658
Hispanic / Latinx	701
Middle Eastern Descent	21
Multi Racial / Bi Racial	1,038
Not Listed	214
Pacific Islander / Native Hawaiian	63
White / European Descent	23,043
<b>Respondents</b>	<b>27,455</b>
<b>No Response</b>	<b>13,964</b>
<b>All Member Types</b>	<b>41,419</b>

Members in Firm Type	
Bank	35
Escrow Company	57
Government/ Public Sector	5,104
House Counsel	3,117
Non-profit	451
Title Company	113
Solo	5,076
Solo In Shared Office Or	1,253
2-5 Members in Firm	4,215
6-10 Members in Firm	1,659
11-20 Members in Firm	1,265
21-35 Members in Firm	760
36-50 Members In Firm	554
51-100 Members in Firm	616
100+ Members in Firm	1,854
Not Actively Practicing	1,846
<b>Respondents</b>	<b>27,975</b>
<b>No Response</b>	<b>13,444</b>
<b>All Member Types</b>	<b>41,419</b>

By Practice Area	
Administrative-regulator	2,245
Agricultural	242
Animal Law	112
Antitrust	313
Appellate	1,636
Aviation	178
Banking	429
Bankruptcy	860
Business-commercial	5,216
Cannabis	128
Civil Litigation	506
Civil Rights	1,075
Collections	498
Communications	210
Constitutional	657
Construction	1,352
Consumer	744
Contracts	4,245
Corporate	3,559
Criminal	3,687
Debtor-creditor	905
Disability	584
Dispute Resolution	1,249
Education	468
Elder	846
Employment	2,783
Entertainment	306
Environmental	1,250
Estate Planning-probate	3,306
Family	2,581
Foreclosure	455
Forfeiture	100
General	2,542
Government	2,834
Guardianships	794
Health	938
Housing	317
Human Rights	308
Immigration-naturaliza	1,004
Indian	572
Insurance	1,638
Intellectual Property	2,279
International	892
Judicial Officer	423
Juvenile	805
Labor	1,117
Landlord-tenant	1,239
Land Use	860
Legal Ethics	285
Legal Research-writing	831
Legislation	432
Lgbtq	88
Litigation	4,715
Lobbying	172
Malpractice	731
Maritime	310
Military	381
Municipal	897
Non-profit-tax Exempt	629
Not Actively Practicing	2,042
Oil-gas-energy	238
Patent-trademark-copyr	1,327
Personal Injury	3,208
Privacy And Data Securit	351
Real Property	2,635
Real Property-land Use	2,105
Securities	763
Sports	174
Subrogation	125
Tax	1,284
Torts	2,059
Traffic Offenses	582
Workers Compensation	699

By Languages Spoken	
Afrikaans	5
Akan /twi	5
Albanian	2
American Sign Language	18
Amharic	22
Arabic	51
Armenian	8
Bengali	12
Bosnian	14
Bulgarian	12
Burmese	2
Cambodian	5
Cantonese	107
Cebuano	7
Chamorro	5
Chaozhou/chiu Chow	1
Chin	1
Croatian	20
Czech	7
Danish	19
Dari	4
Dutch	23
Egyptian	3
Farsi/persian	66
Finnish	8
French	695
French Creole	1
Fukienese	3
Ga/kwa	2
German	410
Gikuyu/kikuyu	1
Greek	30
Gujarati	15
Haitian Creole	3
Hebrew	41
Hindi	102
Hmong	1
Hungarian	17
Ibo	4
Icelandic	2
Ilocano	9
Indonesian	12
Italian	165
Japanese	206
Javanese	1
Kannada/canares	5
Kapampangan	2
Khmer	2
Korean	237
Lao	5
Latvian	6
Lithuanian	3
Malay	4
Malayalam	8
Mandarin	387
Marathi	6
Mien	1
Mongolian	2
Navajo	1
Nepali	5
Norwegian	35
Not_listed	44
Oromo	4
Persian	20
Polish	33
Portuguese	127
Portuguese Creole	1
Punjabi	68
Romanian	22
Russian	235
Samoan	7
Serbian	17
Serbo-croatian	13
Sign Language	20
Singhalese	2
Slovak	3
Spanish	1,823
Spanish Creole	4
Swahili	8
Swedish	51
Tagalog	71
Taishanese	4
Taiwanese	21
Tamil	11
Telugu	4
Thai	10
Tigrinya	4
Tongan	1
Turkish	15
Ukrainian	46
Urdu	46
Vietnamese	90
Yoruba	10
Yugoslavian	4

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



# 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.]*

**2020-2021**  
**WSBA BOARD OF GOVERNORS MEETING SCHEDULE**

MEETING DATE	LOCATION	POTENTIAL ISSUES / SOCIAL FUNCTION	AGENDA ITEMS DUE FOR EXEC COMMITTEE MTG	EXECUTIVE COMMITTEE MTG 9:00 am–12:00 pm	BOARD BOOK MATERIALS DEADLINE
November 13-14, 2020	Webcast & Teleconference	BOG Meeting	October 20, 2020	October 26, 2020	October 28, 2020
January 14-15, 2021	Webcast & Teleconference	BOG Meeting	December 8, 2020	December 14, 2020	December 30, 2020
March 18-19, 2021 March 19, 2021	Webcast & Teleconference	BOG Meeting	February 23, 2021	March 1, 2021	March 3, 2021
April 16-17, 2021	Davenport Hotel Spokane, WA	BOG Meeting	March 23, 2021	March 29, 2021	March 31, 2021
May 20-21, 2021	Washington State Convention Center Seattle, WA	BOG Meeting	April 27, 2021	May 3, 2021	May 5, 2021
July 15, 2021 July 16-17, 2021	Skamania Lodge Stevenson, WA	BOG Retreat BOG Meeting	June 22, 2021	June 28, 2021	June 30, 2021
August 20-21, 2021	Riverside Hotel Boise, ID	BOG Meeting	July 27, 2021	August 2, 2021	August 4, 2021
September 23-25, 2021	Hilton Vancouver Washington Vancouver, WA	BOG Meeting BOG Meeting with Supreme Court- Virtual	August 24, 2021	August 30, 2021	September 8, 2021

Note – In-person meetings are dependent upon Covid-19 state guidance on in-person gatherings.

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 1305 BOG Action Procedure on how to bring agenda items to the Board.

This information can be found online at: [www.wsba.org/About-WSBA/Governance/Board-Meeting-Schedule-Materials](http://www.wsba.org/About-WSBA/Governance/Board-Meeting-Schedule-Materials)



# WSBA

## BOARD OF GOVERNORS

### **BOARD OF GOVERNORS POLICY RE: REQUESTS FOR ACTION**

Pursuant to the WSBA Bylaws, the Board of Governors (BOG) is the governing body of the Bar that determines the general policies of the Bar and approves its budget each year.

The BOG adopts this policy to set forth the preferred process for submitting matters to the Board for action. The goal of this process is to ensure that the Board had sufficient information to make a decision, including compliance with relevant rules, fiscal impact, and the input of various stakeholders.

This policy does not limit the President's or any Governor's authority under the Bylaws to establish the agenda and order of business for each BOG meeting.

1. **Initial Request.** Requests for BOG action should be submitted to the President and the Executive Director. The President and Executive Director, in consultation with WSBA General Counsel will determine whether the request is appropriately taken up under General Rule 12.2, the WSBA Bylaws and any other applicable law or order.
2. **Review by BOG Committee.** If the request is from an individual or a non-WSBA entity, the President may refer it to the appropriate BOG Committee to determine whether the matter should be explored further. If there is not a BOG Committee appropriate to the subject matter, it may be referred to the Executive Committee.
3. **Analysis.** When a matter has been requested by a WSBA entity or has been approved for further exploration by a BOG Committee, the Executive Director will ensure that the matter is analyzed, including fiscal impact, stakeholder analysis and input, rule compliance, and implementation implications. A reasonable amount of time should be provided for this analysis taking into account the scope, magnitude, and relative novelty of the request. This information will be shared, as appropriate, to aid in the Board's decision-making.

#### **Requests Requiring Amendment to the WSBA Budget**

Changes to the WSBA Budget should not be approved without a rigorous review of the pros, cons and impacts of said change. As such, any request, proposal, change or suggestion that would require a change to the WSBA budget that arises during a meeting or has not been subject to analysis as described above, should be tabled until the next BOG meeting in order to provide time for that analysis.

The review will be performed by the Treasurer, CFO, HR Director, WSBA President, and the Executive lead for the department affected. The review and potential request will be taken to the Budget and Audit committee for discussion and analysis. The committee's recommendation(s), are intended to be completed and delivered to the BOG for approval in its next meeting.





# WSBA Board of Governors CONGRESSIONAL DISTRICT MAP



**Kyle Sciuchetti**  
President



**Brian Tollefson**  
President-Elect



**Rajeev Majumdar**  
Immediate Past  
President



**Terra Nevitt**  
Executive Director  
& Secretary

2020-2021





## **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 <sup>1</sup>	Yes	Majority
2. Adjourn	Closes the meeting	No	Yes	No	No	Majority
3. Recess	Establishes a brief break	No	Yes	No <sup>2</sup>	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 <sup>3</sup>
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 <sup>4</sup>	No	Majority
12. Amend a motion or resolution (primary amendment)	Proposes a change to a main motion	No	Yes	Yes <sup>4</sup>	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*



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## 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.



## **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



## BOARD OF GOVERNORS

### 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.





## BOARD OF GOVERNORS

Anthony David Gipe  
President

phone: 206.386.4721  
e-mail: [adgipeWSBA@gmail.com](mailto:adgipeWSBA@gmail.com)

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*

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

# Financial Reports

(Unaudited)

## Year to Date July 31, 2021

Prepared by Maggie Yu, Controller  
Submitted by  
Jorge Perez, Chief Financial Officer  
August 24, 2021

**Washington State Bar Association Financial Summary**  
**Compared to Fiscal Year 2021 Budget**  
**For the Period from July 1, 2021 to July 31, 2021**

Category	Actual Revenues	Reforecasted Revenues	Actual Indirect Expenses	Reforecasted Indirect Expenses	Actual Direct Expenses	Reforecasted Direct Expenses	Actual Total Expenses	Reforecasted Total Expenses	Actual Net Result	Reforecasted Net Result
Access to Justice	-	-	182,176	212,533	11,456	53,204	193,632	265,737	(193,632)	(265,737)
Administration	4,478	6,786	895,266	1,099,780	8,297	15,140	903,563	1,114,920	(899,085)	(1,108,134)
Admissions/Bar Exam	1,136,275	1,115,296	667,508	843,354	88,864	268,896	756,372	1,112,050	379,903	3,246
Advancement FTE	-	-	193,726	-	-	-	193,726	239,496	(193,726)	(239,496)
Bar News	490,288	457,200	284,388	353,019	341,358	447,864	625,746	800,883	(135,458)	(343,683)
Board of Governors	-	-	175,263	215,830	98,558	199,698	273,821	415,528	(273,821)	(415,528)
Communications Strategies	813	-	371,110	461,876	19,091	71,302	390,201	533,177	(389,388)	(533,177)
Communications Strategies FTE	-	-	182,990	224,154	-	-	182,990	224,154	(182,990)	(224,154)
Covid 19	-	-	-	-	(945)	-	(945)	-	945	-
Discipline	107,184	96,337	4,746,254	5,757,972	92,042	149,655	4,838,297	5,907,627	(4,731,113)	(5,811,290)
Diversity	135,000	135,374	236,205	278,750	1,568	22,440	237,774	301,190	(102,774)	(165,816)
Foundation	-	-	100,879	125,210	3,104,08	5,000	103,983	130,210	(103,983)	(130,210)
Human Resources	-	-	399,790	385,934	-	-	399,790	385,934	(399,790)	(385,934)
Law Clerk Program	186,101	213,668	83,008	108,864	279	1,374	83,287	110,238	102,814	103,430
Legislative	-	-	102,763	121,266	27,992	28,767	130,755	150,033	(130,755)	(150,033)
Licensing and Membership Records	392,135	352,086	481,008	592,011	22,057	23,909	503,064	615,920	(110,929)	(263,834)
Licensing Fees	13,944,042	16,318,268	-	-	-	-	-	-	13,944,042	16,318,268
Limited License Legal Technician	28,937	28,054	89,646	126,595	6,787,50	7,825	96,433	134,420	(67,496)	(106,367)
Limited Practice Officers	171,834	200,770	52,092	78,920	13,827	15,089	65,919	94,010	105,916	106,760
Mandatory CLE	828,309	839,250	376,185	511,743	133,476	147,237	509,661	658,980	318,648	180,271
Member Assistance Program	9,426	9,000	77,758	127,000	1,051,00	1,075	78,809	128,075	(69,383)	(119,075)
Member Benefits	8,477	13,000	110,149	141,432	164,059	185,996	274,209	327,428	(265,732)	(314,428)
Member Services & Engagement	78,813	67,250	363,979	462,869	7,076	23,907	371,055	486,776	(292,242)	(419,526)
Office of General Counsel	747	27,00	712,669,78	906,308	21,056,32	23,813,82	733,726,10	930,122	(732,979)	(930,095)
Office of the Executive Director	-	-	524,245	637,848	321	100,465	524,566	738,313	(524,566)	(738,313)
OGC-Disciplinary Board	-	-	137,022	168,809	66,175	130,133	203,197	298,942	(203,197)	(298,942)
Outreach and Engagement	-	-	194,894	257,936	783	33,454	195,677	291,390	(195,677)	(291,390)
Practice of Law Board	-	-	47,963	81,823	-	7,825	47,963	69,649	(47,963)	(69,649)
Professional Responsibility Program	-	-	237,306	291,439	979	5,736	238,285	297,175	(238,285)	(297,175)
Public Service Programs	103,000	103,000	108,749	135,981	142,143	237,993	250,891	373,974	(147,891)	(270,974)
Publication and Design Services	-	-	81,130	100,900	4,300	5,069	85,430	105,969	(85,430)	(105,969)
Regulatory Services FTE	-	-	319,319	405,650	-	-	319,319	405,650	(319,319)	(405,650)
Sections Administration	283,099	272,000	230,203	291,946	6,353	7,620	236,556	299,566	46,543	(27,566)
Service Center	-	-	559,854	674,133	4,602	8,500	564,456	682,633	(564,456)	(682,633)
Technology	-	-	1,486,940	1,711,290	-	-	1,486,940	1,711,290	(1,486,940)	(1,711,290)
<b>Subtotal General Fund</b>	<b>17,908,959</b>	<b>20,227,365</b>	<b>14,812,437</b>	<b>18,112,672</b>	<b>1,286,711</b>	<b>2,228,785</b>	<b>16,099,148</b>	<b>20,341,457</b>	<b>1,809,811.31</b>	<b>(114,092)</b>
Expenses using reserve funds	-	-	-	-	-	-	16,099,148	-	-	-
<b>Total General Fund - Net Result from Operations</b>									<b>1,809,811.31</b>	<b>(114,092)</b>
<b>Percentage of Budget</b>	<b>88.54%</b>		<b>81.78%</b>		<b>57.73%</b>		<b>79.14%</b>			
CLE-Seminars and Products	1,088,040	1,212,529	812,556	1,012,798	81,447	264,864	894,003	1,277,662	194,037	(65,133)
CLE- Deskbooks	107,361	140,500	178,061	220,190	98,253	111,939	276,314	332,129	(168,953)	(191,629)
Total CLE	1,195,401	1,353,029	990,617	1,232,988	179,700	376,803	1,170,316	1,609,791	25,084	(256,762)
<b>Percentage of Budget</b>	<b>88.35%</b>		<b>80.34%</b>		<b>47.69%</b>		<b>72.70%</b>			
Total All Sections	612,465	585,779	-	-	354,067	865,167	354,067	865,167	258,398	(279,388)
Client Protection Fund-Restricted	420,054	533,402	127,313	158,569	62,818	493,353	190,131	651,922	229,923	(118,520)
<b>Totals</b>	<b>20,136,879</b>	<b>22,699,575</b>	<b>15,930,366</b>	<b>19,504,229</b>	<b>1,883,296</b>	<b>3,964,108</b>	<b>17,813,662</b>	<b>23,468,336</b>	<b>2,323,217</b>	<b>(768,761)</b>
<b>Percentage of Budget</b>	<b>88.71%</b>		<b>81.68%</b>		<b>47.51%</b>		<b>75.91%</b>			

Summary of Fund Balances:	Fund Balances Sept. 30, 2020	2021 Budgeted Fund Balances	Fund Balances Year to date
<b>Restricted Funds:</b>			
Client Protection Fund	4,193,130	4,074,610	4,423,053
<b>Board-Designated Funds (Non-General Fund):</b>			
CLE Fund Balance	469,241	212,479	494,325
Section Funds	1,210,209	930,821	1,468,607
<b>Board-Designated Funds (General Fund):</b>			
Operating Reserve Fund	1,500,000	1,500,000	1,500,000
Facilities Reserve Fund	550,000	550,000	1,050,000
<b>Unrestricted Funds (General Fund):</b>			
Unrestricted General Fund	3,478,234	3,364,142	4,788,045
<b>Total General Fund Balance</b>	<b>5,528,234</b>	<b>5,414,142</b>	<b>7,338,045</b>
<b>Net Change in general Fund Balance</b>		<b>(114,092)</b>	<b>1,809,811</b>
<b>Total Fund Balance</b>	<b>11,400,814.00</b>	<b>10,632,053</b>	<b>13,724,031</b>
<b>Net Change In Fund Balance</b>		<b>(768,761)</b>	<b>2,323,216.62</b>

**Washington State Bar Association**

Statement of Activities

For the Period from July 1, 2021 to July 31, 2021

**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>LICENSE FEES</b>									
<b>REVENUE:</b>									
LICENSE FEES	1,289,180.00	1,361,152.76	71,972.76	13,733,979.74	13,944,042.33	210,062.59	16,318,267.73	2,374,225.40	85.45%
<b>TOTAL REVENUE:</b>	<b>1,289,180</b>	<b>1,361,153</b>	<b>71,973</b>	<b>13,733,980</b>	<b>13,944,042</b>	<b>210,063</b>	<b>16,318,268</b>	<b>2,374,225</b>	<b>85.45%</b>

**Washington State Bar Association**

Statement of Activities

For the Period from July 1, 2021 to July 31, 2021

**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>ACCESS TO JUSTICE</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
ATJ BOARD RETREAT	2,000	1,200	800	2,000	1,200	800	2,000	800	60.00%
LEADERSHIP TRAINING	250	-	250	1,500	973	527	2,000	1,027	48.65%
ATJ BOARD EXPENSE	2,250	48	2,202	13,500	9,066	4,434	18,000	8,934	50.37%
PUBLIC DEFENSE	550	-	550	3,300	0	3,300	4,400	4,400	0.01%
CONFERENCE/INSTITUTE EXPENSE	3,350	108	3,242	20,103	216	19,887	26,804	26,588	0.81%
<b>TOTAL DIRECT EXPENSES:</b>	<b>8,400</b>	<b>1,356</b>	<b>7,044</b>	<b>40,403</b>	<b>11,456</b>	<b>28,947</b>	<b>53,204</b>	<b>41,748</b>	<b>21.53%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.60 FTE)	9,657	10,799	(1,142)	98,781	109,952	(11,170)	118,095	8,143	93.10%
BENEFITS EXPENSE	3,684	3,529	155	36,734	36,673	60	44,212	7,539	82.95%
OTHER INDIRECT EXPENSE	3,877	3,078	799	40,032	35,551	4,481	50,225	14,674	70.78%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>17,219</b>	<b>17,407</b>	<b>(188)</b>	<b>175,547</b>	<b>182,176</b>	<b>(6,629)</b>	<b>212,533</b>	<b>30,356</b>	<b>85.72%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>25,619</b>	<b>18,763</b>	<b>6,856</b>	<b>215,951</b>	<b>193,632</b>	<b>22,318</b>	<b>265,737</b>	<b>72,104</b>	<b>72.87%</b>
<b>NET INCOME (LOSS):</b>	<b>(25,619)</b>	<b>(18,763)</b>	<b>6,856</b>	<b>(215,951)</b>	<b>(193,632)</b>	<b>22,318</b>	<b>(265,737)</b>	<b>(72,104)</b>	<b>72.87%</b>

**Washington State Bar Association**

Statement of Activities

For the Period from July 1, 2021 to July 31, 2021

**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>ADMINISTRATION</b>									
<b>REVENUE:</b>									
INTEREST INCOME	500	239	(261)	5,786	4,478	(1,308)	6,786	2,308	65.99%
MISCELLANEOUS	-	(50)	(50)	-	-	-	-	-	-
<b>TOTAL REVENUE:</b>	<b>500</b>	<b>189</b>	<b>(311)</b>	<b>5,786</b>	<b>4,478</b>	<b>(1,308)</b>	<b>6,786</b>	<b>2,308</b>	<b>65.99%</b>
<b>DIRECT EXPENSES:</b>									
CONSULTING SERVICES	-	843	(843)	8,196	6,931	1,265	11,000	4,069	63.01%
STAFF TRAVEL/PARKING	350	-	350	3,440	1,366	2,074	4,140	2,774	33.01%
<b>TOTAL DIRECT EXPENSES:</b>	<b>350</b>	<b>843</b>	<b>(493)</b>	<b>11,636</b>	<b>8,297</b>	<b>3,339</b>	<b>15,140</b>	<b>6,843</b>	<b>54.80%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (6.92 FTE)	55,094	53,370	1,724	571,245	573,681	(2,436)	681,430.99	107,750	84.19%
BENEFITS EXPENSE	16,721	15,890	830	166,931	167,122	(190)	200,848	33,727	83.21%
OTHER INDIRECT EXPENSE	16,768	13,375	3,393	173,417	154,463	18,954	217,501	63,037	71.02%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>88,583</b>	<b>82,635</b>	<b>5,948</b>	<b>911,593</b>	<b>895,266</b>	<b>16,328</b>	<b>1,099,780</b>	<b>204,515</b>	<b>81.40%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>88,933</b>	<b>83,479</b>	<b>5,454</b>	<b>923,229</b>	<b>903,563</b>	<b>19,666</b>	<b>1,114,920</b>	<b>211,357</b>	<b>81.04%</b>
<b>NET INCOME (LOSS):</b>	<b>(88,433)</b>	<b>(83,289)</b>	<b>5,144</b>	<b>(917,443)</b>	<b>(899,085)</b>	<b>18,358</b>	<b>(1,108,134)</b>	<b>(209,049)</b>	<b>81.14%</b>

**Washington State Bar Association**

Statement of Activities

For the Period from July 1, 2021 to July 31, 2021

**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>ADMISSIONS</b>									
<b>REVENUE:</b>									
BAR EXAM FEES	-	31,745	31,745	1,059,321	1,078,815	19,494	1,059,321	(19,494)	101.84%
RULE 9/LEGAL INTERN FEES	-	850	850	11,192	11,150	(42)	11,192	42	99.62%
RPC BOOKLETS	-	-	-	-	5	5	-	(5)	
SPECIAL ADMISSIONS	-	3,100	3,100	44,783	46,305	1,522	44,783	(1,522)	103.40%
<b>TOTAL REVENUE:</b>	<b>-</b>	<b>35,695</b>	<b>35,695</b>	<b>1,115,296</b>	<b>1,136,275</b>	<b>20,979</b>	<b>1,115,296</b>	<b>(20,979)</b>	<b>101.88%</b>
<b>DIRECT EXPENSES:</b>									
POSTAGE	150	38	112	919	407	512	1,219	812	33.36%
STAFF TRAVEL/PARKING	180	-	180	600	473	126	2,500	2,027	18.94%
STAFF MEMBERSHIP DUES	-	250	(250)	400	400	-	800	400	50.00%
SUPPLIES	83	-	83	1,440	940	500	1,607	667	58.51%
FACILITY, PARKING, FOOD	7,880	-	7,880	14,849	10,538	4,311	20,000	9,462	52.69%
EXAMINER FEES	-	-	-	10,000	10,000	-	26,000	16,000	38.46%
UBE EXMINATIONS	95,000	-	95,000	121,000	25,901	95,099	121,000	95,099	21.41%
BAR EXAM PROCTORS	-	-	-	(133)	150	(283)	(133)	(283)	-113.08%
CHARACTER & FITNESS BOARD	-	-	-	1,000	12	988	1,000	988	1.22%
DISABILITY ACCOMMODATIONS	-	4,775	(4,775)	4,491	8,385	(3,894)	9,491	1,106	88.35%
CHARACTER & FITNESS INVESTIGATIONS	-	20	(20)	306	26	280	306	280	8.54%
LAW SCHOOL VISITS	-	-	-	-	-	-	750	750	0.00%
ILG EXAM FEES	-	-	-	10,500	10,450	50	50,000	39,550	20.90%
COURT REPORTERS	1,250	-	1,250	11,211	6,766	4,445	13,711	6,945	49.35%
DEPRECIATION-SOFTWARE	1,898	1,627	271	13,154	11,527	1,627	16,950	5,423	68.01%
CONFERENCE CALLS	-	23	(23)	-	23	(23)	-	(23)	
ONLINE LEGAL RESEARCH	304	307	(3)	2,737	2,756	(19)	3,345	589	82.38%
LAW LIBRARY	13	11	2	123	111	13	150	39	73.77%
<b>TOTAL DIRECT EXPENSES:</b>	<b>106,759</b>	<b>7,051</b>	<b>99,708</b>	<b>192,597</b>	<b>88,864</b>	<b>103,733</b>	<b>268,696</b>	<b>179,831</b>	<b>33.07%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (6.55 FTE)	39,775	36,897	2,878	384,231	377,925	6,306	463,780	85,854	81.49%
BENEFITS EXPENSE	14,451	13,852	600	143,359	143,700	(341)	172,719	29,019	83.20%
OTHER INDIRECT EXPENSE	16,114	12,632	3,482	164,492	145,882	18,610	206,855	60,973	70.52%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>70,340</b>	<b>63,381</b>	<b>6,959</b>	<b>692,083</b>	<b>667,508</b>	<b>24,575</b>	<b>843,354</b>	<b>175,846</b>	<b>79.15%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>177,099</b>	<b>70,432</b>	<b>106,667</b>	<b>884,679</b>	<b>756,372</b>	<b>128,307</b>	<b>1,112,050</b>	<b>355,678</b>	<b>68.02%</b>
<b>NET INCOME (LOSS):</b>	<b>(177,099)</b>	<b>(34,737)</b>	<b>142,362</b>	<b>230,616</b>	<b>379,903</b>	<b>149,286</b>	<b>3,246</b>	<b>(376,656)</b>	<b>11703.17%</b>

**Washington State Bar Association**

Statement of Activities

For the Period from July 1, 2021 to July 31, 2021

**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
ADVANCEMENT FTE									
INDIRECT EXPENSES:									
SALARY EXPENSE (1.15 FTE)	13,398	12,973	425	134,798	133,302	1,495	161,593	28,291	82.49%
BENEFITS EXPENSE	3,500	3,272	228	34,649	34,680	(30)	41,728	7,049	83.11%
OTHER INDIRECT EXPENSE	2,787	2,229	557	28,849	25,744	3,105	36,175	10,431	71.17%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>19,685</b>	<b>18,474</b>	<b>1,210</b>	<b>198,296</b>	<b>193,726</b>	<b>4,570</b>	<b>239,496</b>	<b>45,771</b>	<b>80.89%</b>
<b>NET INCOME (LOSS):</b>	<b>(19,685)</b>	<b>(18,474)</b>	<b>1,210</b>	<b>(198,296)</b>	<b>(193,726)</b>	<b>4,570</b>	<b>(239,496)</b>	<b>(45,771)</b>	<b>80.89%</b>



**Washington State Bar Association**

Statement of Activities

For the Period from July 1, 2021 to July 31, 2021

**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>BAR NEWS</b>									
<b>REVENUE:</b>									
ROYALTIES	92	-	(92)	1,815	1,262	(554)	2,000	738	63.09%
DISPLAY ADVERTISING	30,213	37,952	7,739	269,787	316,434	46,646	300,000	(16,433)	105.48%
SUBSCRIPT/SINGLE ISSUES	27	-	(27)	172	72	(100)	200	128	36.06%
CLASSIFIED ADVERTISING	1,092	136	(956)	6,407	1,707	(4,700)	7,500	5,793	22.76%
GEN ANNOUNCEMENTS	1,025	198	(827)	6,475	4,800	(1,675)	7,500	2,700	64.00%
PROF ANNOUNCEMENTS	2,344	1,850	(494)	17,656	16,552	(1,104)	20,000	3,448	82.76%
JOB TARGET ADVERTISING	13,583	20,955	7,372	106,418	149,461	43,044	120,000	(29,461)	124.55%
<b>TOTAL REVENUE:</b>	<b>48,376</b>	<b>61,091</b>	<b>12,714</b>	<b>408,731</b>	<b>490,288</b>	<b>81,557</b>	<b>457,200</b>	<b>(33,088)</b>	<b>107.24%</b>
<b>DIRECT EXPENSES:</b>									
<b>BAD DEBT EXPENSE</b>	63	-	63	375	-	375	500	500	0.00%
POSTAGE	10,710	-	10,710	84,290	73,315	10,975	95,000	21,684	77.17%
PRINTING, COPYING & MAILING	29,399	24,863	4,537	220,600	197,480	23,121	250,000	52,520	78.99%
DIGITAL/ONLINE DEVELOPMENT	1,044	1,115	(71)	8,913	9,414	(502)	11,000	1,586	85.58%
GRAPHICS/ARTWORK	31	-	31	188	-	188	250	250	0.00%
OUTSIDE SALES EXPENSE	8,556	865	7,691	81,445	61,149	20,296	90,000	28,851	67.94%
EDITORIAL ADVISORY COMMITTEE	63	-	63	375	-	375	500	500	0.00%
STAFF MEMBERSHIP DUES	123	-	123	369	-	369	615	615	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>49,987</b>	<b>26,842</b>	<b>23,145</b>	<b>396,554</b>	<b>341,358</b>	<b>55,196</b>	<b>447,864</b>	<b>106,506</b>	<b>76.22%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (2.83 FTE)	16,744	16,727	17	169,270	169,937	(667)	202,757	32,820	83.81%
BENEFITS EXPENSE	5,075	4,898	177	51,057	51,317	(260)	61,402	10,084	83.58%
OTHER INDIRECT EXPENSE	6,850	5,467	1,383	70,853	63,134	7,719	88,860	25,726	71.05%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>28,668</b>	<b>27,091</b>	<b>1,577</b>	<b>291,181</b>	<b>284,388</b>	<b>6,792</b>	<b>353,019</b>	<b>68,630</b>	<b>80.56%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>78,656</b>	<b>53,933</b>	<b>24,722</b>	<b>687,735</b>	<b>625,746</b>	<b>61,988</b>	<b>800,883</b>	<b>175,137</b>	<b>78.13%</b>
<b>NET INCOME (LOSS):</b>	<b>(30,279)</b>	<b>7,157</b>	<b>37,436</b>	<b>(279,003)</b>	<b>(135,458)</b>	<b>143,545</b>	<b>(343,683)</b>	<b>(208,225)</b>	<b>39.41%</b>

**Washington State Bar Association**

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**83.33%% OF YEAR COMPLETE**

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>BOARD OF GOVERNOR</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
BOG MEETINGS	21,000	17,152	3,848	48,114	59,930	(11,817)	89,114	29,183	67.25%
BOG COMMITTEES' EXPENSES	1,500	1	1,499	1,635	10	1,625	4,635	4,625	0.21%
BOG RETREAT	15,000	786	14,214	15,253	2,238	13,016	15,253	13,016	14.67%
BOG CONFERENCE ATTENDANCE	-	-	-	1,988	497	1,491	6,988	6,491	7.11%
BOG TRAVEL & OUTREACH	1,325	2,044	(719)	8,885	4,679	4,207	11,535	6,856	40.56%
LEADERSHIP TRAINING	4,167	380	3,787	25,000	2,071	22,929	33,333	31,262	6.21%
BOG ELECTIONS	-	-	-	28,840	29,134	(294)	28,840	(294)	101.02%
PRESIDENT'S DINNER	-	-	-	-	-	-	10,000	10,000	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>42,991</b>	<b>20,363</b>	<b>22,629</b>	<b>129,715</b>	<b>98,558</b>	<b>31,157</b>	<b>199,698</b>	<b>101,140</b>	<b>49.35%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.75 FTE)	9,783	9,759	24	99,812	101,765	(1,954)	119,377	17,612	85.25%
BENEFITS EXPENSE	3,441	3,317	124	34,502	34,575	(73)	41,504	6,929	83.31%
OTHER INDIRECT EXPENSE	4,241	3,370	870	43,801	38,922	4,878	54,949	16,026	70.83%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>17,464</b>	<b>16,446</b>	<b>1,018</b>	<b>178,114</b>	<b>175,263</b>	<b>2,851</b>	<b>215,830</b>	<b>40,567</b>	<b>81.20%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>60,456</b>	<b>36,809</b>	<b>23,647</b>	<b>307,829</b>	<b>273,821</b>	<b>34,008</b>	<b>415,528</b>	<b>141,707</b>	<b>65.90%</b>
<b>NET INCOME (LOSS):</b>	<b>(60,456)</b>	<b>(36,809)</b>	<b>23,647</b>	<b>(307,829)</b>	<b>(273,821)</b>	<b>34,008</b>	<b>(415,528)</b>	<b>(141,707)</b>	<b>65.90%</b>

**Washington State Bar Association**

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>CONTINUING LEGAL EDUCATION (CLE)</b>									
<b>REVENUE:</b>									
SEMINAR REGISTRATIONS	66,923	50,443	(16,481)	516,551	665,808	149,257	650,398	(15,410)	102.37%
SEMINAR-EXHIB/SPNSR/ETC	310	-	(310)	1,033	2,150	1,117	5,000	2,850	43.00%
SHIPPING & HANDLING	83	45	(38)	574	254	(320)	741	487	34.32%
COURSEBOOK SALES	362	500	138	3,277	3,207	(70)	4,000	793	80.18%
MP3 AND VIDEO SALES	14,921	48,248	33,327	403,180	416,620	13,441	552,390	135,770	75.42%
<b>TOTAL REVENUE:</b>	<b>82,599</b>	<b>99,236</b>	<b>16,636</b>	<b>924,615</b>	<b>1,088,040</b>	<b>163,424</b>	<b>1,212,529</b>	<b>124,489</b>	<b>89.73%</b>
<b>DIRECT EXPENSES:</b>									
COURSEBOOK PRODUCTION	63	-	63	375	-	375	500	500	0.00%
POSTAGE - FLIERS/CATALOGS	70	-	70	1,359	-	1,359	1,500	1,500	0.00%
DEPRECIATION	-	109	(109)	3,188	2,968	220	3,188	220	93.09%
ONLINE EXPENSES	4,000	3,869	(131)	38,559	38,901	(341)	46,559	7,659	83.55%
ACCREDITATION FEES	-	(72)	72	2,772	2,340	432	2,772	432	84.42%
FACILITIES	4,400	2,400	2,000	31,200	27,200	4,000	64,700	37,500	42.04%
TRANSACTION SERVICES	176	2,667	(2,491)	1,149	2,937	(1,788)	1,500	(1,437)	195.76%
SPEAKERS & PROGRAM DEVELOP	200	520	(320)	1,526	1,261	265	6,026	4,765	20.93%
SPLITS TO SECTIONS	-	-	-	115,000	3,611	111,389	115,000	111,389	3.14%
HONORARIA	838	-	838	5,025	-	5,025	6,700	6,700	0.00%
CLE SEMINAR COMMITTEE	13	-	13	75	-	75	100	100	0.00%
BAD DEBT EXPENSE	54	-	54	325	-	325	433	433	0.00%
STAFF TRAVEL/PARKING	1,250	-	1,250	7,573	73	7,500	10,073	10,000	0.73%
STAFF MEMBERSHIP DUES	121	-	121	2,062	1,336	726	2,305	969	57.97%
SUBSCRIPTIONS	-	-	-	-	334	(334)	-	(334)	
SUPPLIES	83	-	83	500	-	500	667	667	0.00%
CONFERENCE CALLS	4	-	4	25	-	25	33	33	0.00%
COST OF SALES - COURSEBOOKS	125	33	92	819	216	603	1,069	853	20.18%
A/V DEVELOP COSTS (RECORDING)	167	-	167	1,000	-	1,000	1,333	1,333	0.00%
POSTAGE & DELIVERY-COURSEBOOKS	42	39	3	322	271	51	405	134	66.81%
<b>TOTAL DIRECT EXPENSES:</b>	<b>11,605</b>	<b>9,564</b>	<b>2,041</b>	<b>212,855</b>	<b>81,447</b>	<b>131,408</b>	<b>264,864</b>	<b>183,418</b>	<b>30.75%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (8.42 FTE)	44,512.50	32,755	11,758	460,855	447,538	13,317	551,283	103,745	81.18%
BENEFITS EXPENSE	17,123	16,553	570	174,914	177,455	(2,541)	210,621	33,165	84.25%
OTHER INDIRECT EXPENSE	18,865	16,241	2,624	200,426	187,563	12,863	250,895	63,332	74.76%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>80,501</b>	<b>65,549</b>	<b>14,952</b>	<b>836,195</b>	<b>812,556</b>	<b>23,639</b>	<b>1,012,798</b>	<b>200,242</b>	<b>80.23%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>92,106</b>	<b>75,113</b>	<b>16,993</b>	<b>1,049,050</b>	<b>894,003</b>	<b>155,047</b>	<b>1,277,662</b>	<b>383,660</b>	<b>69.97%</b>
<b>NET INCOME (LOSS):</b>	<b>(9,506)</b>	<b>24,123</b>	<b>33,629</b>	<b>(124,435)</b>	<b>194,037</b>	<b>318,472</b>	<b>(65,133)</b>	<b>(259,170)</b>	<b>-297.91%</b>

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<b>COMMUNICATION STRATEGIES</b>									
<b>REVENUE:</b>									
WSBA LOGO MERCHANDISE SALES	-	813	813	-	813	813	-	(813)	
<b>TOTAL REVENUE:</b>	<b>-</b>	<b>813</b>	<b>813</b>	<b>-</b>	<b>813</b>	<b>813</b>	<b>-</b>	<b>(813)</b>	
<b>DIRECT EXPENSES:</b>									
STAFF TRAVEL/PARKING	392	198	194	3,340	2,832	508	4,123	1,291	68.68%
STAFF MEMBERSHIP DUES	99	-	99	971	380	591	1,169	789	32.52%
SUBSCRIPTIONS	254	302	(48)	2,242	2,929	(686)	2,751	(178)	106.46%
DIGITAL/ONLINE DEVELOPMENT	67	-	67	400	545	(145)	533	(12)	102.20%
APEX DINNER	12,082	-	12,082	12,918	837	12,082	25,000	24,163	3.35%
50 YEAR MEMBER TRIBUTE LUNCH	1,875	116	1,759	11,250	116	11,134	15,000	14,884	0.78%
COMMUNICATIONS OUTREACH	2,083	-	2,083	14,465	10,348	4,117	18,632	8,284	55.54%
TELEPHONE	25	45	(20)	509	844	(335)	559	(285)	151.04%
CONFERENCE CALLS	25	-	25	151	-	151	201	201	0.00%
MISCELLANEOUS	417	-	417	2,500	260	2,240	3,333	3,073	7.80%
<b>TOTAL DIRECT EXPENSES:</b>	<b>17,318</b>	<b>661</b>	<b>16,657</b>	<b>48,747</b>	<b>19,091</b>	<b>29,657</b>	<b>71,302</b>	<b>52,211</b>	<b>26.77%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (3.80 FTE)	21,355	21,332	23	217,462	217,680	(218)	260,171	42,491	83.67%
BENEFITS EXPENSE	6,788	6,561	227	68,447	68,843	(396)	82,285	13,442	83.66%
OTHER INDIRECT EXPENSE	9,216	7,325	1,892	95,191	84,587	10,604	119,420	34,833	70.83%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>37,359</b>	<b>35,218</b>	<b>2,141</b>	<b>381,100</b>	<b>371,110</b>	<b>9,990</b>	<b>461,876</b>	<b>90,766</b>	<b>80.35%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>54,677</b>	<b>35,879</b>	<b>18,798</b>	<b>429,847</b>	<b>390,201</b>	<b>39,646</b>	<b>533,177</b>	<b>142,977</b>	<b>73.18%</b>
<b>NET INCOME (LOSS):</b>	<b>(54,677)</b>	<b>(35,066)</b>	<b>19,611</b>	<b>(429,847)</b>	<b>(389,388)</b>	<b>40,459</b>	<b>(533,177)</b>	<b>(143,789)</b>	<b>73.03%</b>

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<b>COMMUNICATION STRATEGIES FTE</b>									
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.00 FTE)	12,462	12,457	6	124,988	125,160	(171)	149912.82	24,753	83.49%
BENEFITS EXPENSE	3,616	3,373	243	35,490	35,458	32	42,790	7,332	82.86%
OTHER INDIRECT EXPENSE	2,423	1,937	486	25,081	22,373	2,708	31,451	9,078	71.14%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>18,501</b>	<b>17,767</b>	<b>735</b>	<b>185,558</b>	<b>182,990</b>	<b>2,568</b>	<b>224,154</b>	<b>41,164</b>	<b>81.64%</b>
<b>NET INCOME (LOSS):</b>	<b>(18,501)</b>	<b>(17,767)</b>	<b>735</b>	<b>(185,558)</b>	<b>(182,990)</b>	<b>2,568</b>	<b>(224,154)</b>	<b>(41,164)</b>	<b>81.64%</b>

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<b>CLIENT PROTECTION FUND</b>									
<b>REVENUE:</b>									
CPF RESTITUTION	92	806	715	9,479	58,765	49,286	9,662	(49,103)	608.21%
CPF MEMBER ASSESSMENTS	24,700	1,440	(23,260)	466,140	357,180	(108,960)	515,540	158,360	69.28%
INTEREST INCOME	833	422	(411)	6,534	4,109	(2,424)	8,200	4,091	50.11%
<b>TOTAL REVENUE:</b>	<b>25,625</b>	<b>2,669</b>	<b>(22,956)</b>	<b>482,152</b>	<b>420,054</b>	<b>(62,098)</b>	<b>533,402</b>	<b>113,348</b>	<b>78.75%</b>
<b>DIRECT EXPENSES:</b>									
BANK FEES - WELLS FARGO	26	165	(139)	1,343	1,700	(357)	1,395	(305)	121.83%
GIFTS TO INJURED CLIENTS	102,907	-	102,907	285,067	61,065	224,002	490,880	429,815	12.44%
CPF BOARD EXPENSES	71	5	66	736	54	682	877	824	6.12%
STAFF MEMBERSHIP DUES	-	-	-	200	-	200	200	200	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>103,003</b>	<b>170</b>	<b>102,833</b>	<b>287,346</b>	<b>62,818</b>	<b>224,527</b>	<b>493,353</b>	<b>430,534</b>	<b>12.73%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.23 FTE)	7,091	7,084	7	71,563	71,633	(70)	85,746	14,113	83.54%
BENEFITS EXPENSE	2,855	2,738	118	28,439	28,404	35	34,234	5,830	82.97%
OTHER INDIRECT EXPENSE	2,981	2,362	619	30,754	27,276	3,478	38,589	11,313	70.68%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>12,927</b>	<b>12,184</b>	<b>744</b>	<b>130,755</b>	<b>127,313</b>	<b>3,443</b>	<b>158,569</b>	<b>31,256</b>	<b>80.29%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>115,931</b>	<b>12,354</b>	<b>103,577</b>	<b>418,101</b>	<b>190,131</b>	<b>227,970</b>	<b>651,922</b>	<b>461,790</b>	<b>29.16%</b>
<b>NET INCOME (LOSS):</b>	<b>(90,306)</b>	<b>(9,685)</b>	<b>80,621</b>	<b>64,051</b>	<b>229,923</b>	<b>165,872</b>	<b>(118,520)</b>	<b>(348,443)</b>	<b>-194.00%</b>

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<b>DESKBOOKS</b>									
<b>REVENUE:</b>									
LEXIS/NEXIS ROYALTIES	1,500	-	(1,500)	9,000 #	- #	(9,000)	12,000	12,000	0.00%
FASTCASE ROYALTIES	250	-	(250)	1,500 #	- #	(1,500)	2,000	2,000	0.00%
SHIPPING & HANDLING	97	-	(97)	2,306	2,122	(185)	2,500	378	84.87%
DESKBOOK SALES	1,812	-	(1,812)	70,375	74,032	3,657	74,000	(32)	100.04%
SECTION PUBLICATION SALES	189	-	(189)	9,623	9,890	268	10,000	110	98.90%
CASEMAKER ROYALTIES	2,335	-	(2,335)	35,329	21,317	(14,012)	40,000	18,683	53.29%
<b>TOTAL REVENUE:</b>	<b>6,183</b>	<b>-</b>	<b>(6,183)</b>	<b>128,134</b>	<b>107,361</b>	<b>(20,772)</b>	<b>140,500</b>	<b>33,139</b>	<b>76.41%</b>
<b>DIRECT EXPENSES:</b>									
COST OF SALES - DESKBOOKS	2,226	-	2,226	44,423	37,560	6,863	48,875	11,314	76.85%
COST OF SALES - SECTION PUBLICATION	36	-	36	2,728	3,003	(275)	2,800	(203)	107.26%
SPLITS TO SECTIONS	715	-	715	6,070	3,844	2,226	7,500	3,656	51.25%
DESKBOOK ROYALTIES	45	-	45	410	199	210	500	301	39.87%
POSTAGE & DELIVER-DESKBOOKS	127	(6,938)	7,065	2,747	3,167	(420)	3,000	(167)	105.55%
FLIERS/CATALOGS	(0)	-	(0)	2,507	2,507	(0)	2,507	(0)	100.01%
ONLINE LEGAL RESEARCH	171	154	17	1,330	1,378	(47)	1,672	294	82.41%
POSTAGE - FLIERS/CATALOGS	117	-	117	703	936	(233)	937	1	99.92%
OBSOLETE INVENTORY	2,945	581	2,364	29,452	33,943	(4,491)	35,343	1,400	96.04%
BAD DEBT EXPENSE	13	-	13	75	-	75	100	100	0.00%
RECORDS STORAGE - OFF SITE	625	7,050	(6,425)	6,850	11,500	(4,650)	8,100	(3,400)	141.98%
STAFF MEMBERSHIP DUES	44	-	44	132	30	102	220	190	13.64%
MISCELLANEOUS	25	-	25	150	-	150	200	200	0.00%
SUBSCRIPTIONS	-	-	-	185	185	-	185	0	99.98%
<b>TOTAL DIRECT EXPENSES:</b>	<b>7,088</b>	<b>847</b>	<b>6,241</b>	<b>97,762</b>	<b>98,253</b>	<b>(490)</b>	<b>111,939</b>	<b>13,686</b>	<b>87.77%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.52 FTE)	10,472	10,463	9	106,799	106,949	(150)	127,743.6	20,795	83.72%
BENEFITS EXPENSE	3,714	3,542	172	37,104	37,093	11	44,636	7,543	83.10%
OTHER INDIRECT EXPENSE	3,683	2,946	738	38,127	34,019	4,109	47,810	13,792	71.15%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>17,869</b>	<b>16,951</b>	<b>918</b>	<b>182,030</b>	<b>178,061</b>	<b>3,970</b>	<b>220,190</b>	<b>42,129</b>	<b>80.87%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>24,958</b>	<b>17,798</b>	<b>7,160</b>	<b>279,793</b>	<b>276,314</b>	<b>3,479</b>	<b>332,129</b>	<b>55,815</b>	<b>83.19%</b>
<b>NET INCOME (LOSS):</b>	<b>(18,774)</b>	<b>(17,798)</b>	<b>977</b>	<b>(151,659)</b>	<b>(168,953)</b>	<b>(17,293)</b>	<b>(191,629)</b>	<b>(22,676)</b>	<b>88.17%</b>

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**83.33%% OF YEAR COMPLETE**

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<b>DISCIPLINE</b>									
<b>REVENUE:</b>									
COPY FEES	-	-	-	60	-	(60)	60	60	0.00%
AUDIT REVENUE	107	170	64	1,064	1,211	147	1,277	66	94.85%
RECOVERY OF DISCIPLINE COSTS	6,278	2,431	(3,847)	67,444	89,856	22,412	80,000	(9,856)	112.32%
DISCIPLINE HISTORY SUMMARY	1,166	1,522	1,522	12,667	16,117	3,449	15,000	(1,117)	107.44%
<b>TOTAL REVENUE:</b>	<b>7,551</b>	<b>4,123</b>	<b>(2,262)</b>	<b>81,236</b>	<b>107,184</b>	<b>25,948</b>	<b>96,337</b>	<b>(10,847)</b>	<b>111.26%</b>
<b>DIRECT EXPENSES:</b>									
PUBLICATIONS PRODUCTION	31	-	31	188	181	7	250	69	72.24%
STAFF TRAVEL/PARKING	2,917	465	2,452	14,753	9,591	5,163	20,587	10,996	46.59%
STAFF MEMBERSHIP DUES	250	-	250	4,580	4,340	240	5,080	740	85.43%
TELEPHONE	185	275	(90)	1,829	1,874	(45)	2,200	326	85.18%
COURT REPORTERS	2,765	360	2,406	21,969	18,500	3,469	27,500	9,000	67.27%
OUTSIDE COUNSEL/AIC	375	-	375	2,250	500	1,750	3,000	2,500	16.67%
LITIGATION EXPENSES	1,972	932	1,041	13,556	6,740	6,816	17,500	10,760	38.51%
DISABILITY EXPENSES	938	-	938	5,625	4,900	725	7,500	2,600	65.33%
ONLINE LEGAL RESEARCH	5,006	4,456	550	43,276	40,000	3,276	53,288	13,288	75.06%
LAW LIBRARY	1,138	150	988	9,724	4,918	4,806	12,000	7,082	40.98%
TRANSLATION SERVICES	94	-	94	563	500	63	750	250	66.67%
<b>TOTAL DIRECT EXPENSES:</b>	<b>15,671</b>	<b>6,637</b>	<b>9,034</b>	<b>118,312</b>	<b>92,042</b>	<b>26,270</b>	<b>149,655</b>	<b>57,612</b>	<b>61.50%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (37.00 FTE)	292,242	299,046	(6,803)	2,964,089	3,036,389	(72,300)	3,571,125	534,736	85.03%
BENEFITS EXPENSE	85,694	81,609	4,085	875,300	884,835	(9,535)	1,057,652	172,817	83.66%
OTHER INDIRECT EXPENSE	84,812	71,441	13,371	895,951	825,031	70,920	1,129,195	304,165	73.06%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>462,748</b>	<b>452,096</b>	<b>10,652</b>	<b>4,735,340</b>	<b>4,746,254</b>	<b>(10,914)</b>	<b>5,757,972</b>	<b>1,011,718</b>	<b>82.43%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>478,419</b>	<b>458,733</b>	<b>19,686</b>	<b>4,853,652</b>	<b>4,838,297</b>	<b>15,356</b>	<b>5,907,627</b>	<b>1,069,330</b>	<b>81.90%</b>
<b>NET INCOME (LOSS):</b>	<b>(470,868)</b>	<b>(454,610)</b>	<b>16,258</b>	<b>(4,772,417)</b>	<b>(4,731,113)</b>	<b>41,304</b>	<b>(5,811,290)</b>	<b>(1,080,177)</b>	<b>81.41%</b>



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<b>DIVERSITY</b>									
<b>REVENUE:</b>									
DONATIONS	(1,250)	-	1,250	127,500	135,000	7,500	125,000	(10,000)	108.00%
WORK STUDY GRANTS	1,297	-	(1,297)	7,781	-	(7,781)	10,374	10,374	0.00%
<b>TOTAL REVENUE:</b>	<b>47</b>	<b>-</b>	<b>(47)</b>	<b>135,281</b>	<b>135,000</b>	<b>(281)</b>	<b>135,374</b>	<b>374</b>	<b>99.72%</b>
<b>DIRECT EXPENSES:</b>									
STAFF MEMBERSHIP DUES	58	-	58	174	-	174	290	290	0.00%
COMMITTEE FOR DIVERSITY	610	-	610	3,679	17	3,662	4,900	4,883	0.35%
DIVERSITY EVENTS & PROJECTS	2,063	51	2,011	13,125	1,551	11,574	17,250	15,699	8.99%
<b>TOTAL DIRECT EXPENSES:</b>	<b>2,731</b>	<b>51</b>	<b>2,680</b>	<b>16,978</b>	<b>1,568</b>	<b>15,410</b>	<b>22,440</b>	<b>20,872</b>	<b>6.99%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (2.46 FTE)	15,200	17,927	(2,727)	120,122	130,253	(10,132)	150,814	20,561	86.37%
BENEFITS EXPENSE	5,438	5,236	202	48,380	51,093	(2,713)	59,610	8,516	85.71%
OTHER INDIRECT EXPENSE	5,598	4,750	847	53,411	54,859	(1,448)	68,326	13,468	80.29%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>26,236</b>	<b>27,913</b>	<b>(1,677)</b>	<b>221,913</b>	<b>236,205</b>	<b>(14,292)</b>	<b>278,750</b>	<b>42,544</b>	<b>84.74%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>28,967</b>	<b>27,965</b>	<b>1,002</b>	<b>238,891</b>	<b>237,774</b>	<b>1,118</b>	<b>301,190</b>	<b>63,416</b>	<b>78.94%</b>
<b>NET INCOME (LOSS):</b>	<b>(28,920)</b>	<b>(27,965)</b>	<b>955</b>	<b>(103,611)</b>	<b>(102,774)</b>	<b>837</b>	<b>(165,816)</b>	<b>(63,042)</b>	<b>61.98%</b>

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<b>FOUNDATION</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
CONSULTING SERVICES	-	-	-	3,000	3,000	-	3,000	-	100.00%
PRINTING & COPYING	-	-	-	-	-	-	450	450	0.00%
STAFF TRAVEL/PARKING	-	-	-	-	-	-	100	100	0.00%
SUPPLIES	-	-	-	-	-	-	150	150	0.00%
SPECIAL EVENTS	-	-	-	-	50	(50)	-	(50)	
BOARD OF TRUSTEES	-	4	(4)	-	54	(54)	1,000	946	5.41%
POSTAGE	-	-	-	-	-	-	300	300	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	-	4	(4)	3,000	3,104	(104)	5,000	1,896	62.08%
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.00 FTE)	6,443	6,438	6	65,067	65,135	(68)	77,954	12,819	83.56%
BENEFITS EXPENSE	1,290	1,254	36	13,157	13,371	(214)	15,805	2,434	84.60%
OTHER INDIRECT EXPENSE	2,423	1,937	486	25,081	22,373	2,708	31,451	9,078	71.14%
<b>TOTAL INDIRECT EXPENSES:</b>	10,156	9,629	527	103,305	100,879	2,425	125,210	24,331	80.57%
<b>TOTAL ALL EXPENSES:</b>	10,156	9,633	523	106,305	103,983	2,321	130,210	26,227	79.86%
<b>NET INCOME (LOSS):</b>	(10,156)	(9,633)	523	(106,305)	(103,983)	2,321	(130,210)	(26,227)	79.86%

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<b>HUMAN RESOURCES</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
STAFF TRAVEL/PARKING	26	-	26	646	-	646	697	697	0.00%
STAFF MEMBERSHIP DUES	48	-	48	97	-	97	193	193	0.00%
SUBSCRIPTIONS	245	423	(178)	2,909	596	2,313	3,399	2,803	17.54%
STAFF TRAINING- GENERAL	-	50	(50)	209	1,524	(1,315)	25,000	23,476	6.10%
RECRUITING AND ADVERTISING	583	59	524	17,413	17,681	(268)	18,580	899	95.16%
PAYROLL PROCESSING	4,081	8,540	(4,459)	40,837	41,722	(884)	49,000	7,278	85.15%
SALARY SURVEYS	242	-	242	1,450	-	1,450	1,933	1,933	0.00%
CONSULTING SERVICES	-	-	-	23,200	57,283	(34,083)	112,500	55,217	50.92%
CONFERENCE CALLS	-	-	-	-	13	(13)	-	(13)	
TRANSFER TO INDIRECT EXPENSE	(5,225)	(9,073)	3,847	(86,760)	(118,820)	32,060	(211,302)	(92,482)	56.23%
<b>TOTAL DIRECT EXPENSES:</b>	-	-	-	<b>0</b>	-	<b>0.01</b>	-	-	
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (3.00 FTE)	22,352	22,334	18	174,822	257,317	(82,495)	219,525	(37,792)	117.22%
BENEFITS EXPENSE	8,370	7,946	424	70,014	75,662	(5,648)	86,960	11,298	87.01%
OTHER INDIRECT EXPENSE	6,927	5,785	1,142	63,181	66,812	(3,630)	79,450	12,638	84.09%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>37,649</b>	<b>36,065</b>	<b>1,584</b>	<b>308,017</b>	<b>399,790</b>	<b>(91,773)</b>	<b>385,934</b>	<b>(13,856)</b>	<b>103.59%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>37,649</b>	<b>36,065</b>	<b>1,584</b>	<b>308,017</b>	<b>399,790</b>	<b>(91,773)</b>	<b>385,934</b>	<b>(13,856)</b>	<b>103.59%</b>
<b>NET INCOME (LOSS):</b>	<b>(37,649)</b>	<b>(36,065)</b>	<b>1,584</b>	<b>(308,017)</b>	<b>(399,790)</b>	<b>(91,773)</b>	<b>(385,934)</b>	<b>13,856</b>	<b>103.59%</b>

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<b>LAW CLERK PROGRAM</b>									
<b>REVENUE:</b>									
LAW CLERK FEES	6,285	-	(6,285)	198,352	183,001	(15,351)	209,637	26,636	87.29%
LAW CLERK APPLICATION FEES	-	-	-	2,900	3,100	200	4,031	931	76.91%
<b>TOTAL REVENUE:</b>	<b>6,285</b>	<b>-</b>	<b>(6,285)</b>	<b>201,252</b>	<b>186,101</b>	<b>(15,151)</b>	<b>213,668</b>	<b>27,567</b>	<b>87.10%</b>
<b>DIRECT EXPENSES:</b>									
SUBSCRIPTIONS	250	-	250	250	-	250	250	250	0.00%
CHARACTER & FITNESS INVESTIGATIONS	20	-	20	60	-	60	100	100	0.00%
LAW CLERK BOARD EXPENSE	-	250	(250)	24	279	(256)	624	344	44.78%
STAFF TRAVEL/PARKING	52	-	52	196	-	196	300	300	0.00%
LAW CLERK OUTREACH	-	-	-	-	-	-	100	100	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>322</b>	<b>250</b>	<b>72</b>	<b>529</b>	<b>279</b>	<b>250</b>	<b>1,374</b>	<b>1,094</b>	<b>20.33%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (0.90 FTE)	5,282	4,592	690	49,800	46,372	3,428	60,364	13,992	76.82%
BENEFITS EXPENSE	1,825	1,755	71	16,951	16,715	235	20,663	3,948	80.89%
OTHER INDIRECT EXPENSE	2,181	1,725	456	22,103	19,921	2,182	27,837	7,916	71.56%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>9,289</b>	<b>8,072</b>	<b>1,217</b>	<b>88,853</b>	<b>83,008</b>	<b>5,845</b>	<b>108,864</b>	<b>25,856</b>	<b>76.25%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>9,611</b>	<b>8,322</b>	<b>1,289</b>	<b>89,383</b>	<b>83,287</b>	<b>6,095</b>	<b>110,238</b>	<b>26,950</b>	<b>75.55%</b>
<b>NET INCOME (LOSS):</b>	<b>(3,326)</b>	<b>(8,322)</b>	<b>(4,996)</b>	<b>111,869</b>	<b>102,814</b>	<b>(9,056)</b>	<b>103,430</b>	<b>617</b>	<b>99.40%</b>

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<b>LEGISLATIVE</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
STAFF TRAVEL/PARKING	-	-	-	400	-	400	400	400	0.00%
SUBSCRIPTIONS	-	-	-	1,982	1,982	-	1,982	-	100.00%
CONTRACT LOBBYIST	-	-	-	26,000	26,000	-	26,000	-	100.00%
LEGISLATIVE COMMITTEE	-	-	-	10	10	-	260	250	3.77%
BOG LEGISLATIVE COMMITTEE	25	-	25	75	-	75	125	125	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>25</b>	<b>-</b>	<b>25</b>	<b>28,467</b>	<b>27,992</b>	<b>475</b>	<b>28,767</b>	<b>775</b>	<b>97.31%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.00 FTE)	6,213	10,403	(4,191)	53,784	56,833	(3,049)	66,209	9,376	85.84%
BENEFITS EXPENSE	2,553	2,440	113	21,530	23,558	(2,028)	26,705	3,147	88.22%
OTHER INDIRECT EXPENSE	2,423	1,937	486	21,982	22,373	(390)	28,353	5,980	78.91%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>11,189</b>	<b>14,780</b>	<b>(3,591)</b>	<b>97,296</b>	<b>102,763</b>	<b>(5,468)</b>	<b>121,266</b>	<b>18,503</b>	<b>84.74%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>11,214</b>	<b>14,780</b>	<b>(3,566)</b>	<b>125,762</b>	<b>130,755</b>	<b>(4,993)</b>	<b>150,033</b>	<b>19,278</b>	<b>87.15%</b>
<b>NET INCOME (LOSS):</b>	<b>(11,214)</b>	<b>(14,780)</b>	<b>(3,566)</b>	<b>(125,762)</b>	<b>(130,755)</b>	<b>(4,993)</b>	<b>(150,033)</b>	<b>(19,278)</b>	<b>87.15%</b>

**Washington State Bar Association**

Statement of Activities

For the Period from July 1, 2021 to July 31, 2021

**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>LICENSING &amp; MEMBERSHIP RECORDS</b>									
<b>REVENUE:</b>									
STATUS CERTIFICATE FEES	1,700	2,300	600	22,715	25,980	3,265	26,115	135	99.48%
INVESTIGATION FEES	1,986	900	(1,086)	18,427	17,500	(927)	22,399	4,899	78.13%
PRO HAC VICE	22,900	32,518	9,618	253,274	343,500	90,226	299,074	(44,426)	114.85%
MEMBER CONTACT INFORMATION	589	950	361	3,032	4,928	1,895	4,211	(716)	117.01%
PHOTO BAR CARD SALES	33	24	(9)	220	228	8	286	58	79.68%
<b>TOTAL REVENUE:</b>	<b>27,209</b>	<b>36,692</b>	<b>9,483</b>	<b>297,668</b>	<b>392,135</b>	<b>94,467</b>	<b>352,086</b>	<b>(40,049)</b>	<b>111.37%</b>
<b>DIRECT EXPENSES:</b>									
DEPRECIATION	-	-	-	1,151	1,151	-	1,151	0	99.98%
POSTAGE	1,168	184	984	17,578	18,061	(483)	19,913	1,852	90.70%
LICENSING FORMS	-	-	-	2,845	2,845	-	2,845	-	100.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>1,168</b>	<b>184</b>	<b>984</b>	<b>21,574</b>	<b>22,057</b>	<b>(483)</b>	<b>23,909</b>	<b>1,852</b>	<b>92.25%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (3.80 FTE)	27,862	27,840	23	291,054	292,031	(977)	346,778	54,747	84.21%
BENEFITS EXPENSE	10,516	9,971	546	104,822	104,389	433	125,888	21,499	82.92%
OTHER INDIRECT EXPENSE	9,653	7,325	2,329	99,591	84,587	15,003	119,345	34,758	70.88%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>48,032</b>	<b>45,135</b>	<b>2,897</b>	<b>495,467</b>	<b>481,008</b>	<b>14,459</b>	<b>592,011</b>	<b>111,003</b>	<b>81.25%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>49,199</b>	<b>45,319</b>	<b>3,881</b>	<b>517,040</b>	<b>503,064</b>	<b>13,976</b>	<b>615,920</b>	<b>112,856</b>	<b>81.68%</b>
<b>NET INCOME (LOSS):</b>	<b>(21,991)</b>	<b>(8,627)</b>	<b>13,364</b>	<b>(219,372)</b>	<b>(110,929)</b>	<b>108,443</b>	<b>(263,834)</b>	<b>(152,905)</b>	<b>42.04%</b>

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>LIMITED LICENSE LEGAL TECHNICIAN PROGRAM</b>									
<b>REVENUE:</b>									
SEMINAR REGISTRATIONS	282	-	(282)	1,755	796	(959)	2,319	1,523	34.33%
LLLT LICENSE FEES	858	859	1	8,268	7,616	(652)	9,985	2,368	76.28%
LLLT LATE LICENSE FEES	-	-	-	-	275	275	-	(275)	
INVESTIGATION FEES	20	-	(20)	60	-	(60)	100	100	0.00%
LLLT EXAM FEES	-	(400)	(400)	15,650	19,950	4,300	15,650	(4,300)	127.48%
LLLT WAIVER FEES	-	-	-	-	300	300	-	(300)	
<b>TOTAL REVENUE:</b>	<b>1,160</b>	<b>459</b>	<b>(701)</b>	<b>25,733</b>	<b>28,937</b>	<b>3,204</b>	<b>28,054</b>	<b>(884)</b>	<b>103.15%</b>
<b>DIRECT EXPENSES:</b>									
LLLT BOARD	817	-	817	817	-	817	2,450	2,450	0.00%
LLLT EXAM WRITING	5,375	-	5,375	5,375	6,788	(1,413)	5,375	(1,413)	126.28%
<b>TOTAL DIRECT EXPENSES:</b>	<b>6,192</b>	<b>-</b>	<b>6,192</b>	<b>6,192</b>	<b>6,788</b>	<b>(596)</b>	<b>7,825</b>	<b>1,038</b>	<b>86.74%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.00 FTE)	7,126	5,117	2,009	57,265	45,259	12,006	71,517	26,257	63.28%
BENEFITS EXPENSE	2,591	2,468	122	21,823	22,014	(191)	27,070	5,056	81.32%
OTHER INDIRECT EXPENSE	2,302	1,937	365	21,957	22,373	(416)	28,009	5,636	79.88%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>12,019</b>	<b>9,522</b>	<b>2,496</b>	<b>101,045</b>	<b>89,646</b>	<b>11,399</b>	<b>126,595</b>	<b>36,949</b>	<b>70.81%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>18,210</b>	<b>9,522</b>	<b>8,688</b>	<b>107,237</b>	<b>96,433</b>	<b>10,803</b>	<b>134,420</b>	<b>37,987</b>	<b>71.74%</b>
<b>NET INCOME (LOSS):</b>	<b>(17,050)</b>	<b>(9,063)</b>	<b>7,987</b>	<b>(81,504)</b>	<b>(67,496)</b>	<b>14,007</b>	<b>(106,367)</b>	<b>(38,871)</b>	<b>63.46%</b>

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>LIMITED PRACTICE OFFICERS</b>									
<b>REVENUE:</b>									
INVESTIGATION FEES	80	-	(80)	840	1,100	260	1,000	(100)	110.00%
LPO EXAMINATION FEES	-	(100)	(100)	23,700	25,900	2,200	23,700	(2,200)	109.28%
LPO LICENSE FEES	14,279	13,989	(290)	143,877	141,024	(2,852)	172,435	31,411	81.78%
LPO LATE LICENSE FEES	727	-	(727)	2,181	3,810	1,629	3,635	(175)	104.83%
<b>TOTAL REVENUE:</b>	<b>15,086</b>	<b>13,889</b>	<b>(1,197)</b>	<b>170,598</b>	<b>171,834</b>	<b>1,237</b>	<b>200,770</b>	<b>28,935</b>	<b>85.59%</b>
<b>DIRECT EXPENSES:</b>									
EXAM WRITING	-	-	-	4,875	9,750	(4,875)	9,750	-	100.00%
ONLINE LEGAL RESEARCH	171	154	17	1,330	1,378	(47)	1,672	294	82.41%
LAW LIBRARY	439	268	170	2,786	2,694	91	3,663	969	73.56%
LPO BOARD	-	-	-	4	4	-	4	-	100.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>609</b>	<b>422</b>	<b>187</b>	<b>8,996</b>	<b>13,827</b>	<b>(4,831)</b>	<b>15,089</b>	<b>1,263</b>	<b>91.63%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (0.50 FTE)	4,305	3,667	638	34,096	28,902	5,194	42,705	13,804	67.68%
BENEFITS EXPENSE	1,690	1,581	109	12,994	12,157	837	16,426	4,269	74.01%
OTHER INDIRECT EXPENSE	1,817	955	862	15,011	11,033	3,978	19,789	8,756	55.75%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>7,813</b>	<b>6,204</b>	<b>1,609</b>	<b>62,101</b>	<b>52,092</b>	<b>10,009</b>	<b>78,920</b>	<b>26,828</b>	<b>66.01%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>8,422</b>	<b>6,626</b>	<b>1,796</b>	<b>71,096</b>	<b>65,919</b>	<b>5,178</b>	<b>94,010</b>	<b>28,091</b>	<b>70.12%</b>
<b>NET INCOME (LOSS):</b>	<b>6,664</b>	<b>7,263</b>	<b>599</b>	<b>99,501</b>	<b>105,916</b>	<b>6,415</b>	<b>106,760</b>	<b>844</b>	<b>99.21%</b>



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<b>MEMBER ASSISTANCE PROGRAM</b>									
<b>REVENUE:</b>									
DIVERSIONS	744	750	6	7,513	9,426	1,913	9,000	(426)	104.73%
<b>TOTAL REVENUE:</b>	<b>744</b>	<b>750</b>	<b>6</b>	<b>7,513</b>	<b>9,426</b>	<b>1,913</b>	<b>9,000</b>	<b>(426)</b>	<b>104.73%</b>
<b>DIRECT EXPENSES:</b>									
STAFF MEMBERSHIP DUES	-	-	-	225	226	(1)	225	(1)	100.44%
PROF LIAB INSURANCE	106	-	106	638	825	(188)	850	25	97.06%
<b>TOTAL DIRECT EXPENSES:</b>	<b>106</b>	<b>-</b>	<b>106</b>	<b>863</b>	<b>1,051</b>	<b>(189)</b>	<b>1,075</b>	<b>24</b>	<b>97.77%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (0.50 FTE)	10,233	4,391	5,842	50,214	44,427	5,786	70,680	26,252	62.86%
BENEFITS EXPENSE	4,523	4,137	386	22,713	22,297	415	31,862	9,564	69.98%
OTHER INDIRECT EXPENSE	3,635	955	2,679	14,903	11,033	3,870	24,459	13,426	45.11%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>18,391</b>	<b>9,483</b>	<b>8,908</b>	<b>87,829</b>	<b>77,758</b>	<b>10,072</b>	<b>127,000</b>	<b>49,242</b>	<b>61.23%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>18,497</b>	<b>9,483</b>	<b>9,014</b>	<b>88,692</b>	<b>78,809</b>	<b>9,883</b>	<b>128,075</b>	<b>49,266</b>	<b>61.53%</b>
<b>NET INCOME (LOSS):</b>	<b>(17,754)</b>	<b>(8,733)</b>	<b>9,021</b>	<b>(81,179)</b>	<b>(69,383)</b>	<b>11,796</b>	<b>(119,075)</b>	<b>(49,692)</b>	<b>58.27%</b>

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<b>MEMBERSHIP BENEFITS</b>									
<b>REVENUE:</b>									
SPONSORSHIPS	375	-	(375)	2,250	-	(2,250)	3,000	3,000	0.00%
INTERNET SALES	539	1,470	931	5,588	5,831	243	6,667	836	87.46%
MP3 SALES	288	343	55	2,757	2,646	(111)	3,333	687	79.39%
<b>TOTAL REVENUE:</b>	<b>1,202</b>	<b>1,813</b>	<b>611</b>	<b>10,595</b>	<b>8,477</b>	<b>(2,118)</b>	<b>13,000</b>	<b>4,523</b>	<b>65.21%</b>
<b>DIRECT EXPENSES:</b>									
TRANSCRIPTION SERVICES	300	-	300	900	-	900	1,500	1,500	0.00%
CONFERENCE CALLS	63	-	63	375	-	375	500	500	0.00%
LEGAL LUNCHBOX SPEAKERS & PROGRAM	125	-	125	750	1,321	(571)	1,000	(321)	132.12%
WSBA CONNECTS	3,395	-	3,395	39,770	42,680	(2,910)	46,560	3,880	91.67%
CASEMAKER & FASTCASE	5,432	5,416	16	125,572	120,058	5,513	136,436	16,378	88.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>9,315</b>	<b>5,416</b>	<b>3,899</b>	<b>167,367</b>	<b>164,059</b>	<b>3,307</b>	<b>185,996</b>	<b>21,937</b>	<b>88.21%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.16 FTE)	6,655	6,628	27	66,181	65,116	1,065	80,368	15,252	81.02%
BENEFITS EXPENSE	1,981	1,916	65	19,442	19,289	152	24,064	4,775	80.16%
OTHER INDIRECT EXPENSE	2,811	2,229	582	29,011	25,744	3,268	36,999	11,256	69.58%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>11,447</b>	<b>10,773</b>	<b>674</b>	<b>114,634</b>	<b>110,149</b>	<b>4,485</b>	<b>141,432</b>	<b>31,283</b>	<b>77.88%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>20,762</b>	<b>16,189</b>	<b>4,573</b>	<b>282,001</b>	<b>274,209</b>	<b>7,792</b>	<b>327,428</b>	<b>53,219</b>	<b>83.75%</b>
<b>NET INCOME (LOSS):</b>	<b>(19,559)</b>	<b>(14,376)</b>	<b>5,183</b>	<b>(271,405)</b>	<b>(265,732)</b>	<b>5,674</b>	<b>(314,428)</b>	<b>(48,696)</b>	<b>84.51%</b>

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<b>MANDATORY CONTINUING LEGAL EDUCATION</b>									
<b>REVENUE:</b>									
ACCREDITED PROGRAM FEES	40,000	36,600	(3,400)	417,600	471,000	53,400	497,600	26,600	94.65%
FORM 1 LATE FEES	12,500	13,600	1,100	156,200	194,050	37,850	190,200	(3,850)	102.02%
MEMBER LATE FEES	-	150	150	2,400	6,496	4,096	2,700	(3,796)	240.60%
ANNUAL ACCREDITED SPONSOR FEES	(63)	-	63	41,875	42,250	375	41,750	(500)	101.20%
ATTENDANCE LATE FEES	6,667	6,900	233	81,500	99,150	17,650	94,000	(5,150)	105.48%
COMITY CERTIFICATES	102	2,050	1,948	12,789	15,362	2,573	13,000	(2,362)	118.17%
<b>TOTAL REVENUE:</b>	<b>59,207</b>	<b>59,300</b>	<b>94</b>	<b>712,365</b>	<b>828,309</b>	<b>115,944</b>	<b>839,250</b>	<b>10,942</b>	<b>98.70%</b>
<b>DIRECT EXPENSES:</b>									
DEPRECIATION	7,447	5,532	1,915	128,150	131,988	(3,837)	143,045	11,057	92.27%
STAFF MEMBERSHIP DUES	-	-	-	500	-	500	500	500	0.00%
ONLINE LEGAL RESEARCH	152	154	(2)	1,368	1,378	(9)	1,672	294	82.41%
LAW LIBRARY	13	11	2	123	111	13	150	39	73.78%
MCLE BOARD	-	-	-	-	-	-	650	650	0.00%
STAFF TRAVEL/PARKING	6	-	6	38	-	38	50	50	0.00%
STAFF TRAINING	-	-	-	1,170	-	1,170	1,170	1,170	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>7,619</b>	<b>5,697</b>	<b>1,922</b>	<b>131,350</b>	<b>133,476</b>	<b>(2,126)</b>	<b>147,237</b>	<b>13,761</b>	<b>90.65%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (4.80 FTE)	24,132	19,936	4,196	221,499	206,050	15,449	269,761	63,712	76.38%
BENEFITS EXPENSE	9,876	9,374	502	86,097	85,548	549	106,179	20,631	80.57%
OTHER INDIRECT EXPENSE	11,631	7,325	4,307	105,225	84,587	20,638	135,803	51,216	62.29%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>45,639</b>	<b>36,634</b>	<b>9,005</b>	<b>412,821</b>	<b>376,185</b>	<b>36,636</b>	<b>511,743</b>	<b>135,558</b>	<b>73.51%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>53,258</b>	<b>42,331</b>	<b>10,927</b>	<b>544,170</b>	<b>509,661</b>	<b>34,509</b>	<b>658,980</b>	<b>149,319</b>	<b>77.34%</b>
<b>NET INCOME (LOSS):</b>	<b>5,949</b>	<b>16,969</b>	<b>11,020</b>	<b>168,194</b>	<b>318,648</b>	<b>150,453</b>	<b>180,271</b>	<b>(138,377)</b>	<b>176.76%</b>

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<b>MEMBER SERVICES &amp; ENGAGEMENT</b>									
<b>REVENUE:</b>									
ROYALTIES	3,940.01	1,962.88	(1,977.13)	41,369.97	53,270.72	11,900.75	49,250.00	(4,020.72)	108.16%
NMP PRODUCT SALES	1,435	3,737	2,302	15,130	25,518	10,388	18,000	(7,518)	141.77%
SEMINAR REGISTRATIONS	(910)	-	910	1,820	25	(1,795)	-	(25)	
TRIAL ADVOCACY PROGRAM	-	250	250	-	-	-	-	-	
<b>TOTAL REVENUE:</b>	<b>4,465</b>	<b>5,950</b>	<b>1,485</b>	<b>58,320</b>	<b>78,813</b>	<b>20,494</b>	<b>67,250</b>	<b>(11,563)</b>	<b>117.19%</b>
<b>DIRECT EXPENSES:</b>									
STAFF TRAVEL/PARKING	1,000	-	1,000	1,000	-	1,000	1,000	1,000	0.00%
SUBSCRIPTIONS	24	17	7	203	158	45	250	92	63.07%
TRANSCRIPTION SERVICES	188	-	188	1,125	750	375	1,500	750	50.00%
CONFERENCE CALLS	13	-	13	75	-	75	100	100	0.00%
YLL SECTION PROGRAM	-	-	-	805	800	5	1,500	700	53.33%
WYLC CLE COMPS	250	-	250	500	-	500	1,000	1,000	0.00%
WYLC OUTREACH EVENTS	1,000	-	1,000	1,000	-	1,000	1,500	1,500	0.00%
WYL COMMITTEE	8,000	-	8,000	8,000	-	8,000	8,000	8,000	0.00%
TRIAL ADVOCACY EXPENSES	-	-	-	900	-	900	900	900	0.00%
RECEPTION/FORUM EXPENSE	-	-	-	367	67	300	667	600	9.99%
WYLC SCHOLARSHIPS/DONATIONS/GRANT	-	1,543	(1,543)	-	4,977	(4,977)	5,000	23	99.54%
STAFF MEMBERSHIP DUES	61	-	61	368	225	143	490	265	45.92%
LENDING LIBRARY	500	10	490	590	100	490	2,000	1,900	5.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>11,035</b>	<b>1,569</b>	<b>9,466</b>	<b>14,932</b>	<b>7,076</b>	<b>7,855</b>	<b>23,907</b>	<b>16,830</b>	<b>29.60%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (4.13 FTE)	22,516	21,625	891	201,853	197,310	4,542	250,160	52,850	78.87%
BENEFITS EXPENSE	7,684	7,439	246	72,700	74,726	(2,027)	90,502	15,776	82.57%
OTHER INDIRECT EXPENSE	9,378	7,961	1,416	95,320	91,942	3,377	122,207	30,265	75.23%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>39,578</b>	<b>37,025</b>	<b>2,553</b>	<b>369,872</b>	<b>363,979</b>	<b>5,893</b>	<b>462,869</b>	<b>98,890</b>	<b>78.64%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>50,613</b>	<b>38,594</b>	<b>12,019</b>	<b>384,803</b>	<b>371,055</b>	<b>13,748</b>	<b>486,776</b>	<b>115,721</b>	<b>76.23%</b>
<b>NET INCOME (LOSS):</b>	<b>(46,148)</b>	<b>(32,644)</b>	<b>13,504</b>	<b>(326,484)</b>	<b>(292,242)</b>	<b>34,242</b>	<b>(419,526)</b>	<b>(127,284)</b>	<b>69.66%</b>

**Washington State Bar Association**

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**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>OFFICE OF THE EXECUTIVE DIRECTOR</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	-
<b>DIRECT EXPENSES:</b>									
WASHINGTON LEADERSHIP INSTITUTE	11,000	-	11,000	66,000	-	66,000	88,000	88,000	0.00%
ABA DELEGATES	417	-	417	2,500	-	2,500	3,334	3,334	0.00%
SECTION/COMMITTEE CHAIR MTGS	-	-	-	-	-	-	500	500	0.00%
VOLUNTEER SUPPORT	-	55	(55)	-	55	(55)	5,000	4,945	1.10%
ED TRAVEL & OUTREACH	417	-	417	2,500	36	2,464	3,333	3,297	1.08%
LAW LIBRARY	-	11	(11)	150	111	39	150	39	73.78%
STAFF TRAVEL/PARKING	-	-	-	98	53	45	98	45	53.86%
STAFF MEMBERSHIP DUES	-	-	-	50	67	(17)	50	(17)	133.34%
<b>TOTAL DIRECT EXPENSES:</b>	<b>11,833</b>	<b>66</b>	<b>11,767</b>	<b>71,299</b>	<b>321</b>	<b>70,977</b>	<b>100,465</b>	<b>100,144</b>	<b>0.32%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (3.00 FTE)	34,907	34,890	18	348,731	348,914	(183)	418,546	69,632	83.36%
BENEFITS EXPENSE	10,944	11,324	(380)	104,422	108,519	(4,097)	125,070	16,551	86.77%
OTHER INDIRECT EXPENSE	7,270	5,785	1,484	75,121	66,812	8,310	94,232	27,421	70.90%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>53,121</b>	<b>51,999</b>	<b>1,122</b>	<b>528,274</b>	<b>524,245</b>	<b>4,030</b>	<b>637,848</b>	<b>113,603</b>	<b>82.19%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>64,955</b>	<b>52,066</b>	<b>12,889</b>	<b>599,573</b>	<b>524,566</b>	<b>75,007</b>	<b>738,313</b>	<b>213,747</b>	<b>71.05%</b>
<b>NET INCOME (LOSS):</b>	<b>(64,955)</b>	<b>(52,066)</b>	<b>12,889</b>	<b>(599,573)</b>	<b>(524,566)</b>	<b>75,007</b>	<b>(738,313)</b>	<b>(213,747)</b>	<b>71.05%</b>

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**83.33%% OF YEAR COMPLETE**

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>OFFICE OF GENERAL COUNSEL</b>									
<b>REVENUE:</b>									
COPY FEES	-	-	-	27	117	90	27	(90)	432.78%
RECORDS REQUEST FEES	-	-	-	-	630	630	-	(630)	
<b>TOTAL REVENUE:</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>27</b>	<b>747</b>	<b>720</b>	<b>27</b>	<b>(720)</b>	<b>100.00%</b>
<b>DIRECT EXPENSES:</b>									
DEPRECIATION	139	-	139	834	-	834	1,112	1,112	0.00%
STAFF TRAVEL/PARKING	8	-	8	401	-	401	417	417	0.00%
STAFF MEMBERSHIP DUES	-	200	(200)	1,525	800	800	1,525	800	47.54%
ONLINE LEGAL RESEARCH	912	922	(10)	8,211	8,267	(57)	10,034	1,767	82.39%
LAW LIBRARY	-	22	(22)	1,780	1,914	(134)	1,780	(134)	107.55%
COURT RULES COMMITTEE	296	-	296	603	56	547	1,195	1,139	4.68%
DISCIPLINE ADVISORY ROUNDTABLE	94	-	94	188	-	188	375	375	0.00%
CUSTODIANSHIPS	584	4,225	(3,641)	6,041	10,094	(4,053)	7,209	(2,885)	140.02%
LITIGATION EXPENSES	21	-	21	125	-	125	167	167	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>2,054</b>	<b>5,369</b>	<b>(3,316)</b>	<b>19,707</b>	<b>21,056</b>	<b>(1,350)</b>	<b>23,814</b>	<b>2,758</b>	<b>88.42%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (6.38 FTE)	48,746	27,397	21,349	450,428	428,809	21,619	547,919	119,110	78.26%
BENEFITS EXPENSE	15,905	15,129	776	140,619	141,656	(1,037)	172,844	31,188	81.96%
OTHER INDIRECT EXPENSE	14,646	12,314	2,332	147,041	142,204	4,836	185,545	43,340	76.64%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>79,297</b>	<b>54,840</b>	<b>24,457</b>	<b>738,088</b>	<b>712,670</b>	<b>25,418</b>	<b>906,308</b>	<b>193,638</b>	<b>78.63%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>81,351</b>	<b>60,210</b>	<b>21,141</b>	<b>757,794</b>	<b>733,726</b>	<b>24,068</b>	<b>930,122</b>	<b>196,396</b>	<b>78.88%</b>
<b>NET INCOME (LOSS):</b>	<b>(81,351)</b>	<b>(60,210)</b>	<b>21,141</b>	<b>(757,767)</b>	<b>(732,979)</b>	<b>24,788</b>	<b>(930,095)</b>	<b>(197,116)</b>	<b>78.81%</b>

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<b>OFFICE OF GENERAL COUNSEL - DISCIPLINARY BOARD</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
STAFF MEMBERSHIP DUES	-	-	-	100	21	79	100	79	20.83%
LAW LIBRARY	81	67	14	748	669	79	909	240	73.56%
DISCIPLINARY BOARD EXPENSES	259	222	37	756	485	271	1,274	789	38.10%
CHIEF HEARING OFFICER	3,012	2,500	512	26,500	25,000	1,500	32,524	7,524	76.87%
HEARING OFFICER EXPENSES	5,715	-	5,715	28,575	-	28,575	40,005	40,005	0.00%
HEARING OFFICER TRAINING	80	-	80	160	-	160	321	321	0.00%
OUTSIDE COUNSEL	5,321	4,000	1,321	44,359	40,000	4,359	55,000	15,000	72.73%
<b>TOTAL DIRECT EXPENSES:</b>	<b>14,467</b>	<b>6,789</b>	<b>7,678</b>	<b>101,198</b>	<b>66,175</b>	<b>35,023</b>	<b>130,133</b>	<b>63,958</b>	<b>50.85%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.30 FTE)	7,840	7,832	8	79,995	81,073	(1,078)	95,676	14,602	84.74%
BENEFITS EXPENSE	2,684	2,580	105	26,778	26,834	(56)	32,235	5,402	83.24%
OTHER INDIRECT EXPENSE	3,150	2,521	629	32,617	29,115	3,502	40,898	11,783	71.19%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>13,674</b>	<b>12,933</b>	<b>741</b>	<b>139,390</b>	<b>137,022</b>	<b>2,368</b>	<b>168,809</b>	<b>31,787</b>	<b>81.17%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>28,142</b>	<b>19,722</b>	<b>8,420</b>	<b>240,588</b>	<b>203,197</b>	<b>37,390</b>	<b>298,942</b>	<b>95,745</b>	<b>67.97%</b>
<b>NET INCOME (LOSS):</b>	<b>(28,142)</b>	<b>(19,722)</b>	<b>8,420</b>	<b>(240,588)</b>	<b>(203,197)</b>	<b>37,390</b>	<b>(298,942)</b>	<b>(95,745)</b>	<b>67.97%</b>

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**83.33%% OF YEAR COMPLETE**

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<b>OUTREACH &amp; ENGAGEMENT</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
STAFF TRAVEL/PARKING	117	-	117	467	-	467	700	700	0.00%
STAFF MEMBERSHIP DUES	230	-	230	691	-	691	1,152	1,152	0.00%
ABA DELEGATES	741	-	741	4,119	-	4,119	5,600	5,600	0.00%
ANNUAL CHAIR MEETINGS	40	-	40	120	-	120	200	200	0.00%
JUDICIAL RECOMMENDATIONS COMMITTEE	438	-	438	2,625	-	2,625	3,500	3,500	0.00%
BAR OUTREACH	2,723	261	2,462	16,857	783	16,074	22,302	21,519	3.51%
<b>TOTAL DIRECT EXPENSES:</b>	<b>4,288</b>	<b>261</b>	<b>4,027</b>	<b>24,878</b>	<b>783</b>	<b>24,096</b>	<b>33,454</b>	<b>32,671</b>	<b>2.34%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (2.00 FTE)	12,860	9,183	3,677	120,907	106,127	14,780	146,626	40,499	72.38%
BENEFITS EXPENSE	4,619	4,416	202	42,253	44,328	(2,076)	51,627	7,299	85.86%
OTHER INDIRECT EXPENSE	4,846	3,848	998	46,942	44,439	2,503	59,683	15,244	74.46%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>22,325</b>	<b>17,447</b>	<b>4,878</b>	<b>210,102</b>	<b>194,894</b>	<b>15,208</b>	<b>257,936</b>	<b>63,042</b>	<b>75.56%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>26,612</b>	<b>17,708</b>	<b>8,905</b>	<b>234,980</b>	<b>195,677</b>	<b>39,303</b>	<b>291,390</b>	<b>95,713</b>	<b>67.15%</b>
<b>NET INCOME (LOSS):</b>	<b>(26,612)</b>	<b>(17,708)</b>	<b>8,905</b>	<b>(234,980)</b>	<b>(195,677)</b>	<b>39,303</b>	<b>(291,390)</b>	<b>(95,713)</b>	<b>67.15%</b>



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<b>PRACTICE OF LAW BOARD</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
PRACTICE OF LAW BOARD	1,538	-	1,538	4,749	-	4,749	7,825	7,825	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<u>1,538</u>	<u>-</u>	<u>1,538</u>	<u>4,749</u>	<u>-</u>	<u>4,749</u>	<u>7,825</u>	<u>7,825</u>	<u>0.00%</u>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (0.48 FTE)	3,746	17,647	(13,901)	31,274	37,421	(6,147)	38,767	1,346	96.53%
BENEFITS EXPENSE	1,101	993	108	8,547	7,171	1,377	10,782	3,611	66.51%
OTHER INDIRECT EXPENSE	1,171	292	879	9,196	3,371	5,824	12,274	8,903	27.47%
<b>TOTAL INDIRECT EXPENSES:</b>	<u>6,018</u>	<u>18,932</u>	<u>(12,914)</u>	<u>49,017</u>	<u>47,963</u>	<u>1,054</u>	<u>61,823</u>	<u>13,860</u>	<u>77.58%</u>
<b>TOTAL ALL EXPENSES:</b>	<u>7,556</u>	<u>18,932</u>	<u>(11,376)</u>	<u>53,766</u>	<u>47,963</u>	<u>5,803</u>	<u>69,649</u>	<u>21,686</u>	<u>68.86%</u>
<b>NET INCOME (LOSS):</b>	<u>(7,556)</u>	<u>(18,932)</u>	<u>(11,376)</u>	<u>(53,766)</u>	<u>(47,963)</u>	<u>5,803</u>	<u>(69,649)</u>	<u>(21,686)</u>	<u>68.86%</u>

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<b>PROFESSIONAL RESPONSIBILITY PROGRAM</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
STAFF TRAVEL/PARKING	250	-	250	1,500	-	1,500	2,000	2,000	0.00%
STAFF MEMBERSHIP DUES	31	-	31	438	500	(63)	500	-	100.00%
LAW LIBRARY	54	45	9	500	448	53	608	161	73.57%
CPE COMMITTEE	424	-	424	1,780	31	1,749	2,627	2,596	1.19%
<b>TOTAL DIRECT EXPENSES:</b>	<b>759</b>	<b>45</b>	<b>714</b>	<b>4,218</b>	<b>979</b>	<b>3,239</b>	<b>5,736</b>	<b>4,757</b>	<b>17.07%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.69 FTE)	14,269	14,259	10	143,983	145,576	(1,593)	172,521	26,945	84.38%
BENEFITS EXPENSE	5,548	5,240	308	54,542	54,034	508	65,754	11,720	82.18%
OTHER INDIRECT EXPENSE	4,101	3,264	837	42,382	37,696	4,686	53,164	15,468	70.91%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>23,918</b>	<b>22,763</b>	<b>1,155</b>	<b>240,907</b>	<b>237,306</b>	<b>3,601</b>	<b>291,439</b>	<b>54,133</b>	<b>81.43%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>24,677</b>	<b>22,808</b>	<b>1,870</b>	<b>245,125</b>	<b>238,285</b>	<b>6,840</b>	<b>297,175</b>	<b>58,890</b>	<b>80.18%</b>
<b>NET INCOME (LOSS):</b>	<b>(24,677)</b>	<b>(22,808)</b>	<b>1,870</b>	<b>(245,125)</b>	<b>(238,285)</b>	<b>6,840</b>	<b>(297,175)</b>	<b>(58,890)</b>	<b>80.18%</b>

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<b>PUBLIC SERVICE PROGRAMS</b>									
<b>REVENUE:</b>									
DONATIONS & GRANTS	-	-	-	103,000.00	103,000.00	-	103,000.00	-	100.00%
<b>TOTAL REVENUE:</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>103,000</b>	<b>103,000</b>	<b>-</b>	<b>103,000</b>	<b>-</b>	<b>100.00%</b>
<b>DIRECT EXPENSES:</b>									
DONATIONS/SPONSORSHIPS/GRANTS	29,024	26,250	2,774	174,145	142,097	32,048	232,193	90,097	61.20%
PRO BONO & PUBLIC SERVICE COMMITTEE	246	-	246	1,507	46	1,461	2,000	1,954	2.30%
PRO BONO CERTIFICATES	475	-	475	2,850	-	2,850	3,800	3,800	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>29,746</b>	<b>26,250</b>	<b>3,496</b>	<b>178,502</b>	<b>142,143</b>	<b>36,359</b>	<b>237,993</b>	<b>95,850</b>	<b>59.73%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (1.00 FTE)	6,704	8,327	(1,624)	62,937	63,536	(598)	76,345	12,809	83.22%
BENEFITS EXPENSE	2,572	2,447	125	22,626	22,840	(214)	27,845	5,004	82.03%
OTHER INDIRECT EXPENSE	2,666	1,937	728	24,784	22,373	2,412	31,792	9,419	70.37%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>11,941</b>	<b>12,712</b>	<b>(771)</b>	<b>110,348</b>	<b>108,749</b>	<b>1,599</b>	<b>135,981</b>	<b>27,232</b>	<b>79.97%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>41,686</b>	<b>38,962</b>	<b>2,725</b>	<b>288,849</b>	<b>250,891</b>	<b>37,958</b>	<b>373,974</b>	<b>123,083</b>	<b>67.09%</b>
<b>NET INCOME (LOSS):</b>	<b>(41,686)</b>	<b>(38,962)</b>	<b>2,725</b>	<b>(185,849)</b>	<b>(147,891)</b>	<b>37,958</b>	<b>(270,974)</b>	<b>(123,083)</b>	<b>54.58%</b>

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**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>PUBLICATION &amp; DESIGN SERVICES</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	-
<b>DIRECT EXPENSES:</b>									
EQUIPMENT, HARDWARE & SOFTWARE	25	-	25	150	-	150	200	200	0.00%
SUBSCRIPTIONS	17	-	17	300	200	100	333	133	60.00%
SUPPLIES	13	-	13	75	-	75	100	100	0.00%
IMAGE LIBRARY	84	-	84	4,268	4,100	168	4,436	336	92.43%
<b>TOTAL DIRECT EXPENSES:</b>	<b>138</b>	<b>-</b>	<b>138</b>	<b>4,793</b>	<b>4,300</b>	<b>493</b>	<b>5,069</b>	<b>769</b>	<b>84.83%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (0.87 FTE)	4,529	4,524	5	45,731	46,129	(398)	54,789	8,660	84.19%
BENEFITS EXPENSE	1,557	1,508	49	15,638	15,693	(55)	18,811	3,118	83.43%
OTHER INDIRECT EXPENSE	2,108	1,672	436	21,759	19,308	2,451	27,301	7,993	70.72%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>8,194</b>	<b>7,703</b>	<b>490</b>	<b>83,127</b>	<b>81,130</b>	<b>1,998</b>	<b>100,900</b>	<b>19,771</b>	<b>80.41%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>8,332</b>	<b>7,703</b>	<b>628</b>	<b>87,920</b>	<b>85,430</b>	<b>2,490</b>	<b>105,969</b>	<b>20,540</b>	<b>80.62%</b>
<b>NET INCOME (LOSS):</b>	<b>(8,332)</b>	<b>(7,703)</b>	<b>628</b>	<b>(87,920)</b>	<b>(85,430)</b>	<b>2,490</b>	<b>(105,969)</b>	<b>(20,540)</b>	<b>80.62%</b>

**Washington State Bar Association**

Statement of Activities

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**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON		
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>REGULATORY SERVICES FTE</b>									
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (2.70 FTE)	21,863	18,441	3,422	202,281	185,146	17,135	246007.48	60,861	75.26%
BENEFITS EXPENSE	6,781	6,444	336	70,238	74,104	(3,866)	83,964	9,860	88.26%
OTHER INDIRECT EXPENSE	5,816	5,201	614	60,390	60,069	321	75,679	15,610	79.37%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>34,460</b>	<b>30,087</b>	<b>4,373</b>	<b>332,909</b>	<b>319,319</b>	<b>13,591</b>	<b>405,650</b>	<b>86,332</b>	<b>78.72%</b>
<b>NET INCOME (LOSS):</b>	<b>(34,460)</b>	<b>(30,087)</b>	<b>4,373</b>	<b>(332,909)</b>	<b>(319,319)</b>	<b>13,591</b>	<b>(405,650)</b>	<b>(86,332)</b>	<b>78.72%</b>

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**83.33% OF YEAR COMPLETE**

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	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR	% USED OF ANNUAL REFORECAST
<b>SERVICE CENTER</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
TRANSLATION SERVICES	801	1,122	(320)	6,897	4,602	2,296	8,500	3,898	54.14%
<b>TOTAL DIRECT EXPENSES:</b>	<b>801</b>	<b>1,122</b>	<b>(320)</b>	<b>6,897</b>	<b>4,602</b>	<b>2,296</b>	<b>8,500</b>	<b>3,898</b>	<b>54.14%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (6.71 FTE)	27,736	27,702	34	288,568	287,539	1,029	344,039	56,500	83.58%
BENEFITS EXPENSE	11,328	11,121	207	118,886	122,755	(3,869)	141,933	19,178	86.49%
OTHER INDIRECT EXPENSE	13,836	12,951	886	151,786	149,560	2,226	188,161	38,601	79.49%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>52,900</b>	<b>51,773</b>	<b>1,127</b>	<b>559,240</b>	<b>559,854</b>	<b>(614)</b>	<b>674,133</b>	<b>114,279</b>	<b>83.05%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>53,701</b>	<b>52,895</b>	<b>806</b>	<b>566,137</b>	<b>564,456</b>	<b>1,682</b>	<b>682,633</b>	<b>118,178</b>	<b>82.69%</b>
<b>NET INCOME (LOSS):</b>	<b>(53,701)</b>	<b>(52,895)</b>	<b>806</b>	<b>(566,137)</b>	<b>(564,456)</b>	<b>1,682</b>	<b>(682,633)</b>	<b>(118,178)</b>	<b>82.69%</b>

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<b>SECTIONS ADMINISTRATION</b>									
<b>REVENUE:</b>									
REIMBURSEMENTS FROM SECTIONS	3,385	745	(2,640)	265,230	283,099	17,869	272,000	(11,099)	104.08%
<b>TOTAL REVENUE:</b>	<b>3,385</b>	<b>745</b>	<b>(2,640)</b>	<b>265,230</b>	<b>283,099</b>	<b>17,869</b>	<b>272,000</b>	<b>(11,099)</b>	<b>104.08%</b>
<b>DIRECT EXPENSES:</b>									
STAFF TRAVEL/PARKING	166	-	166	166	-	166	500	500	0.00%
SUBSCRIPTIONS	-	-	-	410	410	-	410	-	100.00%
CONFERENCE CALLS	11	-	11	77	8	69	100	92	8.42%
MISCELLANEOUS	60	-	60	180	-	180	300	300	0.00%
SECTION/COMMITTEE CHAIR MTGS	-	-	-	250	-	250	250	250	0.00%
DUES STATEMENTS	-	-	-	5,935	5,935	-	5,935	-	100.00%
STAFF MEMBERSHIP DUES	25	-	25	75	-	75	125	125	0.00%
<b>TOTAL DIRECT EXPENSES:</b>	<b>262</b>	<b>-</b>	<b>262</b>	<b>7,093</b>	<b>6,353</b>	<b>740</b>	<b>7,620</b>	<b>1,267</b>	<b>83.38%</b>
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (2.68 FTE)	13,309	11,387	1,922	130,607	127,007	3,599	157,225	30,218	80.78%
BENEFITS EXPENSE	5,021	4,864	157	43,445	43,433	12	53,672	10,239	80.92%
OTHER INDIRECT EXPENSE	6,494	5,175	1,319	63,977	59,763	4,214	81,049	21,287	73.74%
<b>TOTAL INDIRECT EXPENSES:</b>	<b>24,825</b>	<b>21,427</b>	<b>3,398</b>	<b>238,029</b>	<b>230,203</b>	<b>7,825</b>	<b>291,946</b>	<b>61,743</b>	<b>78.85%</b>
<b>TOTAL ALL EXPENSES:</b>	<b>25,087</b>	<b>21,427</b>	<b>3,660</b>	<b>245,121</b>	<b>236,556</b>	<b>8,565</b>	<b>299,566</b>	<b>63,010</b>	<b>78.97%</b>
<b>NET INCOME (LOSS):</b>	<b>(21,702)</b>	<b>(20,681)</b>	<b>1,021</b>	<b>20,109</b>	<b>46,543</b>	<b>26,434</b>	<b>(27,566)</b>	<b>(74,109)</b>	<b>-168.84%</b>

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<b>SECTIONS OPERATIONS</b>									
<b>REVENUE:</b>									
SECTION DUES	8,992.78	1,130.00	(7,862.78)	421,459.55	443,352.94	21,893.39	439,445.00	(3,907.94)	100.89%
SEMINAR PROFIT SHARE	6,473	-	(6,473)	85,417	125,087	39,670	98,364	(26,723)	127.17%
INTEREST INCOME	341	-	(341)	788	-	(788)	1,470	1,470	0.00%
PUBLICATIONS REVENUE	981	567	(415)	4,037	5,193	1,156	6,000	807	86.56%
OTHER	4,116	1,788	(2,328)	32,268	38,832	6,563	40,500	1,668	95.88%
<b>TOTAL REVENUE:</b>	<b>20,904</b>	<b>3,485</b>	<b>(17,419)</b>	<b>543,971</b>	<b>612,465</b>	<b>68,494</b>	<b>585,779</b>	<b>(26,686)</b>	<b>104.56%</b>
<b>DIRECT EXPENSES:</b>									
DIRECT EXPENSES OF SECTION ACTIVITIES	103,426	1,836	101,590	377,743	70,968	306,775	584,594	513,626	12.14%
REIMBURSEMENT TO WSBA FOR INDIRECT I	5,631	745	4,886	269,310	283,099	(13,789)	280,573	(2,526)	100.90%
<b>TOTAL DIRECT EXPENSES:</b>	<b>109,057</b>	<b>2,581</b>	<b>106,476</b>	<b>647,053</b>	<b>354,067</b>	<b>292,986</b>	<b>865,167</b>	<b>511,100</b>	<b>40.92%</b>
<b>NET INCOME (LOSS):</b>	<b>(88,153)</b>	<b>903</b>	<b>89,056</b>	<b>(103,082)</b>	<b>258,398</b>	<b>361,480</b>	<b>(279,388)</b>	<b>(537,786)</b>	<b>-92.49%</b>



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<b>TECHNOLOGY</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
CONSULTING SERVICES	10,905	860	10,045	88,190	72,885	15,305	110,000	37,115	66.26%
STAFF TRAVEL/PARKING	208	-	208	1,250	-	1,250	1,667	1,667	0.00%
STAFF MEMBERSHIP DUES	-	-	-	450	-	450	450	450	0.00%
TELEPHONE	2,320	1,342	978	17,361	13,118	4,243	22,000	8,882	59.63%
COMPUTER HARDWARE	7,465	6,925	540	45,070	43,485	1,585	60,000	16,515	72.48%
COMPUTER SOFTWARE	6,978	1,982	4,996	66,044	66,088	(45)	80,000	13,912	82.61%
HARDWARE SERVICE & WARRANTIES	4,257	10,614	(6,357)	31,486	31,094	391	40,000	8,906	77.74%
SOFTWARE MAINTENANCE & LICENSING	25,620	9,816	15,803	314,761	293,566	21,194	366,000	72,434	80.21%
TELEPHONE HARDWARE & MAINTENANCE	1,382	322	1,060	4,237	2,003	2,234	7,000	4,997	28.61%
COMPUTER SUPPLIES	1,127	552	575	7,745	1,874	5,871	10,000	8,126	18.74%
THIRD PARTY SERVICES	14,010	5,899	8,111	101,981	90,902	11,078	130,000	39,098	69.92%
TRANSFER TO INDIRECT EXPENSES	(74,272)	(38,312)	(35,960)	(678,574)	(615,017)	(63,557)	(827,117)	(212,100)	74.36%
<b>TOTAL DIRECT EXPENSES:</b>	-	-	-	(0)	-	(0)	-	-	
<b>INDIRECT EXPENSES:</b>									
SALARY EXPENSE (12.00 FTE)	102,322	91,571	10,750	913,616	878,733	34,882	1,118,256	239,523	78.58%
BENEFITS EXPENSE	33,123	31,298	1,825	298,906	302,137	(3,231)	366,046	63,909	82.54%
CAPITAL LABOR & OVERHEAD	(28,681)	(9,588)	(19,093)	(72,639)	38,210	(110,849)	(130,000)	(168,210)	-29.39%
OTHER INDIRECT EXPENSE	30,018	23,194	6,823	286,492	267,859	18,632	356,988	89,129	75.03%
<b>TOTAL INDIRECT EXPENSES:</b>	136,782	136,476	306	1,426,374	1,486,940	(60,565)	1,711,290	224,350	86.89%
<b>TOTAL ALL EXPENSES:</b>	136,782	136,476	306	1,426,374	1,486,940	(60,565)	1,711,290	224,350	86.89%
<b>NET INCOME (LOSS):</b>	(136,782)	(136,476)	306	(1,426,374)	(1,486,940)	(60,565)	(1,711,290)	(224,350)	86.89%

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<b>INDIRECT EXPENSES:</b>									
SALARIES	974,995.68	941,807	33,188	9,516,885	9,590,590	(73,705)	11,495,260	1,904,670	83.43%
TEMPORARY SALARIES	15,575	5,911	9,664	96,822	52,337	44,485	127,971	75,634	40.90%
CAPITAL LABOR & OVERHEAD	(28,681)	(9,588)	(19,093)	(72,639)	38,210	(110,849)	(130,000)	(168,210)	-29.39%
EMPLOYEE ASSISTANCE PLAN	472	-	472	4,432	4,000	432	5,376	1,376	74.40%
EMPLOYEE SERVICE AWARDS	228	1,925	(1,698)	1,365	1,925	(560)	1,820	(105)	105.77%
FICA (EMPLOYER PORTION)	60,398	71,642	(11,244)	620,700	691,242	(70,542)	741,809	50,567	93.18%
L&I INSURANCE	-	12,059	(12,059)	36,928	33,735	3,193	50,169	16,433	67.24%
WA STATE FAMILY MEDICAL LEAVE (EMPLC)	1,464	1,404	60	13,943	13,476	467	16,871	3,395	79.88%
FCRA LEAVE (EMPLOYER PORTION)	-	-	-	-	3,410	(3,410)	-	(3,410)	-
MEDICAL (EMPLOYER PORTION)	131,830	123,467	8,362	1,203,312	1,181,397	21,916	1,473,510	292,113	80.18%
PARKING BENEFITS	-	147	(147)	24,112	17,672	6,440	24,112	6,440	73.29%
RETIREMENT (EMPLOYER PORTION)	126,349	94,701	31,647	1,203,368	1,155,541	47,828	1,459,748	304,207	79.16%
TRANSPORTATION ALLOWANCE	-	700	(700)	(23,777)	25,186	(48,963)	(23,777)	(48,963)	-105.93%
UNEMPLOYMENT INSURANCE	5,423	5,968	(545)	61,331	56,896	4,435	68,766	11,870	82.74%
STAFF DEVELOPMENT-GENERAL	525	-	525	3,150	414	2,736	4,200	3,786	9.86%
<b>TOTAL SALARY &amp; BENEFITS EXPENSE:</b>	<b>1,288,578</b>	<b>1,250,144</b>	<b>38,433</b>	<b>12,689,933</b>	<b>12,866,030</b>	<b>(176,097)</b>	<b>15,315,834</b>	<b>2,449,804</b>	<b>84.00%</b>
WORKPLACE BENEFITS	3,250	(1,145)	4,395	21,248	9,290	11,957	27,748	18,457	33.48%
HUMAN RESOURCES POOLED EXP	6,529	9,073	(2,543)	91,975	118,820	(26,844)	219,125	100,305	54.22%
MEETING SUPPORT EXPENSES	1,250	110	1,140	2,985	1,762	1,223	5,485	3,723	32.13%
RENT	150,669	152,459	(1,790)	1,673,996	1,606,046	67,951	1,975,334	369,289	81.31%
PERSONAL PROP TAXES-WSBA	534	527	7	8,053	5,497	2,556	9,121	3,624	60.27%
FURNITURE, MAINT, LH IMP	8,421	2,774	5,647	13,158	8,221	4,937	30,000	21,778	27.40%
OFFICE SUPPLIES & EQUIPMENT	5,031	972	4,059	33,939	14,368	19,571	44,000	29,633	32.65%
FURN & OFFICE EQUIP DEPRECIATION	4,294	4,236	58	43,696	44,686	(990)	52,285	7,599	85.47%
COMPUTER HARDWARE DEPRECIATION	4,315	2,949	1,366	38,143	29,949	8,194	46,773	16,825	64.03%
COMPUTER SOFTWARE DEPRECIATION	11,091	8,841	2,250	109,744	98,951	10,793	131,925	32,974	75.01%
INSURANCE	18,810	21,943	(3,133)	188,098	190,300	(2,202)	225,718	35,418	84.31%
PROFESSIONAL FEES-AUDIT	-	-	-	32,000	32,000	-	32,000	-	100.00%
PROFESSIONAL FEES-LEGAL	23,183	10,514	12,669	203,635	114,582	89,053	250,000	135,418	45.83%
TELEPHONE & INTERNET	5,428	6,883	(1,454)	52,144	69,357	(17,213)	63,000	(6,357)	110.09%
POSTAGE - GENERAL	2,333	615	1,718	18,920	11,636	7,284	23,586	11,950	49.33%
RECORDS STORAGE	2,500	2,595	(95)	21,504	19,042	2,462	26,504	7,462	71.85%
STAFF TRAINING	3,374	777	2,597	31,623	18,609	13,014	45,772	27,163	40.66%
BANK FEES	4,708	2,533	2,175	52,835	43,090	9,744	62,251	19,160	69.22%
PRODUCTION MAINTENANCE & SUPPLIES	1,696	417	1,279	14,665	9,113	5,551	18,056	8,942	50.47%
COMPUTER POOLED EXPENSES	83,685	38,312	45,373	732,341	619,016	113,325	899,711	280,695	68.80%
<b>TOTAL OTHER INDIRECT EXPENSES:</b>	<b>341,101</b>	<b>265,382</b>	<b>75,719</b>	<b>3,384,702</b>	<b>3,064,336</b>	<b>320,366</b>	<b>4,188,395</b>	<b>1,124,059</b>	<b>73.16%</b>
<b>TOTAL INDIRECT EXPENSES:</b>	<b>1,629,679</b>	<b>1,515,526</b>	<b>114,152</b>	<b>16,074,635</b>	<b>15,930,366</b>	<b>144,269</b>	<b>19,504,229</b>	<b>3,573,862</b>	<b>81.68%</b>

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<b>COVID 19</b>									
<b>REVENUE:</b>									
<b>TOTAL REVENUE:</b>	-	-	-	-	-	-	-	-	
<b>DIRECT EXPENSES:</b>									
COVID 19	-	-	-	-	(945)	945	-	945	
<b>TOTAL DIRECT EXPENSES:</b>	-	-	-	-	(945)	945	-	945	
<b>INDIRECT EXPENSES:</b>									
<b>TOTAL INDIRECT EXPENSES:</b>	-	-	-	-	-	-	-	-	
<b>TOTAL ALL EXPENSES:</b>	-	-	-	-	(945)	945	-	945	
<b>NET INCOME (LOSS):</b>	-	-	-	-	945	945	-	(945)	

**Washington State Bar Association**

Statement of Activities

For the Period from July 1, 2021 to July 31, 2021

**83.33%% OF YEAR COMPLETE**

	MONTHLY BUDGET vs. ACTUAL			YEAR TO DATE BUDGET vs. ACTUAL			ANNUAL BUDGET COMPARISON	
	FISCAL 2021 REFORECAST CURRENT MONTH	CURRENT MONTH ACTUAL	MONTHLY VARIANCE	YEAR TO DATE REFORECAST	YEAR TO DATE ACTUAL	YEAR TO DATE VARIANCE	FISCAL 2021 ANNUAL REFORECAST	REMAINING BALANCE OF YEAR
ACCESS TO JUSTICE	(25,619)	(18,763)	6,856	(215,951)	(193,632)	22,318	(265,737)	(72,104)
ADMINISTRATION	(88,433)	(83,289)	5,144	(917,443)	(899,085)	18,358	(1,108,134)	(209,049)
ADMISSIONS/BAR EXAM	(177,099)	(34,737)	142,362	230,616	379,903	149,286	3,246	(376,656)
ADVANCEMENT FTE	(19,685)	(18,474)	1,210	(198,296)	(193,726)	4,570	(239,496)	(45,771)
BAR NEWS	(30,279)	7,157	37,436	(279,003)	(135,458)	143,545	(343,683)	(208,225)
BOARD OF GOVERNORS	(60,456)	(36,809)	23,647	(307,829)	(273,821)	34,008	(415,528)	(141,707)
CLE - PRODUCTS	(3,661)	31,751	35,412	215,221	235,259	20,038	324,958	89,699
CLE - SEMINARS	(5,845)	(7,628)	(1,783)	(339,656)	(41,222)	298,434	(390,091)	(348,869)
CLIENT PROTECTION FUND	(90,306)	(9,685)	80,621	64,051	229,923	165,872	(118,520)	(348,443)
COMMUNICATIONS	(54,677)	(35,066)	19,611	(429,847)	(389,388)	40,459	(533,177)	(143,789)
COMMUNICATIONS FTE	(18,501)	(17,767)	735	(185,558)	(182,990)	2,568	(224,154)	(41,164)
DESKBOOKS	(18,774)	(17,798)	977	(151,659)	(168,953)	(17,293)	(191,629)	(22,676)
DISCIPLINE	(470,868)	(454,610)	16,258	(4,772,417)	(4,731,113)	41,304	(5,811,290)	(1,080,177)
DIVERSITY	(28,920)	(27,965)	955	(103,611)	(102,774)	837	(165,816)	(63,042)
FOUNDATION	(10,156)	(9,633)	523	(106,305)	(103,983)	2,321	(130,210)	(26,227)
HUMAN RESOURCES	(37,649)	(36,065)	1,584	(308,017)	(399,790)	(91,773)	(385,934)	13,856
LAW CLERK PROGRAM	(3,326)	(8,322)	(4,996)	111,869	102,814	9,056	103,430	617
LEGISLATIVE	(11,214)	(14,780)	(3,566)	(125,762)	(130,755)	(4,993)	(150,033)	(19,278)
LICENSE FEES	1,289,180	1,361,153	71,973	13,733,980	13,944,042	210,063	16,318,268	2,374,225
LICENSING AND MEMBERSHIP	(21,991)	(8,627)	13,364	(219,372)	(110,929)	108,443	(263,834)	(152,905)
LIMITED LICENSE LEGAL TECHNICIAN	(17,050)	(9,063)	7,987	(81,504)	(67,496)	14,007	(106,367)	(38,871)
LIMITED PRACTICE OFFICERS	6,664	7,263	599	99,501	105,916	6,415	106,760	844
MANDATORY CLE ADMINISTRATION	5,949	16,969	11,020	168,194	318,648	150,453	180,271	(138,377)
MEMBER ASSISTANCE PROGRAM	(17,754)	(8,733)	9,021	(81,179)	(69,383)	11,796	(119,075)	(49,692)
MEMBER BENEFITS	(19,559)	(14,376)	5,183	(271,405)	(265,732)	5,674	(314,428)	(48,696)
MEMBER SERVICES & ENGAGEMENT	(46,148)	(32,644)	13,504	(326,484)	(292,242)	34,242	(419,526)	(127,284)
OFFICE OF GENERAL COUNSEL	(81,351)	(60,210)	21,141	(757,767)	(732,979)	24,788	(930,095)	(197,116)
OFFICE OF THE EXECUTIVE DIRECTOR	(64,955)	(52,066)	12,889	(599,573)	(524,566)	75,007	(738,313)	(213,747)
OGC-DISCIPLINARY BOARD	(28,142)	(19,722)	8,420	(240,588)	(203,197)	37,390	(298,942)	(95,745)
OUTREACH & ENGAGEMENT	(26,612)	(17,708)	8,905	(234,980)	(195,677)	39,303	(291,390)	(95,713)
PRACTICE OF LAW BOARD	(7,556)	(18,932)	(11,376)	(53,766)	(47,963)	5,803	(69,649)	(21,686)
PROFESSIONAL RESPONSIBILITY PROGRAM	(24,677)	(22,808)	1,870	(245,125)	(238,285)	6,840	(297,175)	(58,890)
PUBLIC SERVICE PROGRAMS	(41,686)	(38,962)	2,725	(185,849)	(147,891)	37,958	(270,974)	(123,083)
PUBLICATION & DESIGN SERVICES	(8,332)	(7,703)	628	(87,920)	(85,430)	2,490	(105,969)	(20,540)
REGULATORY SERVICES FTE	(34,460)	(30,087)	4,373	(332,909)	(319,319)	13,591	(405,650)	(86,332)
SECTIONS ADMINISTRATION	(21,702)	(20,681)	1,021	20,109	46,543	26,434	(27,566)	(74,109)
SECTIONS OPERATIONS	(88,153)	903	89,056	(103,082)	258,398	361,480	(279,388)	(537,786)
SERVICE CENTER	(53,701)	(52,895)	806	(566,137)	(564,456)	1,682	(682,633)	(118,178)
TECHNOLOGY	(136,782)	(136,476)	306	(1,426,374)	(1,486,940)	(60,565)	(1,711,290)	(224,350)
COVID 19	-	-	-	-	945	945	-	(945)
INDIRECT EXPENSES	(1,629,679)	(1,515,526)	114,152	(16,074,635)	(15,930,366)	144,269	(19,504,229)	(3,573,862)
<b>TOTAL OF ALL</b>	<b>(2,223,965)</b>	<b>(1,473,412)</b>	<b>750,553</b>	<b>(15,686,464)</b>	<b>(13,607,150)</b>	<b>2,079,315</b>	<b>(20,272,990)</b>	<b>(6,665,840)</b>
<b>NET INCOME (LOSS)</b>	<b>(594,287)</b>	<b>42,114</b>	<b>636,401</b>	<b>388,171</b>	<b>2,323,217</b>	<b>1,935,046</b>	<b>(768,761)</b>	<b>(3,091,978)</b>

**Washington State Bar Association  
Analysis of Cash Investments  
As of July 31, 2021**

**Checking & Savings Accounts**

**General Fund**

**Checking**

<u>Bank</u>	<u>Account</u>	<u>Amount</u>
Wells Fargo	General	\$ 215,751

Total

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.01%	\$ 10,477,739
UBS Financial Money Market	0.00%	\$ 1,081,092
Morgan Stanley Money Market	0.00%	\$ 3,354,077
Merrill Lynch Money Market	0.00%	\$ 1,983,539

**General Fund Total \$ 17,112,198**

**Client Protection Fund**

**Checking**

<u>Bank</u>	<u>Amount</u>
Wells Fargo	\$ 436,508

<u>Investments</u>	<u>Rate</u>	<u>Amount</u>
Wells Fargo Money Market	0.00%	\$ 4,207,260
Morgan Stanley Money Market	0.00%	\$ 106,913

**Client Protection Fund Total \$ 4,750,681**

**Grand Total Cash & Investments \$ 21,862,879**

2021 ANNUAL CHIEF HEARING OFFICER REPORT  
TO THE BOARD OF GOVERNORS

I. INTRODUCTION

The Washington Supreme Court appointed<sup>1</sup> me to serve as chief hearing officer for a two year term beginning October 1, 2019. WSBA compensates the chief hearing officer \$30,000.00 per year through an independent contractor contract. This report, required by the contract, covers the time period October 1, 2020 through August 20, 2021.

II. DUTIES OF THE CHIEF HEARING OFFICER

Rules for Enforcement of Lawyer Conduct Rule 2.5(e)(2) sets out the chief hearing officer's duties and authority. The chief hearing officer also attends the Discipline Advisory Round Table Meetings and participates as an ex-officio member of the Disciplinary Selection Panel. This report summarizes the chief hearing officer's ELC 2.5 duties.

A. HEAR MATTERS

The chief hearing officer can hear matters. I did not conduct any hearings during this fiscal year. However, hearing officers did conduct three disciplinary hearings remotely, under our revised, emergency procedures.

B. ASSIGN CASES

The chief hearing officer assigns hearing officers and settlement hearing officers to individual proceedings from those the Washington Supreme Court appoints to the list. I have appointed 20 hearing officers and 10 settlement hearing officers between October 1, 2020 and August 20, 2021. There are no proceedings currently waiting for hearing officer appointments.

I receive a weekly report listing the cases needing hearing officer and settlement hearing officer assignments. The Formal Complaints are placed in a Box folder so I can access them as needed. I review the information and contact hearing officers who do not have current assignments. I have not had any difficulty finding hearing officers willing to accept new assignments. In fact, several consistently volunteer for more work. I have attempted to broaden the experience of all hearing officers by assigning them equally to settlement conferences, as well as to disciplinary and disability proceedings. To this extent I feel I have been successful. Fortunately, most disciplinary hearings only require 2-3 days, which is easier for hearing officers to accommodate. I will be challenged finding and assigning hearing officers to longer proceedings (in excess of one week), and may need to explore bifurcating proceedings, so as to not create an undue hardship on

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<sup>1</sup> The Supreme Court, upon recommendation of the Board of Governors in consultation with the Disciplinary Selection Panel, appoints a chief hearing officer for a renewable term of two years. ELC 2.5(e)(1).

the hearing officer. (This is something commonly done in workers' compensation cases at the administrative level with the Board of Industrial Insurance Appeals).

C. MONITOR AND EVALUATE HEARING OFFICER PERFORMANCE

I monitor and evaluate hearing officer performance through frequent contact with the hearing officers and through review of written orders and decisions. Hearing officers frequently contact me with questions about hearing procedures, including questions about photographing and recording proceedings and controlling participant behavior. This fiscal year due to the Covid pandemic, we had many questions regarding remote hearings, having transitioned our hearing format from primarily in-person hearings to fully remote. In support of this transition, we established protocols for conducting remote hearings and offered a series of small-group trainings, addressed below.

D. HEAR MOTIONS FOR HEARING OFFICER DISQUALIFICATION

The parties can request hearing officer removal without cause once in each proceeding.<sup>2</sup> In addition, the parties may move to disqualify a hearing officer for cause.<sup>3</sup> I have appointed a new hearing officer one time when a party requested removal without cause<sup>4</sup>.

E. HEAR PRE-HEARING MOTIONS WHEN NO HEARING OFFICER ASSIGNED

I have decided motions for orders of default, motions deferring discipline proceedings, motions objecting to investigative inquiries and investigative subpoenas, and approved stipulations. I have entered approximately nine of these orders.

F. HEAR MOTIONS FOR PROTECTIVE ORDERS UNDER RULE 3.2(e)

I have decided no motions for protective order this year.

G. HEAR MOTIONS PRIOR TO MATTER BEING ORDERED TO HEARING, INCLUDING WHILE A GRIEVANCE IS BEING INVESTIGATED

I did not receive any of these motions this fiscal year.

H. HEAR REQUESTS FOR AMENDMENT OF FORMAL COMPLAINT UNDER RULE 10.7(b)

I have not decided any motions under this rule.

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<sup>2</sup> ELC 10.2(b)(1).

<sup>3</sup> ELC 10.2(b)(2).

<sup>4</sup> I have appointed a new hearing officer two times, sua sponte; in the first instance, upon identifying a conflict in a matter in which I was serving as hearing officer, and in a second matter when the assigned hearing officer became a judge and could no longer serve as hearing officer.

I. APPROVE STIPULATIONS TO DISCIPLINE NOT INVOLVING SUSPENSION OR DISBARMENT AS PROVIDED BY RULE 9.1(d)(2)

The chief hearing officer approves stipulations when a hearing officer has not been appointed. I approved approximately four stipulations during this fiscal year.

J. RESPOND TO HEARING OFFICER REQUESTS FOR INFORMATION OR ADVICE RELATED TO THEIR DUTIES.

I responded to frequent requests for hearing officer information or advice relating to their duties. Many of the questions lead to topics for next year's training.

K. SUPERVISE HEARING OFFICER TRAINING IN ACCORDANCE WITH ESTABLISHED POLICIES

Hearing officer training is provided annually in the fall and includes CLE credit. We usually provide a five or six hour program in Seattle and provide Zoom to facilitate attendance by those outside of Seattle. Topics vary, but include changes to rules or procedures, Supreme Court cases decided over the last year, settlement skills, writing skills, diversity training and accessibility training. The most recent training was held remotely in July 2021. We provided three small-group trainings focused on remote hearings to support hearing officers scheduled to conduct hearings remotely. Our next training is targeted for November 2021

### III. HEARING OFFICERS

We have 33 hearing officers. Hearing officers are appointed by the Supreme Court of Washington for initial two year terms, followed by five year terms. There is no limit on the number of 5 year terms. Hearing officer initial and re-appointment applications are reviewed by the Discipline Selection Panel (DSP), and may include receiving input from the chief hearing officer, Office of Disciplinary Counsel and a representative from the respondent's counsel community. The DSP makes a recommendation to the WSBA Board of Governors. The Board forwards a recommendation to the Court.

### IV. STAFF

Allison Sato and Lisa Amatangel assist the chief hearing officer with his duties when needed.

### V. CONCLUSION

I thank you all for the support I have received during my term as chief hearing officer. Please let me know if you have any specific questions.

Respectfully submitted this 8<sup>th</sup> day of September, 2021.



Randolph O. Petgrave III  
Chief Hearing Officer





**LEGAL FOUNDATION**

**OF WASHINGTON**

**2020 ANNUAL REPORT TO THE  
WASHINGTON SUPREME COURT**

*April 28, 2021*

The Board of Trustees of the Legal Foundation of Washington report annually to the members of the Washington Supreme Court pursuant to Rule 15.7(a) of the Rules for Enforcement of Lawyer Conduct, which provides that:

*The Foundation shall prepare an annual report to the Supreme Court of Washington that summarizes the Foundation's income, grants and operating expenses, implementation of its corporate purposes and any problems arising in the administration of the program established by section (2) of this rule.*



Michael J. Pontarolo  
*President*

Candelaria Murillo  
*Vice President*

Sean M. Davis  
*Secretary*

Gary Melonson  
*Treasurer*

Joanna Plichta Boisen

Juli Farris

Mark A. Griffin

Mark A. Johnson

Fred Rivera

---

Charles A. Goldmark  
*Trustee 1984-1986*

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Caitlin W. Davis  
*Executive Director*

TO: Washington Supreme Court  
FROM: Legal Foundation of Washington  
DATE: April 2021  
RE: Annual Report to the Court for 2020

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The mission of the Legal Foundation of Washington (LFW) is equal justice for low-income people, and our vision is that civil legal aid is a basic human right, available and effective for all low-income people. Never before was our ability to deliver on this vision challenged more than in 2020. The sudden and devastating impact of the COVID-19 pandemic and the ensuing economic crisis, as well as the growing need to reckon with and address centuries of systemic racial oppression caused us to re-examine our processes, policies and practices.

We are proud of how we responded to the unforeseen challenges presented in the last year. As you will read in this report, we quickly pivoted to remote operations and provided support for our grantees so they could do the same. We partnered with government agencies to make emergency funds available to legal aid providers who experienced increased requests for help due to COVID-19, especially in the areas of unemployment benefits assistance, housing, and family safety.

In July of 2020, Governor Jay Inslee created a Washington Immigrant Relief Fund (WIRF) to benefit undocumented people who were impacted by COVID-19 but not eligible for traditional unemployment assistance. Although it is not squarely in our mission, at the request of the state, LFW was asked to develop and administer WIRF as a pilot project. Working closely with immigrant-led, community-based organizations, in a period of five months we distributed nearly \$60,000,000 to 60,000 families and individuals who otherwise would have been left out of the benefits system. The program was a success, and we have handed it off to the Department of Social and Health Services now that the Legislature has agreed to permanently fund this work.

LFW also continues to do work on its own internal policies and practices. We continue to learn new ways to apply a race equity lens to our procurement, hiring and board recruitment processes. We are proud of the success of the Race Equity Grant program, and continue to develop new ways of thinking about having a more inclusive and transparent decision-making process when it comes to making investments in

community organizations that provide civil legal aid services. There is a lot of work to be done, and we are hopeful about the opportunities in front of us.

As always, we want to thank the Supreme Court for your partnership and support over the years, and also for the opportunity to meet with you to present this report on April 28.

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Legal Aid in the News.....Attachment B

Unemployment Benefits Handout.....Attachment C

Race Equity Grants.....Attachment D

Grant Awards 2021.....Attachment E

## FOUNDATION OPERATIONS

The Legal Foundation of Washington has been in operation since 1984. LFW's Articles of Incorporation, Article VII, provides for a nine member Board of Trustees to maintain oversight of LFW's activities. Trustees serve staggered three-year terms and are eligible to serve a second three-year term. The Supreme Court, the Governor, and the Board of Governors of the Washington State Bar Association each appoint three of the nine Trustees.

### **Governance**

Our 2020 Board of Trustees were:

**President:** Mark A. Johnson, Seattle attorney.

**Vice-President:** Michael Pontarolo, Spokane attorney. *He currently serves as President.*

**Secretary:** Gary Melonson, Seattle Investment Advisor

**Treasurer:** John A. Goldmark, Seattle attorney

Sean M. Davis, Bellevue attorney

Mark A. Griffin, Seattle attorney

Kara R. Masters, Bainbridge Island attorney.

Candelaria Murillo, Kennewick attorney

Fred Rivera, Seattle attorney.

The Board of Trustees met seven times during 2020

February 14, 2020 (Seattle) – Board meeting and Annual Goldmark Award Luncheon

March 17, 2020 (Virtual) – Board meeting

April 29, 2020 (Virtual) – Board meeting and Annual Report to the Washington Supreme Court

May 22, 2020 (Virtual) – Board meeting

August 31, 2020 (Virtual) – Board meeting

September 24, 2020 (Virtual) – Board meeting

November 20, 2020 (Virtual) – Board meeting to determine annual grants.

### **Board Committees**

LFW's stewardship of its mission was carried out during 2020 through service on six regular Board committees. Their responsibilities were as follows:

- (1) **Executive Committee**, chaired by President Mark Johnson and composed of the four Board officers. Provides guidance when the full Board is not available.
- (2) **Audit Committee**, chaired by John Goldmark and oversees the annual audit in accordance with nonprofit best practices.
- (3) **Finance Committee**, chaired by Treasurer, John Goldmark. Responsible for the operating budget, LFW's depository banking relationship, and its investments.
- (4) **Grants Committee**, chaired by Vice-President, Michael Pontarolo. Reviews annual grant applications and makes recommendations to LFW's Board of Trustees concerning all grant issues.
- (5) **Goldmark Award Committee**, chaired by Mark Johnson. Selects the recipient of the Charles A. Goldmark Distinguished Service Award and plans the annual Goldmark Award Luncheon.
- (6) **Goldmark Internship Committee**, chaired by Kara Masters. Selects the recipient of the Goldmark Equal Access to Justice Internship and the program where the intern is placed.

## FISCAL ADMINISTRATION

While 2020 saw a steady decline IOLTA revenues compared to 2019, philanthropy and public funding remaining strong in response to the needs brought on by the COVID-19 pandemic.

### ***Summary of 2020 LFW Income, Operating Expenses, and Grant Obligations***

#### 2020 Income

Net Interest on IOLTA Accounts	\$6,961,705
Investment Earnings ( <i>realized and unrealized</i> )	1,141,458
Subcontract Revenue	3,728,500
Contributions & Grants	3,484,590
COVID-related Grants	40,946,094
Cy Pres Awards	489,341
<b>Total Revenues</b>	<b>\$56,751,688</b>

#### 2020 Operating Expenses and Grant Obligations

Annual Grants <sup>1</sup>	\$11,908,014
COVID-related Grants & Expenses	40,744,696
Other Program Support Expenses <sup>2</sup>	814,370
Administration & Fundraising	988,171
<b>Total Expenses</b>	<b>\$54,455,251</b>

Staffing LFW's financial operations are Nancy Smith, CPA, MBA, and Lauren Sutherland, Staff Accountant. John Goldmark served as Treasurer in 2020 and chaired the Finance Committee which along with LFW's Board of Trustees – provided oversight of the budget, investments, and financial reports.

<sup>1</sup> Grants obligations represent awards approved November 20, 2020 for distribution in 2021.

<sup>2</sup> Other Program Support Expenses include Case Management Software Fees, Pro Bono Support and Grantee Malpractice Insurance and Interpretation Services.

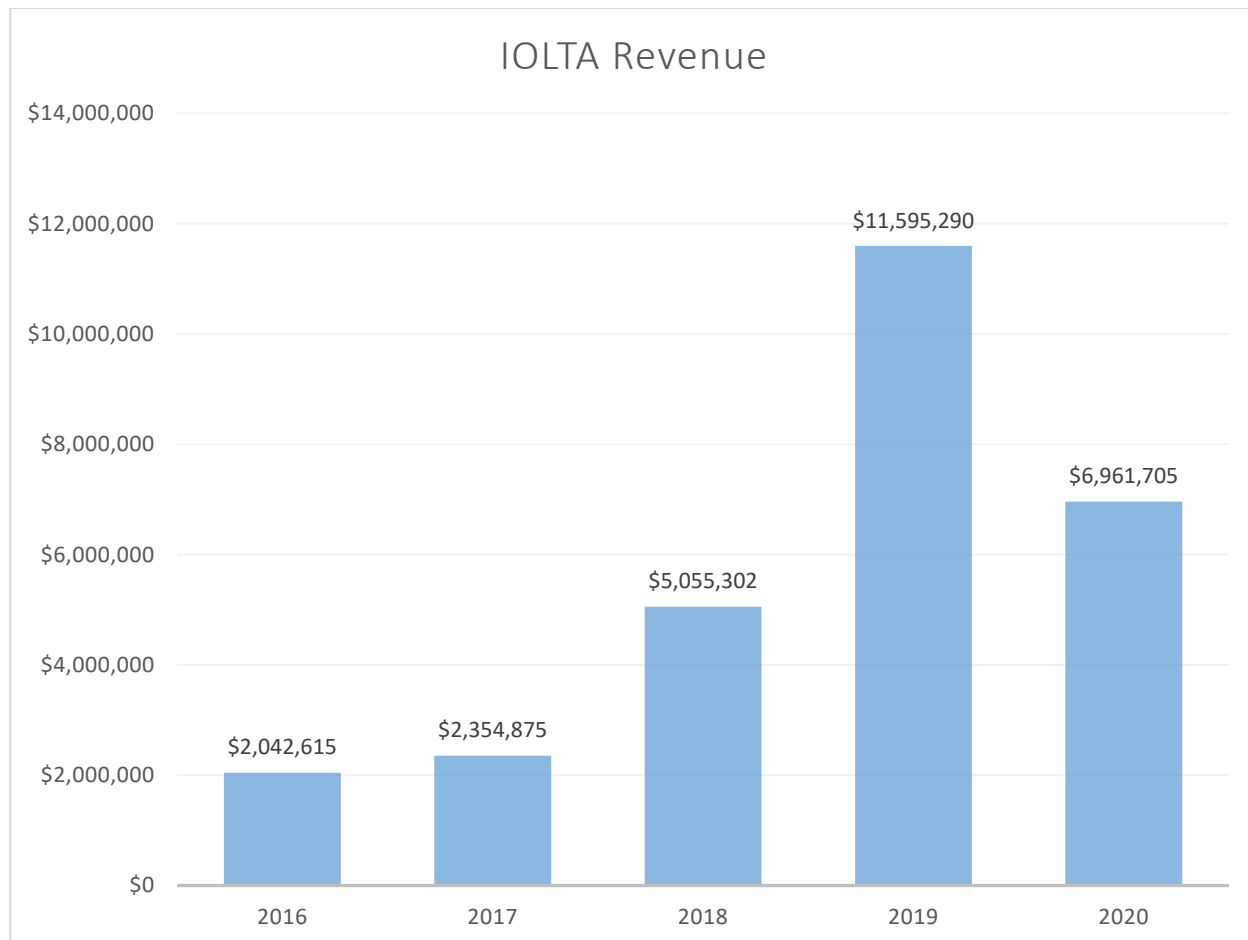


### **Audit**

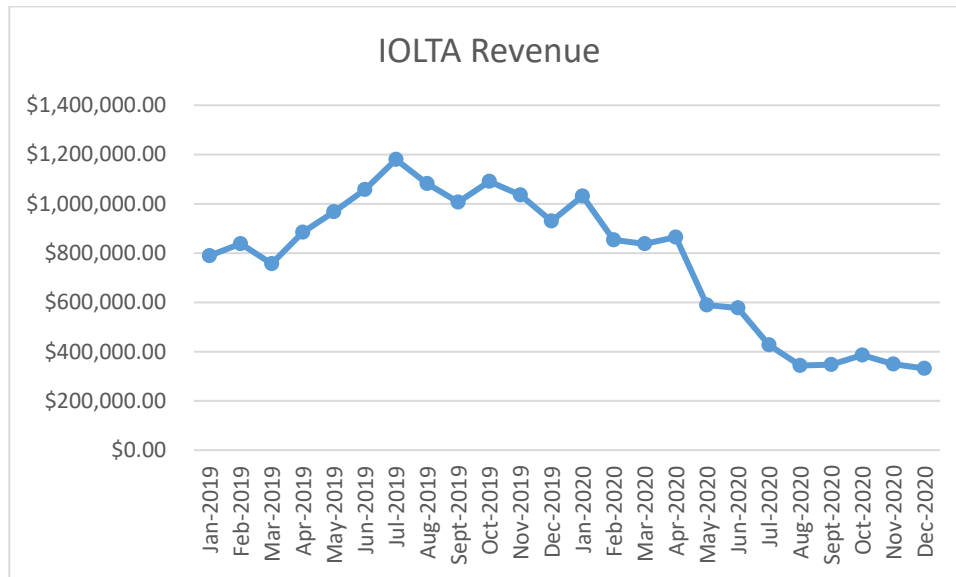
BDO USA, LLP, provided an independent audit of LFW’s financial statements and issued an unmodified (“clean”) opinion for 2020. Due to the timing of the audit, the final report is not available at the time of this report to the court. A copy of the final audit report will be forwarded to the court as an addendum to this report when it becomes available.

### **IOLTA**

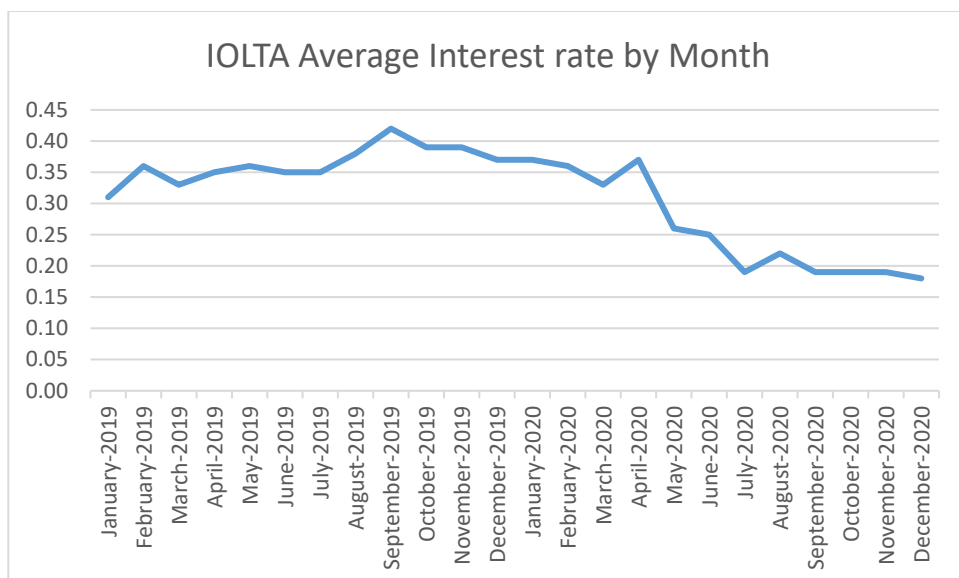
After a banner year for IOLTA revenue in 2019, 2020 saw the beginning of a sharp decline in IOLTA interest due to the reduction of the Federal Funds Rate. The IOLTA (Interest on Lawyers Trust Accounts) program consists of Lawyers, Limited Practice Officers (LPO), and Limited License Legal Technicians (LLLT) holding IOLTA accounts. IOLTA revenue (net of fees) for 2020 was \$6.9M, representing 44% of LFW’s non-COVID-related revenue. This is a 40% year-over-year decrease.



There are 83 active financial institutions participating in the IOLTA program in Washington State. A complete list of authorized financial institutions can be found on the LFW’s website. IOLTA revenue from the top 13 financial institutions accounts for 96% of the total IOLTA revenue.



As a result of a decline in the Federal Funds Rate in Oct 2019, we began to see a decline in the average interest rate. In March of 2020 – in response to the economic impacts of the COVID-19 pandemic – the Federal Reserve lowered its target rate to zero. This was the rate in effect from 2009 through 2015. As a result, we have seen a sharp decline in interest rates being paid on IOLTA accounts by financial institutions. As of the end of 2020, the interest rates on IOLTA accounts range from 0.01% to 1.00% with 48% of interest rates below 0.10%.



### ***Other Revenue Sources***

In addition to IOLTA, LFW is fortunate to have some other revenue sources from which to draw. The Campaign for Equal Justice raises private charitable support for civil legal aid. A more detailed account of their success follows later in this report; we are very grateful for the funds raised from the legal community in our state.

In 2020, the Endowment for Equal Justice made its fifth grant award to LFW. The \$847,500 grant from the Endowment was part of the funds awarded to our grantees in 2019.

Through our funding partnership with Northwest Justice Project, over \$3.7 million in state funding was passed through to our grantees that did state-eligible work during 2020. This was a significant increase from the previous year due to the inclusion of pro bono expansion funds.

Thanks to the Supreme Court's adoption of our proposed amendments to Court Rule 23 in 2007 and 2017, *cy pres* awards have become an increasingly important source of revenue for civil legal aid. In 2020, we received *cy pres* awards of \$489,341.

### ***COVID-related Grant-Making Opportunities***

As an experienced grant-maker to organizations that strive to meet the needs of some of the most vulnerable, LFW was given the opportunity to administer special funding related to COVID-19 relief.

Funded primarily by the Federal government as part of the CARES Act, LFW worked with OCLA as well as new partners, DSHS and King County.

### ***Stabilizing Grants for the Future***

While LFW experienced a surplus in 2019, the trending decline in IOLTA revenue is of great concern. In 2019, the LFW Trustees undertook a project to structure cash reserves in such a way to provide for immediate short-term needs, a one to three-year near term reserve, which would complement the already-existing Goldmark Fund (the reserve of last resort). The Trustees felt that it would be prudent to set aside these resources to help buffer future declines in IOLTA. This already has proven to be a wise move: at the time of this writing, the Federal Reserve interest rate has gone back to the 0 – 0.25% in response to the economic impacts of the COVID-19 pandemic. A sharp decline in IOLTA receipts for 2021 is expected as a result.

## GRANT INFORMATION

In 2020, LFW invested **over \$11.3 million in grants** in Washington’s legal aid system, including more than \$1 million in emergency COVID-19 response grants (Attachment A) As a result, **over 20,000 families received free one-on-one legal services** for help with urgent legal concerns, many due to the pandemic. Hundreds of thousands were also impacted by systemic advocacy designed to address oppression, injustice and root causes of poverty.

In a year of extraordinary needs and deepening inequities for those most marginalized, we were proud to make impactful and responsive investments in equal justice.

We continue to center the State Plan’s unified goals of race equity, legal education and awareness, access for underserved communities, holistic client-centered services and systemic advocacy in our funding strategy. These five commitments were especially important this past year as we navigated 2020’s quickly changing landscape and worked to provide stability for the state’s network of legal aid programs.



### ***Responding to the COVID-19 Pandemic***

The COVID-19 pandemic created complex new legal challenges for low-income people across the state. High unemployment and economic insecurity have resulted in a pending eviction crisis with an estimated 200,000 renters in Washington unable to pay their rent<sup>3</sup>. Intimate partner violence has risen along with pandemic lockdowns and isolation<sup>4</sup>. At the same time, existing inequities have deepened. BIPOC communities have been disproportionately affected by COVID-19 with Native Hawaii and Other

<sup>3</sup> Crosscut, “WA scrambles to avoid mass evictions as moratorium nears end” <https://crosscut.com/news/2021/02/wa-scrambles-avoid-mass-evictions-moratorium-nears-end>

<sup>4</sup>Time, “Domestic violence is a pandemic within the COVID-19 pandemic” <https://time.com/5928539/domestic-violence-covid-19/>

Pacific Islander (NHOP), Latinx, American Indian and Alaskan Native (AIAN) and Black populations infected at 2 to 3.5 times the rate of white populations in Washington.<sup>5</sup>

With LFW's enhanced support, legal aid providers quickly adapted their services to meet the escalating needs of low-income communities across Washington. They transitioned to virtual clinics, trained volunteer attorneys and staff to use new technology, and modified their offices and in-person client interactions to meet the utmost standards of safe and socially distanced protocols outlined by the Governor's Healthy Washington and Safe Start plans.



A Spanish-language roadside sign for Chelan Douglas Volunteer Attorney Services

Legal aid programs devised new outreach strategies, including social media platforms, Spanish-language radio ads and informational signage visible by car. They expanded their community collaborations to reach families disproportionately impacted by the pandemic such as farmworkers and people experiencing homelessness. More than ever, legal aid partners came together to remove barriers to service and imagine creative new solutions to what legal aid can look like.

LFW has supported these efforts by funding personal protective equipment for staff and clients, safety modifications like plexiglass barriers for offices, virtual clinic set-ups, enhanced technology, a series of webinars on best practices for remote legal services and a contract with a technology specialist to

<sup>5</sup> Washington State Department of Health <https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/data-tables/COVID-19MorbidityMortalityRaceEthnicityLanguageWASState.pdf>

provide individualized support to every program that needed it. We quickly mobilized along with partners at the Office of Civil Legal Aid and King County to offer additional emergency grants for COVID-19-specific programming including: eviction defense, unemployment, domestic violence support, and direct aid for people excluded from COVID-stimulus and unemployment due to their immigrant status.

We also examined our role as a funder and how we could ease the burden of unstable, complicated funding for legal aid programs. This included coordinated funding from various state and federal sources, providing emergency grants and resources to bolster our grantees' abilities to respond to community needs, creating safe, distanced options for service, and adapting our grantmaking practices to reduce administrative load on programs.

For example, in a typical year, LFW opens the application process for Partnership Grantees in mid-August. Programs spend the next month working on their applications and after a review process by staff and the board of trustees, grant decisions for the following year are made in late November. This year, due to the economic and safety issues presented by COVID-19, we strategically extended 2020 Partnership Grants to grantees through 2021 automatically and did not require an application. This plan reduced the administrative burden on programs and opened up additional staff time for direct client work.

We also partnered with both the Office of Civil Legal Aid and the King County Department of Community and Human Services to distribute over \$1.8 million in funding for legal aid services related to eviction defense, unemployment cases, domestic violence cases, and equipment to allow staff and volunteers to work remotely and/or with necessary personal protective equipment. Along with the Department of Social and Health Services and an alliance of immigration advocates, we launched the Washington Immigrant Relief Fund, quickly disbursing over \$60 million in direct payments to individuals ineligible for COVID-19 stimulus and unemployment payments due to their immigration status. As we move into 2021, our efforts to strategically meet the legal needs of communities deeply impacted by the pandemic continues to expand.

### ***Equity in Grantmaking***

In 2020, the overlapping issues of the COVID-19 pandemic and the reckoning around our country's deeply entrenched racism reinforced the critical need for equity in the civil justice system. The system of philanthropy and grantmaking is a part of these structures as well, with power to resource communities or deepen inequities.

LFW believes that creating fair access to civil justice requires undoing systemic racial oppression. We are committed to becoming an anti-racist organization and strive to reflect racial justice and inclusion in our grantmaking. We apply this commitment to grantmaking in many ways including: increasing investments in communities impacted most by systemic racism; analyzing demographics of poverty populations to shed light on funding disparities; creating channels for increased community input, including by those directly impacted by poverty and oppression; supporting compensation equity and leadership opportunities; and building a Race Equity Grant program guided by community member input. We have been evolving our approach, listening to stakeholder feedback to make our processes more accountable, and we have been gaining knowledge and best practices from peer grantmaker coalitions and equity experts in the field of philanthropy<sup>6</sup>. We know we still have a lot of work to do and we are grateful for the opportunity to learn and grow alongside our partners in the Alliance for Equal Justice.

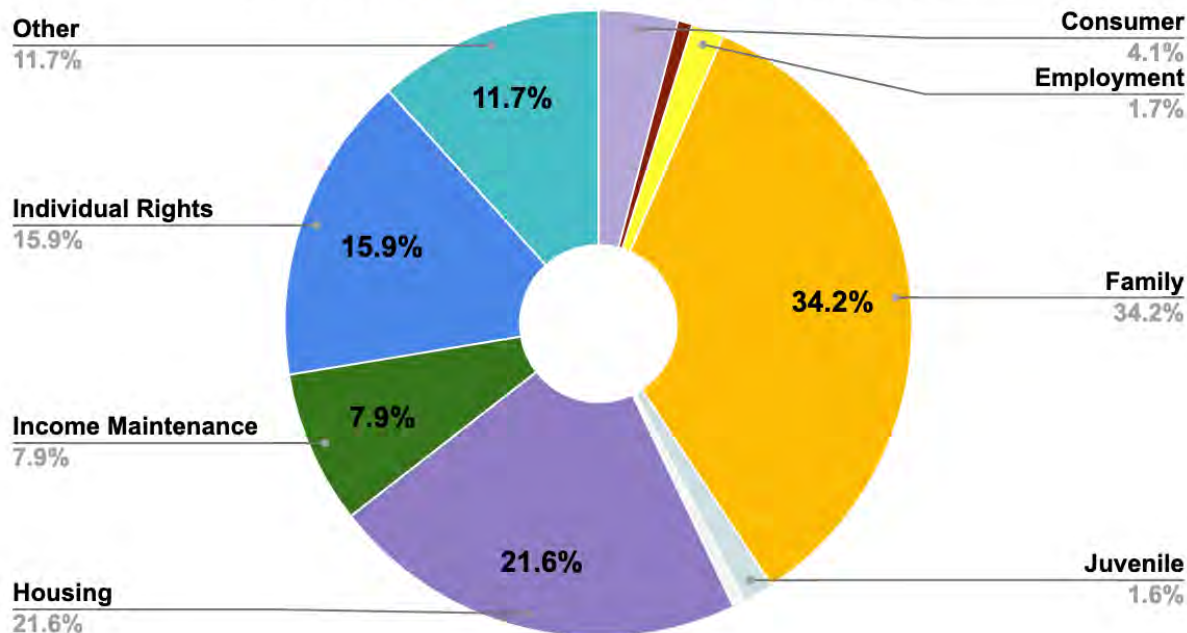
### ***Measuring the Impact of Legal Aid Funding***

In 2020, LFW funded programs provided direct legal help to over 20,000 individuals and families. The chart below shows the types of legal problems that were addressed. Family law and housing continue to be critical legal issues for low-income people in Washington. Even with an eviction moratorium in place for most of the year, housing issues continued to account for more than 21% of closed legal cases for the year. The number of inquiries for information regarding housing and unemployment issues has also increased dramatically, even if it did not result in a completed legal case. For example, Unemployment Law Center has reported a 300% increase in client calls during the pandemic.

<sup>6</sup> Sources include [Grantmaking with a Racial Justice Lens](#), [Philanthropy NW's Grantmaking with an Equity Lens](#), and the [Trust-Based Philanthropy Project](#)



## Legal Problems Addressed in 2020



In addition to these individual cases, LFW grantees used systemic advocacy to secure legal rights for **hundreds of thousands of vulnerable people** in our state. For example, Columbia Legal Services, the recipient of LFW’s largest grant, has continued to focus 2020 efforts on systemic advocacy and policy work. They have been advocating for farmworker and consumer rights, the rights of people experiencing homelessness and sheltering in recreational vehicles by classifying them as environmental risks, and proposed bills to end the practice of suspending driver’s licenses due to an inability to pay a traffic fine, strengthen tenant protections to prevent excessive landlord claims for routine maintenance and to ban private for-profit prisons.

### Highlight: Snohomish County Legal Services and Northwest Justice Project

Despite the state eviction moratorium, tenants have still been at risk throughout the pandemic. A collaboration between the Northwest Justice Project (NJP) and Snohomish County Legal Services (SCLS) provided advocates around the state with a model to ensure courts are providing access to justice for all.



risk  
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Over the last year, the SCLS Housing Justice Project continued to represent clients in telephonic hearings for the types of eviction cases still permitted under the moratorium. Attorneys noticed that the way the Snohomish

County Superior Court heard the cases presented due process issues — the court's telephonic system did not effectively work with cell phones, many clients were unaware of the court call requirements, and if clients could not answer when called for a hearing, the court would often default to issuing a writ of eviction.

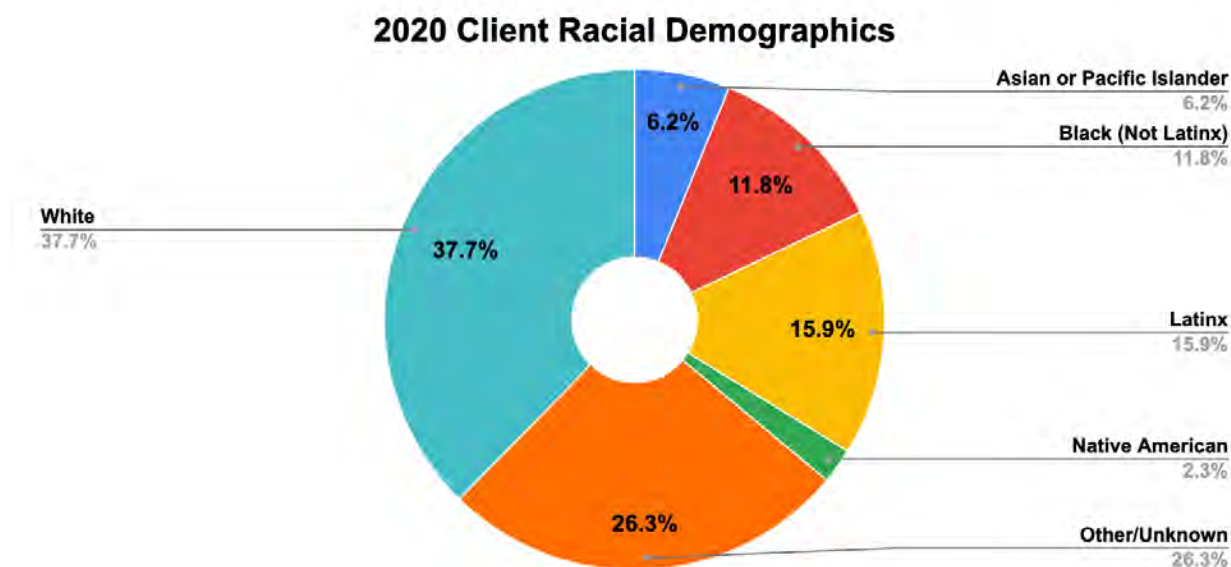
NJP represented SCLS in a lawsuit, which successfully resulted in a settlement requiring the court to allow clients to visit the courthouse, with social distancing protocols in place, for a hearing or to use an available telephone rather than the “CourtCall” system. The settlement also requires that an addendum be attached and served on all defendants in residential, post-foreclosure, and manufactured and mobile home unlawful detainer actions, to explain their rights to present evidence and appear at a “show cause” hearing.

The litigation was especially important to ensure access to the court for clients with disabilities. Judges in other counties around the state have since been asked to apply the Snohomish settlement to their systems.

We have also included examples of grantees’ legal advocacy that made it into mainstream news media at Attachment B.

### ***Demographics and Accessibility***

The following chart shows the race/ethnicity breakdown of clients served by LFW Partnership Grantees in 2020.



Legal aid programs continue to prioritize accessible services, particularly to communities experiencing numerous systemic barriers. Prior to and during the pandemic, BIPOC (Black, Indigenous and People of Color) communities have been disproportionately impacted by a wide range of civil legal issues including unfair housing practices and homelessness<sup>7</sup>, unemployment<sup>8</sup>, incarceration rates and consequential need for re-entry legal support<sup>9</sup>, immigration defense<sup>10</sup> and more.

As part of our unified commitment to the goals of the State Plan, legal aid programs have focused on developing new partnerships and embedding their services within trusted community organizations to make legal aid as accessible as possible.

Language access and interpretation is another essential component to providing equitable legal aid. In 2020, LFW ramped up our support for language access, funding numerous outreach efforts in multiple languages. We worked closely with the WA Immigrant Solidarity Network's hotline to ensure legal aid resources were available to immigrant families. See attachment C for an example of a multilingual outreach document created by Columbia Legal Services during the early weeks of the pandemic.

Legal aid clients received direct one-on-one legal services in over forty languages using bilingual attorneys, in-person interpreters, and telephonic interpretation. LFW funds a phone interpretation services for grantees, which was used for more than 51,700 minutes of interpretation in 2020. This represents a 43% increase from the previous year. The most commonly requested languages for phone interpretation were: Spanish (1,504 calls), Arabic (123 calls), Vietnamese (131 calls), Mandarin (108 calls), Russian (118 calls), and Somali (95 calls).

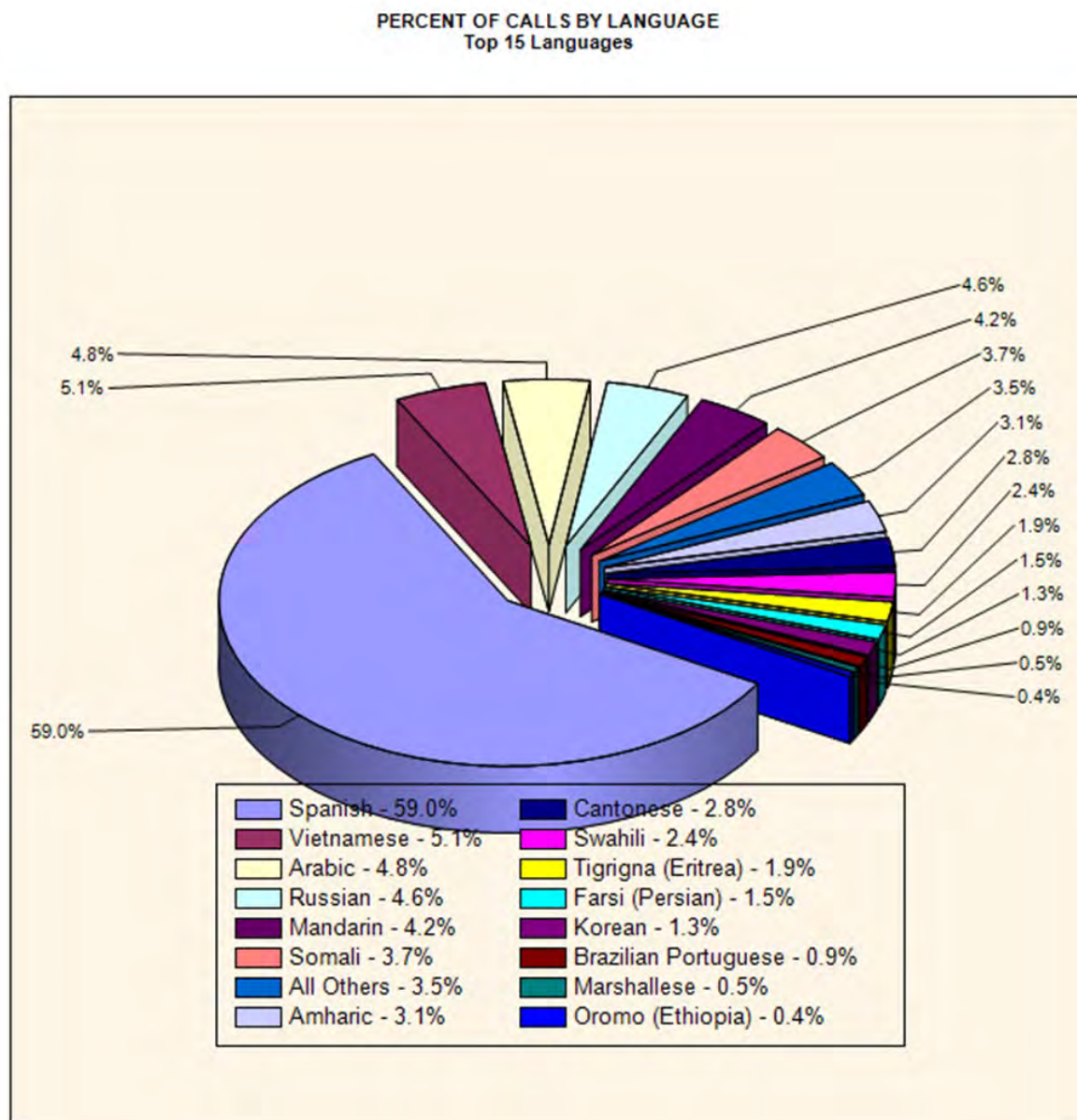
<sup>7</sup> Washington State Health Assessment <https://www.doh.wa.gov/Portals/1/Documents/1000/SHA-HomelessnessandInadequateHousing.pdf>

<sup>8</sup> U.S Bureau of Labor Statistics [https://www.bls.gov/web/empsit/cpsee\\_e16.htm](https://www.bls.gov/web/empsit/cpsee_e16.htm)

<sup>9</sup> Report to the United Nations on racial Disparities in the U.S. Criminal Justice System <https://www.sentencingproject.org/publications/un-report-on-racial-disparities/>

<sup>10</sup> American Immigration Council <https://www.americanimmigrationcouncil.org/research/immigrants-in-washington>

The following chart shows the fifteen languages most frequently utilized for phone interpretation in 2020.



### ***Volunteer Attorney Resources***

LFW-funded programs recruit thousands of attorneys to provide pro bono legal assistance to low-income clients in their communities. In 2020, over 2,200 individual attorneys volunteered their time with LFW grantees. Attorneys were trained to do virtual clinics and client meetings, a first for many volunteers and programs. The following chart shows a breakdown of volunteer hours by legal aid program.

<b>Hours of Free Legal Aid Donated by Attorneys in 2020</b>	
<b>Organization</b>	
Benefits Law Center	350
Benton-Franklin Legal Aid	1,180
Blue Mountain VAP	182
Chelan-Douglas County VAS	470
Clallam-Jefferson County Pro Bono Lawyers	322
Clark County VLP	1,535
Columbia Legal Services	2,243
Cowlitz-Wahkiakum Legal Aid	431
Eastside Legal Assistance	785
King County Bar Foundation Pro Bono Services	8,200
Kitsap Legal Services	631
Legal Assistance by Whatcom (LAW) Advocates	241
Northwest Immigrant Rights Project	3,854
Skagit Co. Community Action Vol. Lawyers Program	166
Snohomish County Legal Services	931
Spokane County Bar Association VLP	752
Tacoma-Pierce County Bar Association VLS Program	638
TeamChild Advocacy for Youth	85
Thurston County Volunteer Legal Services	2,201
Unemployment Law Project	396
Yakima County Volunteer Attorney Services	<u>463</u>
<b>TOTAL</b>	<b>25,706</b>

LFW also provides annual funding for the Pro Bono Council, which supports volunteer lawyer programs across the state. In the few years since its inception, this program has strengthened the network of pro bono programs. This network has been particularly useful in 2020 as programs collaborated and strategized how to approach the shift to remote volunteer attorneys, online fundraising events, new methods of outreach, and how to prepare for the onslaught of evictions that are expected to ensue after the moratorium is lifted in response to the COVID-19 pandemic.

### ***From the Client's Perspective***

Client numbers represent the real-life stories of thousands of individuals and families whose lives have been dramatically impacted by LFW grants. The following true stories are examples of legal aid making a difference for low-income people in Washington:

**“Josephine”\* a Clark County Volunteer Lawyers Program client:**

Josephine came to see us after her husband passed away. Upon his death, his death certificate was inaccurately filed to say that Josephine was not married to him at the time of his death. This occurred because Josephine's stepson was the one who filed the death certificate and had issues with his stepmother. This was an issue for Josephine because her husband had received a full military pension via the Veteran's Affairs department. Because her husband was listed as divorced on his death certificate, she was unable to file for survivor benefits. As a woman of color with limited English capabilities, she experienced even more prejudice when trying to prove that she was in fact married to her husband at the time of his death. She tried to correct the issue with the funeral home, which doubted her story and with Oregon vital statistics, who could not change the death certificate without the funeral home's approval or a “declaratory judgement” from the county she was married in.

Josephine was placed in an elder law clinic and met with a probate attorney. The probate attorney took on the case for limited services and started by sending a demand letter to the stepson, requesting he report the error on the death certificate. They then attempted to send a letter to the funeral director, who refused to make any changes as he did not “believe” Josephine. After these attempts did not pan out, the probate attorney referred Josephine back to the CCVLP to find a better experienced attorney for the issue. Our program director spent months calling probate and family law attorneys in Oregon and Washington (as the client lived in Washington but her husband died in Oregon), attempting to find anyone with experience in getting a declaratory judgement. After 3 solid months of searching, our program director was able to find a family law attorney who was willing to take on the case for full representation. The attorney compiled evidence, including that there was no divorce certificate in Washington or Oregon and submitted a request for a declaratory judgement. After almost a full year of working on this case, the submitted judgement was approved. A month after that, Josephine received her full survivor benefits from Veteran's Affairs.

**Roueth An, a Northwest Immigrants Rights Project and Seattle Clemency Project client (in his own words):**

My family came to the United States in 1981 after fleeing Cambodia under the Khmer Rouge. After spending a few years in Iowa, we moved to Tacoma, Washington when I was a teenager. I

thought the Pacific Northwest was beautiful – the deep emerald trees, the white peak of Mount Rainier, the deep blue of the Puget Sound – it was like a different world. One night in 1994 when I was 21 years old, I was giving a ride to a friend of mine who was in a gang. As we drove down the street, my friend started yelling at some rival gang members he saw on the sidewalk. Then he pulled a gun on them and fired. One of the gang members was wounded. It was terrifying. I was definitely at the wrong place at the wrong time. I was arrested shortly after the shooting and charged as an accomplice. I took a plea deal and ended up serving time in prison. After spending 18 months in prison, I was taken by immigration officials to a detention center where I faced deportation back to Cambodia. However, Cambodia was not accepting deportees at that time, so I was able to stay in the United States even though I still had been issued an order of deportation.

When I finally got out of the facility, I looked at myself in the mirror and saw how much I'd aged. I'd been in prison and immigration detention for several years. I knew I needed to start building a life for myself. I became an electrician, got married, and started a family of my own. And for nearly 20 years my life was happy and normal. In 2018, my required check-ins with immigration officials became more frequent. While I used to meet with them once every six months, I was now being asked to check in every month. My wife and I were getting worried. Through a fellow Cambodian refugee, we were connected to two pro bono attorneys with the Seattle Clemency Project who helped me submit an application for a pardon from Governor Jay Inslee which would put an end to my deportation order. Shortly after, I was asked to report to my monthly ICE check-in early. When I arrived, officers informed me that I was being detained. They took me to the detention center in Tacoma and I was certain that I was going to be deported to Cambodia. I started mentally preparing for what life would be like without my wife and son. It was at this difficult point in my story that I met Northwest Immigrant Rights Project.

One day, Tim Warden-Hertz, a NWIRP attorney, met with me and let me know that NWIRP would be representing my immigration case. He immediately struck me as a very kind person. After being in detention for several weeks, we received good news on my pardon application. I was granted a pardon hearing on December 13th. But just two weeks before the 13th, we found out I was going to be transferred to a facility in Texas on December 11th and deported on December 19th. My Seattle Clemency Project and NWIRP attorneys requested an emergency

pardon and four days later, Governor Inslee signed my pardon. But the case was far from over. I now needed my immigration case to be reopened in immigration court. Tim worked around the clock to speed up this process so that I would be spared from deportation.

On December 12th, the day I was supposed to travel to Texas, I was released. After being reunited with my family, Tim continued to work on my case. And on June 17th of this year, I finally became a US citizen. After almost 40 years of living in this country and over 20 years of uncertainty, I can finally rest easily knowing that I am safe from the threat of deportation. I am so grateful to organizations like NWIRP and the Seattle Clemency Project for their hard work on my case.

*\*Client names have been changed to preserve confidentiality*

### **2020 Special Grants**

As the grant chart at Attachment A shows, LFW made targeted Special Grants to address underserved populations in Washington. These grants included: \$25,000 to Colectiva Legal del Pueblo, \$25,000 to the Laurel Rubin Farmworker Justice Project; \$50,000 to Lavender Rights Project, and \$75,000 to Civil Survival Project. We also partnered with Northwest Justice Project and the Office of Civil Legal Aid to provide an additional \$85,000 to Unemployment Law Project to address the surge in COVID-related unemployment cases.

In 2020, Communities Rise (formerly known as Wayfind) entered the final year of its Community Redevelopment Grant, using bank of America settlement funds. They provide legal services more than 200 nonprofit and microenterprise businesses in South King County, the majority of which are owned by people of color, immigrants, and/or refugees. During the pandemic, their services were enhanced to include support around PPP loans, COVID-19-funding eligibility and other emergency legal needs.

In addition, LFW partnered with local and state governments to distribute additional COVID-19-response Special Grants to legal aid providers. Along with the Office of Civil Legal Aid, we granted \$735,000 to ten volunteer lawyer programs to expand emergency eviction defense services in key counties across the state. We also worked with the King County Department of Community and Human



Services to grant \$339,643 to four legal aid programs providing essential COVID-19-related unemployment, benefits access and domestic violence legal aid.

### ***Race Equity Grants***

Two years ago, LFW launched the Race Equity Grant fund to:

- invest in communities most impacted by structural racism and oppression;
- support community- and client-centered approaches to civil legal aid;
- increase civil justice for communities of color; and
- build and support anti-racist organizations and leadership.

The program is built on a participatory grantmaking model with an advisory panel of community experts who have worked on race equity issues and/or lived in communities impacted by poverty and racism. The panel reviews grant applications and makes recommendations for funding.

During the two 2020 Race Equity Grant cycles, LFW received 40 eligible proposals totaling \$400,000 in requested funds. The requests far exceeded the fund total of \$120,000. After carefully considering all of the requests and considering the impact on communities of color, the advisory panel recommended 12 grant awards. Funded organizations included: Cowlitz Wahkiakum Legal Aid, Disability Rights Washington, Yakima County Volunteer Attorney Services, and Fair Work Center. A full list of funded projects is provided in Attachment D.

Racial equity is foundational to legal aid and we believe this grant program will continue to elevate that work. In 2020, an anonymous donor gifted \$1M to fund systemic advocacy and Race Equity work. The LFW board voted to allocate \$100,000 of the gift to the 2021 Race Equity Grants. Combined with the standing \$120,000 fund, \$220,000 will be awarded in 2021—six \$20,000 grants in the spring and ten \$10,000 grants in the fall.

### ***Race Equity Grant Program Highlight: West African Community Council***

The West African Community Council (WACC) helps immigrants in the Seattle area seek citizenship, renew green cards, connect with legal services, and remain safe and protected from removal. Significant barriers, including language access, mistrust of the legal system, and fears of being targeted by ICE, have increased the need for assistance in the African community and Chinese and Filipino communities as well.



With help from funding through LFW's Race Equity Grant program, WACC expanded its Immigration Legal Program to meet this growing need. The program added staff, to provide both community navigation and direct representation in removal proceedings through the Expanded Seattle-King County Immigrant Legal Defense Network and other partnerships. The expansion allows WACC to enter appearances in immigration court for people facing deportation, including victims of violent crimes and human trafficking, and challenge civil detention and constitutional violations of detainees.

As members of the same communities the organization serves, WACC staff are able to provide culturally appropriate, linguistically accessible, and client-specific support, and accommodate cultural, racial, and financial barriers to legal immigration services — including the aggressive targeting of Muslim immigrants by the federal government.

### ***Alliance Support Resources***

In addition to direct grants to organizations, LFW supports the network of grantees by paying for shared resources to streamline operations and maximize their impact. In 2020, this included \$45,000 to JustLead to subsidize their year-long leadership academy, race equity trainings tailored to individual programs, and statewide equity work. LFW also provided \$24,600 for professional liability insurance to cover volunteer attorneys around the state, \$105,000 for the shared case management system Legal Server, and \$64,000 for language interpretation services for all our grantees. In addition, we made over \$55,000 in Grantee Support funds available for technology, training, and unexpected costs. This year, much of that program need was focused on adapting services for the pandemic.

### **2021 Grant Awards Determined**

In November 2020, the LFW Board of Trustees met and awarded \$11.6 million in grants to over 30 programs throughout the state including \$9.5 million in operating support to Partnership Grant programs, as well as Special Grant disbursements for targeted COVID-19-response and equity-focused projects. (Attachment E)

Due to a generous anonymous donation, LFW was able to grant an additional \$1 million to produce long-term systemic change for communities of color in Washington. In the donor's own words, "...we want to help tip the scales of justice in the correct direction for people in need right now." The donor stipulated that the funds be distributed immediately to combat "institutional and endemic racism."

This was an amazing opportunity to dream big and address long-time inequalities in the justice system. LFW's Board of Trustees decided to grant those funds as follows:

- **Special Grant of \$450,000 to Columbia Legal Services**

Since 1967, Columbia Legal Services has "advocated for laws that advance social, economic, and racial equity for people living in poverty."<sup>11</sup> Recently they have narrowed their focus to community-led advocacy in the areas mass incarceration and immigration advocacy. Though both the prison population and immigrants have been deeply impacted by the COVID-19 pandemic, there has not been an influx of new funding to benefit these communities. Much of the government relief has been centered on direct services in areas like unemployment and benefits.

- **Special Grant of \$450,000 to Northwest Immigrant Rights Project**

Northwest Immigrant Rights Project handles complex and time-consuming cases for thousands of immigrants in Washington State. In addition to direct legal services, NWIRP works for systemic change. Their impact litigation "has helped fight racial profiling by border patrol officials in the Olympic Peninsula, secured the right to an attorney for mentally ill immigrants facing deportation, and ensured that immigrants are considered for conditional parole from detention when they qualify."<sup>12</sup> On the federal level, the new administration is anticipated to make immediate adjustments to U.S. immigration policy, including DACA, the so called "Muslim ban" and

<sup>11</sup> "Our New Strategic Direction," Columbia Legal Services, [https://columbialegal.org/wp-content/uploads/2019/06/CLS\\_New-Strategic-Direction-2019.pdf](https://columbialegal.org/wp-content/uploads/2019/06/CLS_New-Strategic-Direction-2019.pdf)

<sup>12</sup> "Impact Litigation," Northwest Immigrant Rights Project, <https://www.nwirp.org/our-work/impact-litigation/>

deportation hearings. These changes will bring an increased demand for immigration services and advocacy, and will require substantial work from their lawyers over the next few years.

- **An additional \$100,000 to the LFW Race Equity Grant program for 2021**

This increases the total grantmaking power of this fund to \$220,000 for the year.

Additional Special Grants for 2021 are summarized below:

- **\$25,000 to Colectiva Legal del Pueblo** for outreach and legal help to people with immigration legal issues. Their community-centered approach has positioned them as a trusted resource to undocumented families during the pandemic.
- **\$25,000 to the Fair Work Center** for employment legal services to advance the rights of low-wage, essential, and immigrant workers experiencing workplace abuses and hazards. Due to the disproportionate impact of COVID-19 on farmworkers and undocumented communities, they expanded their work in the Yakima Valley and Eastern Washington.
- **\$25,000 to the Laurel Rubin Farmworker Justice Project's** fellowship program which provides internships for bilingual law students or law school-bound college students to work at legal aid organizations providing outreach to farmworkers in Washington.
- **\$25,000 to Lavender Rights Project** to provide legal services for low-income people who are LGBTQ+, Trans or otherwise Gender Diverse, BIPOC, and/or facing multiple barriers to legal resources and advocacy. They have played a large role in the Black Lives Matter movement in King County and run the WA Black Trans Task Force.
- **\$75,000 to Communities Rise** to provide legal services to non-profits and microbusiness with a racial equity lens. They focus on immigrant and refugee led businesses and take a community-centered approach in their work. This sector has been especially hard-hit in the COVID-19 pandemic and Communities Rise quickly responded by offering resources and consultations on CARES Act and PPP loans.
- **\$300,000 to Northwest Justice Project** for operational costs not directly covered by public funds, pursuant to our long-standing funding partnership.
- **\$630,000 to continue the COVID-19 Emergency Eviction** work funded in 2020 to address the deluge of evictions facing families across Washington. This tenant-focused work is housed in existing volunteer lawyer programs who offer courthouse-based assistance.

***Grantee Oversight and Accountability***

To ensure that grant funds are being used efficiently and effectively, LFW monitors grantees' operations in several ways. We review narrative reports covering all aspects of grantees' programs, including governance, client outreach, and community collaborations. LFW also reviews client service data via the statewide case management system. We conduct fiscal monitoring and review quarterly financial reports to ensure grantees adhere to accountability standards. Based on the dollar amount of the grant, LFW also requires that each program submit an annual audit, financial review or other form of financial report. Additionally, LFW visits grantees to evaluate client services delivery, administrative effectiveness, and financial accountability using a set of performance criteria developed by the Access to Justice Board.

## **EQUAL JUSTICE COALITION**

The Equal Justice Coalition (EJC) is a standing committee of the Access to Justice Board, established by the Washington State Supreme Court at the urging of the American Bar Association in 1995 to respond to the potential elimination of federal and state funding for civil legal aid programs. It is funded and managed by LFW. The EJC is a statewide, non-partisan coalition of civil legal aid providers and community-based organizations that works to ensure that low-income people in Washington State can access justice. The EJC educates policymakers, the public, and the media about the importance of civil legal aid and, through grassroots advocacy, seeks increased public funding for civil legal aid at the federal, state, and local levels.

### ***Federal Funding***

As with most federal agencies, funding for the Legal Services Corporation (LSC) looked different in 2020 due to the COVID-19 pandemic. The Northwest Justice Project is the designated recipient of federal civil legal aid funding in Washington, which usually amounts to around \$7 million per year appropriated by Congress and administered by LSC.

Before the pandemic, the Trump Administration's budget had proposed the complete elimination of LSC for the fourth consecutive year (and actually allocated \$18 million in administrative costs for closing the agency). While there is bipartisan support in Congress for civil legal aid, and LSC ultimately saw small annual budget increases throughout the Trump Administration, advocates still take the proposed elimination very seriously.

The EJC has long participated in the American Bar Association's annual Advocacy Days in Washington, D.C., as part of the national network of advocates to protect and increase LSC funding, which takes place each April. When the pandemic hit and the D.C. trip was cancelled, the EJC quickly pivoted to organizing virtual meetings with many of our Congressional offices to continue the regular advocacy efforts around the LSC budget, and also to make the case for additional emergency LSC funding after Congress included \$50 million for LSC in the first COVID-19 stimulus package, the CARES Act, which passed in March 2020.

The video and telephonic meetings with members of Congress were new territory for everyone, but resulted in a number of productive discussions. The EJC "delegation" included Justice Steven González, representing the Court, as well as WSBA President Rajeev Majumdar, LFW Board of Trustees member

and Seattle Mariners executive vice president and general counsel Fred Rivera, and Northwest Justice Project (NJP) executive director César Torres. EJC chair Kirsten Barron and staffer Will Livesley-O'Neill also attended along with LFW executive director Caitlin Davis. The group received a mostly enthusiastic response in favor of increasing LSC funding, particularly from Rep. Pramila Jayapal.

LSC did not receive an additional appropriation from later stimulus packages, although the agency continues to seek supplemental increases from anticipated COVID-19 response funding in 2021. But LSC did receive another increase in the annual budget, up \$25 million to \$465 million for FY2021, its highest appropriation ever.

The EJC will again hold virtual meetings during ABA Days in April 2021, in support of significant new increases for LSC. While the agency's FY22 budget request has not been officially released, it is expected to seek more than double its current annual funding, to more than \$1B for next year to respond to the increased needs due to COVID-19. LSC also continues to seek \$350-\$500 million in additional emergency investment from any upcoming COVID-19 relief packages.

### ***State Funding***

The EJC is proud to lead a group of civil legal aid stakeholders advocating for increased funding from the Washington State Legislature. After the 2019 biennial budget legislative session, which resulted in a record increase of more than \$7 million for the Office of Civil Legal Aid (OCLA), the EJC held a series of stakeholder meeting to determine future budget priorities. While OCLA did not submit a request for increased funding during the Legislature's short supplemental session in early 2020, the EJC worked closely with the agency to develop a 2021-23 budget proposal that included key stakeholder goals.

Once the pandemic began, state agencies including OCLA paused all regular budget processes. Instead, OCLA was able to secure \$5.3 million in federal and state emergency dollars from the CARES Act and the state's Disaster Response Account. These funds were quickly distributed for COVID-19-related services in 2020 and early 2021, with a focus on unemployment, housing (including the Court's Eviction Resolution Program), and domestic violence.

Throughout 2020, the EJC continued to discuss potential funding increases with OCLA, and as the emergency programs rolled out and the state's revenue outlook began to improve, the agency amended its budget request to include an \$11M investment to continue COVID-19 response services into the 2021-23 biennium, after the emergency funding expired.

The EJC was highly supportive of this request and worked throughout the year to promote the critical front-line role of civil legal aid in responding to COVID-19, with legislators and with the general public, including a series of prominent newspaper op-eds (including one in the *Seattle Times* co-authored by former Chief Justice Mary Fairhurst and one in the *Spokane Spokesman-Review* co-authored by Chief Justice Stephens).

In preparation for the 2021 biennial budget session, the EJC began to meet virtually with key legislators and local stakeholders and plan for a virtual version of the regular Equal Justice Lobby Days in February 2021 (as of this writing, it appears that the 2021 advocacy will be successful – the Legislature appears to be on track to include the \$11M investment in its final biennial budget).

### ***Local Funding***

The EJC plays a coordinating role for the several civil legal aid programs funded by King County, through the biennial budget and the Veterans, Seniors, and Human Services Levy. 2020 was a budget year for the County and also presented opportunities for additional emergency funding from the County's CARES Act appropriation. The EJC convened the County-funded programs to collaboratively determine the civil legal aid budget request. Stakeholders decided to request flat funding levels from the previous biennium, about \$1.2 million, given the economic uncertainty.

EJC stakeholders held virtual meetings with most members of the King County Council, as well as the County Executive's office and Department of Community and Human Services (DCHS), ahead of the budget development process to advocate for protected funding levels. The meetings were very positive and reaffirmed the Council's support for civil legal aid. They also provided an opening to request COVID-19 funds as the County went through a discreet CARES Act allocation process.

The EJC formally requested an additional \$1 million from the County through this process, on behalf of stakeholders, to be granted through LFW. The Council approved the request in September 2020 and LFW worked with DCHS to distribute the funding to programs by the end of the year. The Council's biennial budget also maintained the \$1.2 million funding level as requested by stakeholders.

In 2021, the EJC will continue to track opportunities for additional funding from the County, including from new appropriations from the federal American Rescue Plan and ongoing Levy funds.



## Resource Development

Thank you to all members of the court for your generosity and sincere support of civil legal aid and equal access to justice. Your continued willingness to attend events as participants and speakers serves as an example that access to justice is a priority for the Court, and for the wider legal community and it further helps us advance the mission of the Legal Foundation of Washington.

### Campaign for Equal Justice

In 2020, the Campaign for Equal Justice raised a record amount of funds for civil legal aid in Washington, raising a total of \$3,050,000, including a generous one-time gift of \$1 Million from an anonymous donor. We are humbled and honored by the outpouring of support during the COVID-19 pandemic and this time of great need for civil justice and access to our legal system. The [Campaign Board](#) and staff are very proud to be raising an increasing amount of funds for legal aid every year. See the chart below with revenue totals for the years of 2020 through 2016.

#### Campaign Fundraising Results 2020 – 2016

Annual Campaign	2020	2019	2018	2017	2016
<b>Total raised</b>	\$3,050,000	\$1,839,379	\$1,733,600	\$1,640,900	\$1,345,500
Top Funding Streams	2020	2019	2018	2017	2016
<b>Law Firm Campaign</b>	\$ 690,000	\$641,000	\$ 616,000	\$ 606,000	\$ 580,000
<b>Goldmark Luncheon</b>	\$ 440,000	\$341,000	\$ 383,000	\$ 251,000	\$ 168,300
<b>WSBA Renewal Form</b>	\$ 337,000	\$297,000	\$ 259,000	\$ 229,000	\$ 260,000

### Law Firm Campaign

The King and Pierce County Law Firm Campaigns raised more in 2020 than ever before, nearly \$700,000 from more than 100 law firms. Proceeds from this effort are shared with the King County Bar Association Pro Bono Program and Tacoma Pro Bono. This is our highest grossing fundraising appeal every year, contributing nearly one-third of our annual revenue. See the full

list below of participating firms.



# Thank You!

## LAW FIRM CHAMPIONS

Thank you for supporting civil legal aid and helping us break cycles of poverty for families across Washington.



Arete Law Group

Baker Hostetler 🏹

Barnard, Iglitzin, Lavitt

Barrett & Gilman 🏹

Belcher Swanson

Bennett Bigelow & Leedom 🏹

Breskin, Johnson, Townsend 🏹

Buchalter

Byrnes Keller Cromwell 🏹

Cairncross & Hempelmann

Connelly Law Offices 🏹

Connor & Sargent

Corr Cronin LLP 🏹

Cozen O'Connor

Curran Law Firm 🏹

Cutler Nylander & Hayton 🏹

Davis Wright Tremaine 🏹

Dorothy Bartholomew, PLLC

Dorsey & Whitney

Evergreen Personal Injury Counsel 🏹

FAVROS Law 🏹

Fenwick & West 🏹

Forsberg & Umlauf, P.S.

Foster Garvey 🏹

Fox Rothschild

GLP Attorneys

Gordon Thomas Honeywell 🏹

Gordon Tilden Thomas & Cordell LLP

Harbor Law Group 🏹

Harrigan Leyh Farmer & Thomsen 🏹

Hay & Swann PLLC 🏹

Helsell Fetterman

Herrmann Law Group

Hillis, Clark, Martin, & Peterson

Hilyer Dispute Resolution 🏹

Hintze law

Inslee Best

Johnson Flora Sprangers 🏹

Joyce Ziker Parkinson

K&L Gates 🏹

Karr Tuttle Campbell 🏹

Keller Rohrback 🏹

Kinsel Law Offices, PLLC 🏹

Knobbe Martens 🏹

Krutch Lindell Bingham Jones

Lane Powell 🏹

Law Offices of Harold D. Carr

Law Office of Steve Graham 🏹

Law Offices of Mark C. Wagner 🏹

Lighthouse Global

Marler Clark 🏹

Mary B Foster, PLLC 🏹

McGavick Graves

McNaul Ebel Nawrot & Helgren 🏹

MFR Law Group 🏹

Miller Nash Graham & Dunn 🏹

Narrows Law Group 🏹

Oseran, Hahn, Spring, Straight & Watts

Pacifica Law Group 🏹

Palace Law Offices 🏹

Patterson Buchanan Fobes & Leitch

Perkins Coie 🏹

Pfau Cochran Vertetis Amala PLLC 🏹

Polsinelli

Preg O'Donnell & Gillett 🏹

Rekhi & Wolk

Rod Ray 🏹

Ronald E Thompson PLLC 🏹

Rush, Hannula, Harkins & Kyler 🏹

Savitt Bruce & Willey 🏹

Schroeter, Goldmark & Bender

Schwabe, Williamson & Wyatt

Sebris Busto James

SEED Intellectual Property Law Group

Simburg Ketter Sheppard & Purdy

Skellenger Bender 🏹

Small, Snell, Weiss & Comfort, PS

Smith & Lowney 🏹

Smith Alling

Smith Goodfriend 🏹

Socius Law Group

Soha & Lang

Stadium Law Group, LLC

Stoel Rives 🏹

Stokes Lawrence 🏹

Summit Law Group

Susman Godfrey

Talmadge Fitzpatrick 🏹

Terrell Marshall 🏹

Teutsch Partners LLC 🏹

The Nathanson Group

Walter Kipling 🏹

Wilson Sonsini Goodrich Rosati

Yakima Law 🏹



**Champions of Justice donate \$300 per attorney or \$25,000 or more to fund legal aid in Washington.**



Proceeds benefit Legal Foundation of Washington, King County Bar Foundation, and Tacoma-Pierce County Bar Foundation. If your firm isn't listed, email [Natalia@legalfoundation.org](mailto:Natalia@legalfoundation.org) to join us.

### **Statewide Fundraising Events**

In 2020, the Campaign and the Endowment transitioned to virtual events due to the COVID-19 shutdown. By mid-2020 we began producing successful virtual fundraising events to benefit

350

legal aid programs across the state. Our virtual events included a statewide Beer & Justice event plus regionally focused virtual events in Bellingham, Everett, and Mt. Vernon. Thank you to the members of the court for your continued support and attendance.

### ***2021 Goldmark Lunch***

We leapt headfirst into the virtual event realm with the remote production of our signature Goldmark Luncheon. We raised more than \$400,000 from 1,000+ guests who joined us online to honor civil rights attorney Lem Howell and support access to justice. Below is a link to the video of the full 2021 Goldmark Award online event:



### ***Rainier Cup Winner: Whatcom County***

Each year, counties compete to win the Rainier Cup, which goes to the county with the highest percent of attorneys donating to the Campaign for Equal Justice. In 2020, Whatcom County won for the 2<sup>nd</sup> year in a row with 26% of Whatcom County bar members donating to the Campaign. In 2<sup>nd</sup> place is Skagit County with 24% giving participation and in 3<sup>rd</sup> place is Island County with 23% giving. King and Pierce Counties both have 20% of attorneys donating, and statewide 19% of Washington attorneys donate to the



*Members of the Whatcom County Bar holding the Rainier Cup.*



Campaign for Equal Justice. It's a fun competition every year!

### ***Associates Campaign***

Our 2<sup>nd</sup> annual Associates Campaign for Equal Justice was even bigger and better than the first year. The group of nine Seattle-based law firms raised \$86,000 for legal aid and civil justice – almost triple the amount raised last year! We are incredibly grateful to our long-time law firm partners for jumping into this new fundraising effort and to the 300 associates who donated and inspired many more to contribute and support the Campaign for Equal Justice. We added Williams Kastner to the original eight firms: Davis Wright Tremaine, Foster Garvey, Keller Rohrback, K&L Gates, Lane Powell, Miller Nash Graham & Dunn, Perkins Coie, Schwabe Williamson & Wyatt.

We are already recruiting more firms to join the 2021 Associates Campaign to continue introducing new attorneys to our civil legal aid network and access to justice community.

Congratulations to the Keller Rohrback Associates for winning the Amicus Award and Generous Counsel Cup two

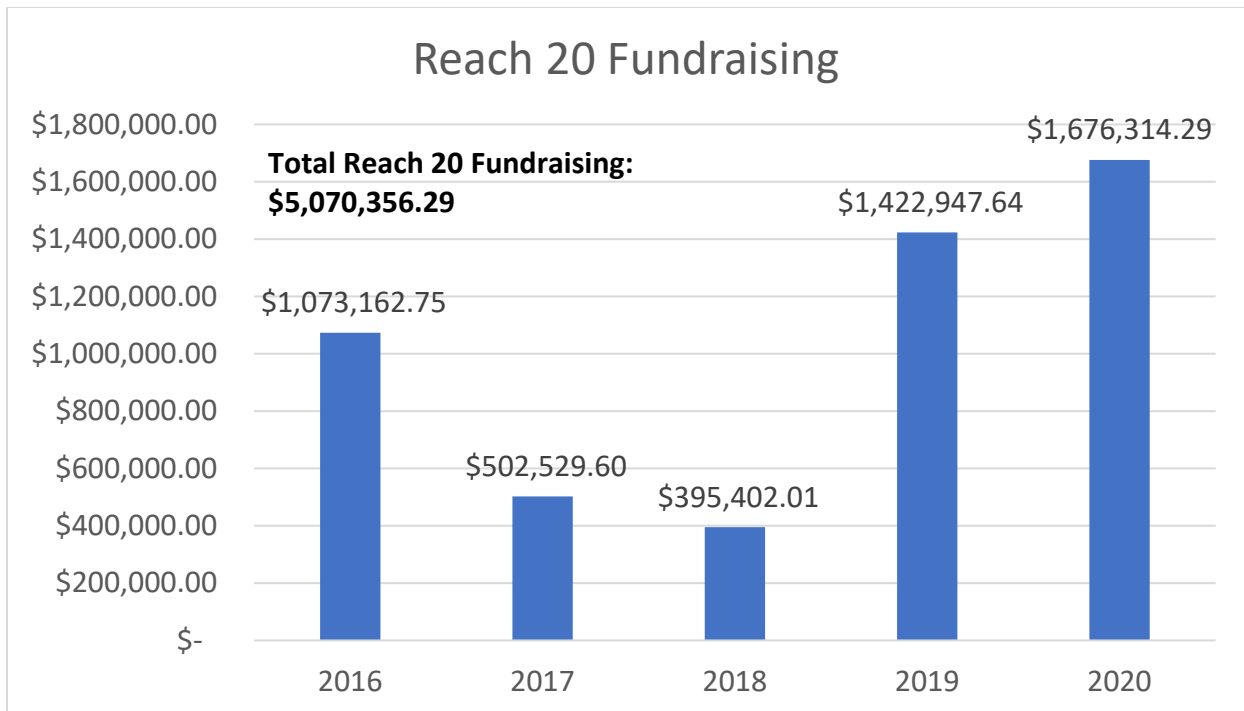
years in a row! The Amicus Award is for 100% giving participation among associates and the Generous Counsel Cup is for highest average gift amount among associates.



*The Keller Rohrback team accepting their awards with LFW staff and board members.*

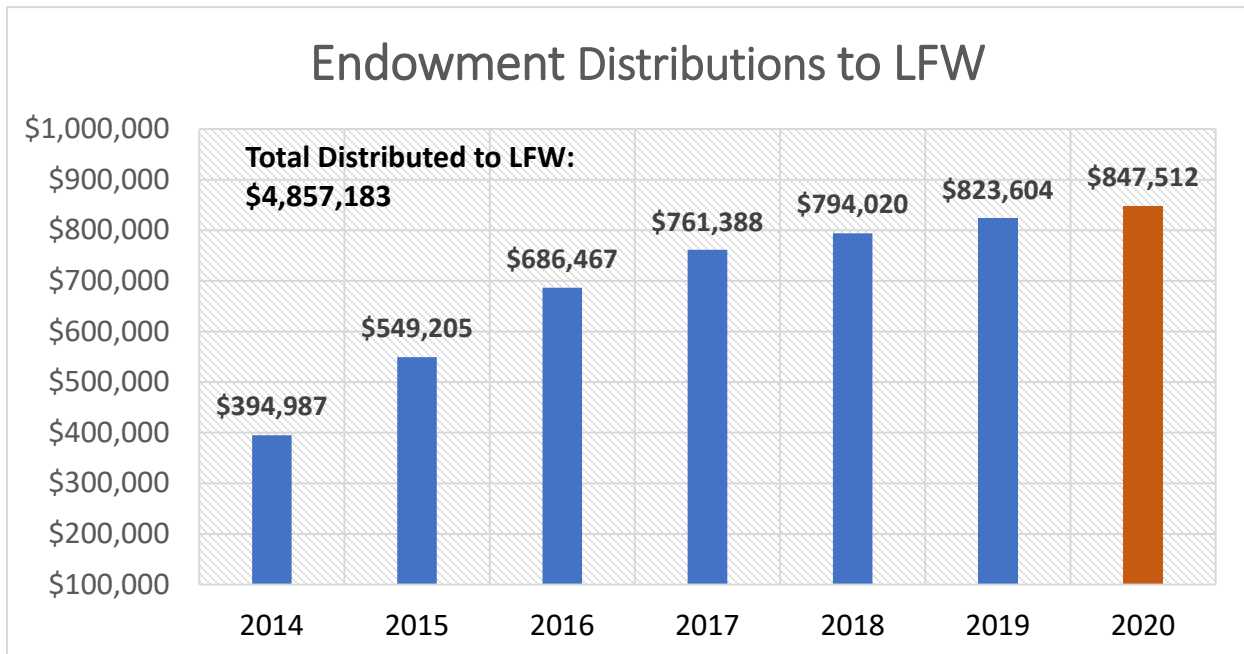
### ***Endowment for Equal Justice Reach 20 Campaign***

With help from more than 600 donors over the last five years, the Endowment successfully completed its Reach 20 Campaign, exceeding its \$5M goal, and raising its corpus to over \$21M (as of 4/1/2021: \$22.3 M). In the wake of a successful Reach 20 Campaign, Endowment's Board of Directors are now focused on creating a strategic plan to determine how best to be of service to the civil legal aid network for the next 3-5 years.



***On the way toward giving \$1M a year for immediate civil legal needs***

As of 2020, the Endowment has distributed **\$4,857,183** to the Legal Foundation of Washington for its annual grants to legal aid organizations around the state.



# Thank you for helping us Reach 20!

With your help, we've raised over \$5 Million to grow  
our investment fund for legal aid to over \$20 Million

## A SPECIAL THANK YOU TO OUR \$5,000+ DONORS

Rima Alaily & Ryan McBride

Dave & Helen Andrews \*

Anonymous

Russ Aoki

Judge Sharon S. Armstrong (ret.)

John Aslin

Judy & Arnold Bendich

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Bill Block & Susan Leavitt

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Paula Boggs & Randee Fox

Jon and Justice Bobbe Bridge (ret.)

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Adam Crenshaw

Hon. Anita Davidson & Robert Friedman

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John & Rebecca Steel

Linda & David Strout \*

Eugene & Nancy Studer

Robert Taylor & Jerry Smith \*

John Teutsch

The Legal Foundation of Washington

Lawrence True & Linda Brown

Margaret Watkins

Gordon W. Wilcox \*

William E. Wockner Foundation

David Zapolsky & Lynn Hubbard

\*Members of the Justice Society, the Endowment's legacy giving program | To see a list of all Reach 20 donors: [legalfoundation.org/endowment/reach20/](http://legalfoundation.org/endowment/reach20/)

Gifts to the Endowment for Equal Justice generate vital new funds to help low-income people access civil legal aid while leaving a legacy of justice for future generations.

*With gratitude,*

THE ENDOWMENT FOR EQUAL  
JUSTICE BOARD OF DIRECTORS



The only sustainable fund for legal aid in Washington



### ***New Endowment Leadership and Initiatives***

The Endowment for Equal Justice has elected new leadership for its Board of Directors. John Hoerster and Michelle Moersfelder are serving as the Endowment's Co-Presidents. Salvador Mungia is the new Vice President, Rima Alaily is the Secretary, and Ellen Dial is the Treasurer.

In 2020, the Endowment made a commitment to anti-racism and created goals for racial equity within the organization. To further these goals, the Endowment launched a six-part series on racial equity, titled *Let's Talk About (In)Justice*. The last session took place on Tuesday, April 20<sup>th</sup>. Speakers included Professor John Powell, Professor David Domke, Jeffery Robinson, and Dr. Joy Williamson-Lott.

## LET'S TALK ABOUT *(in)*JUSTICE

A SPEAKER SERIES ON RACIAL JUSTICE

**Session 4: Housing Justice with Dr. John Powell**  
 Tuesday, February 16, 7:00 - 8:30 PM

John A. Powell is **Director of the Othering and Belonging Institute** and Professor of Law, African American, and Ethnic Studies at the University of California, Berkeley. John led the development of an "opportunity-based" model that connects affordable housing to education, health, health care, and employment and is well-known for his work developing the frameworks of "targeted universalism" and "othering and belonging" to effect equity-based interventions. His latest book is ***Racing to Justice: Transforming our Concepts of Self and Other to Build an Inclusive Society***.



**Coming up next...**



**Session 5:  
 New Hurdles, Same Territory: How History Can Guide the Future of Education, with Dr. Joy Williamson-Lott**  
 Tuesday, March 23, 7:00 - 8:30 PM

Mark your calendars for session 5 of *Let's Talk About (In)Justice*. This session will be focused on education, with a keynote by the Dean of the UW Graduate School and Professor in the College of Education, Seattle, Dr. Joy Williamson-Lott, followed by a panel discussion with local education experts.

**Session 6: Take Action** | Tuesday, April 20, 7:00 - 8:30 PM

Join us via zoom for the session with John Powell:  
<https://us02web.zoom.us/j/89916323099>

ENDOWMENT for  
**EQUAL JUSTICE**

In addition to these events, the Endowment has put on two workshops on Estate Planning (Estate Planning 101, and Estate Planning through a Social and Racial Justice Lens).

### ***Endowment Plans for 2021***

The Endowment is in the midst of its Strategic Planning Process to map out the next 3-5 years. We are collecting feedback from the community, benchmarking our organization against other endowments, and reaching out to key stakeholders to help guide us into the future and better serve our donors and the legal aid community. The Endowment has partnered with PK Global, a customer experience and insights consultancy which is offering their strategic planning services pro bono to support legal aid.

The 17-member Advisory Council has become a valued community link to the Endowment. We will be holding our 3<sup>rd</sup> Annual Advisory Council meeting in late April to gain input on our strategic plan.

The Endowment hopes to gather again in person in the Fall, with a re-launch of our annual Voices for Justice concert. It also hopes to re-launch its annual trip to Montgomery and the Equal Justice Initiative Museum.

Because of the success of our virtual events, we will be creating a quarterly speaker series on the intersection of racial equity and legal aid, which will continue to be led by board member Ron Knox. We will also hold another estate planning webinar over the summer.



## **GOLDMARK EQUAL ACCESS TO JUSTICE INTERNSHIP PROGRAM**

The Goldmark Internship Program was created with a gift of matching funds from the Charles and Annie Goldmark Family Foundation in 1992. The purpose of the program is three-fold: to increase legal aid services to low-income people, to encourage law students to consider employment with civil legal aid programs or as volunteers at volunteer attorney civil legal aid programs, and to offer an opportunity for public service employment to outstanding law students.

The 2020 Goldmark Internship was awarded to Simrit Hans, a second-year law student at the University of Washington School of Law. She worked with LAW Advocates in Bellingham. Due to the continued COVID-19 pandemic the original internship experience LAW Advocates planned to provide had to be changed considerably. Please see the final internship report below for how the program and student worked together to respond and adjust the internship plan.

The Goldmark Internship Committee, in consultation with the 2021 host program, Fair Work Center has chosen to delay the 2021 internship opportunity until 2022 due to the continued COVID-19 pandemic. In the summer of 2022, an intern will work with a team providing legal clinics for agricultural workers in the Yakima Valley.

### **2020 Goldmark Equal Access to Justice Report**

Michael Heatherly, LAW Advocates

Simrit Hans, 2020 Goldmark Intern

Primarily, the intern was to work with us in our Domestic Violence Parenting Plan and Tenant Clinics. After we were chosen for the internship and UW Law student Simrit Hans was selected as the intern, we needed to amend our plans because of unanticipated changes to our operations. Our programs manager departed to take a position elsewhere, our Domestic Violence Parenting Plan Clinic attorney chose not to renew her contract, and we were required to close our offices to comply with the COVID-19 quarantine rules. For financial and logistical

reasons, we have been unable to replace the programs manager and DVPP attorney positions. However, by the time Simrit's internship began we were able to resume many of our operations remotely. Simrit was able to complete her internship, although the work was somewhat different than originally planned. For the reasons noted above, we suspended our Domestic Violence Parenting Plan Program in spring of 2020. However, our Tenant Clinic and related services increased considerably in complexity because of housing issues created by the economic fallout from the pandemic. Simrit's work was integral in our adjusting our services to meet the new reality. This included significantly expanding the capacity of our Tenant Clinic--including adopting virtual means of providing the clinic's services--and adding a program to help tenants apply for CARES Act rental assistance funds. Regarding the Tenant Clinic, Simrit virtually attended court hearings and client consultations with our staff attorney, documented work in our case management software, and assisted with scheduling. She prepared pleadings for dismissals and agreed orders, and also regularly assisted with legal analysis and document review.

Her research on issues such as the conflict of laws and the status of the Public Charge Rule was extremely helpful as we dealt with fast-moving cases. Simrit's status as a Rule 9 intern was approved midway through her internship, but due to the governor's moratorium on evictions and the attendant reduction in eviction-related hearings, an opportunity for her to argue in court did not materialize. However, she participated in developing argument and strategy for potential hearings. Her skill in this area was obvious and welcome. In response to the COVID-19 pandemic, this summer we began meeting virtually with applicants to Whatcom County's CARES Housing Assistance program. Simrit helped our staff develop documentation and a procedural framework for this work, shadowed the staff attorney in meetings with the earliest applicants, and progressed to conducting these meetings on her own. Simrit attended all of our weekly staff meetings as well as planning meetings for many of our programs and activities. She helped with miscellaneous other projects as well. For example, in support of our Access ID program she produced a research memo regarding undocumented individuals' right to obtain official state ID. Simrit also assisted in the final stages of our effort to digitize all of our office's

documents related to past cases. When she began working with us, hundreds of scans still needed to be properly catalogued and filed in our case management software. Simrit completed all of this work with outstanding accuracy, and we are eternally grateful for her help in bringing this project to a successful end. Ultimately, we and Simrit felt that the experience she gained was at least as valuable as it would have been had we not faced the unexpected hurdles we encountered. Also, as it turned out, her internship came at a time when we otherwise would have been short-staffed. Moreover, much of her work was in brand new processes we were forced to create because of the pandemic. Some of those innovations were so effective that we are adopting them permanently. Thus, her contributions will be part of our organization's legacy. While the internship differed from the original vision, we and Simrit felt it was both beneficial to her upcoming legal career and crucial in our ability to continue serving clients during an unprecedented public crisis, during which they needed our help more than ever.

## 2020 Grants with Funding Sources

Partnership Grantees	Partnership Grants	COVID-19 Emergency Eviction Defense	King Co. CARES Act Relief Fund Legal Services	Special & Emergency COVID-Response Grants	Race Equity Grants	Total
Benefits Law Center	\$489,500					\$489,500
Benton Franklin Legal Aid	\$98,300	\$26,923				\$125,223
Blue Mountain Vol. Lawyers Program	\$55,800					\$55,800
Center for Justice				\$12,500		\$12,500
Chelan Douglas Vol. Attorney Services	\$111,100	\$48,462				\$159,562
Civil Survival Project				\$75,000		\$75,000
Clallam Jefferson Pro Bono	\$88,400					\$88,400
Clark Co. VLP	\$138,400	\$37,692				\$176,092
Colectiva Legal del Pueblo				\$25,000	\$10,000	\$35,000
Columbia Legal Services	\$3,656,500					\$3,656,500
Communities Rise (Wayfind)				\$100,000		\$100,000
Community Action- Skagit Co. VLP	\$127,900					\$127,900
Cowlitz Wahkiakum Legal Aid	\$62,000				\$10,000	\$72,000
Disability Rights Washington					\$10,000	\$10,000
Dispute Resolution Ctr. Yakima & Kittitas					\$10,000	\$10,000
Eastside Legal Assistance Program	\$141,745					\$141,745
Fair Work Center					\$10,000	\$10,000
Freedom Project					\$10,000	\$10,000
King Co. Bar Foundation	\$570,100		\$108,143			\$678,243
Kitsap Co. Legal Services	\$109,300	\$48,462				\$157,762
Laurel Rubin Farmworker Justice Project				\$25,000		\$25,000
Lavender Rights Project				\$50,000		\$50,000
LAW Advocates	\$207,000	\$43,077				\$250,077
Legal Counsel for Youth and Children	\$103,000				\$10,000	\$113,000
Living with Conviction					\$10,000	\$10,000
Northwest Immigrant Rights Project	\$1,300,500		\$19,500			\$1,320,000
Northwest Justice Project				\$300,000		\$300,000
Seattle Clemency Project					\$10,000	\$10,000
Sexual Violence Law Center			\$72,000			\$72,000
Snohomish Co. Legal Services	\$169,500	\$96,923				\$266,423
Solid Ground	\$253,100					\$253,100
South King County Discipline Coalition					\$10,000	\$10,000
Spokane Co. Bar VLP	\$122,000	\$86,154				\$208,154
TacomaProBono	\$293,200	\$228,846				\$522,046
TeamChild	\$672,400					\$672,400
Thurston Co. VLS	\$160,800	\$64,615				\$225,415
Unemployment Law Project	\$435,400		\$140,000	\$85,000		\$660,400
West African Community Council					\$10,000	\$10,000
Yakima Co. VAS	\$136,100	\$53,846			\$10,000	\$199,946
<b>Totals</b>	<b>\$9,502,045</b>	<b>\$735,000</b>	<b>\$339,643</b>	<b>\$672,500</b>	<b>\$120,000</b>	<b>\$11,369,188</b>

## 2020 PARTNERSHIP GRANTEES

King County Programs:

Eastside Legal Assistance Program \$141,745  
 KCBA Pro Bono Services \$570,100  
 Benefits Law Center \$489,500  
 Solid Ground \$253,100

Law Advocates  
 \$207,000

Snohomish County Legal  
 Services \$169,500

Skagit County Community  
 Action Volunteer Legal  
 Services Program \$127,900

Chelan-Douglas County  
 Volunteer Attorney Services  
 \$111,100

Clallam-Jefferson  
 County Pro Bono  
 Lawyers \$55,700

Kitsap Legal  
 Services  
 \$109,300

Tacoma-Pierce  
 County Bar  
 Association  
 Volunteer Legal  
 Services  
 Program  
 \$293,200

Thurston County  
 Volunteer Legal  
 Services \$160,800

Cowlitz-  
 Wahkiakum  
 Legal Aid  
 \$62,000

Clark County  
 Volunteer  
 Lawyers Program  
 \$138,400

Yakima County  
 Volunteer  
 Attorney Services  
 \$136,100

Benton-Franklin  
 Legal Aid \$98,300

Blue Mountain Action Council  
 Volunteer Attorney Program  
 \$55,800

Spokane Bar  
 Association  
 Volunteer  
 Lawyer  
 Program  
 \$122,000

### STATEWIDE GRANTEES

Columbia Legal Services  
 \$3,656,500

TeamChild  
 \$672,400

Unemployment Law Project  
 \$435,400

Northwest Immigrant Rights Project  
 \$1,300,500

Legal Counsel for Youth and Children  
 \$103,000

*In addition to these Partnership Grants, LFW made Special Grants to organizations statewide including the Center for Justice, Civil Survival Project, Colectiva Legal del Pueblo. Communities rise, Laurel Rubin Farmworker Justice Project, Lavender Rights Project, and Northwest Justice Project, totaling \$587,500.*

# THE SPOKESMAN-REVIEW

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OPINION > GUEST OPINION

## **Francis Adewale and Debra Stephens: Civil legal aid is even more important today**

Wed., Jan. 20, 2021

**By Francis Adewale and Debra Stephens**

The unprecedented challenges of the past year require an unprecedented response from us all. In the justice system, we are reckoning with the impacts of inequity and racism on marginalized people – now most harmed by the COVID-19 crisis. To protect their rights and safety during the coming waves of adversity driven by the pandemic, we must bolster one of our most effective frontline responses: civil legal aid.

As a Justice of the Washington state Supreme Court and a city of Spokane public defender, we know firsthand the critical role civil legal aid providers play in helping our courts ensure fair and meaningful access to justice, in normal times and especially amid this crisis.

Now they are on the front lines of many emergency efforts, including helping people secure critically needed unemployment insurance, protecting the safety of people at risk of increased domestic violence, and – perhaps most urgently – preventing a surge in homelessness.

Over the past year, civil legal aid attorneys have worked directly with local courts, including the Spokane County Superior Court, to help design and implement new, innovative COVID-19 response projects such as the Eviction Resolution Program (ERP).

This ERP program, now underway as a pilot in Spokane and five other counties, seeks to stop evictions before they come to court. Tenants and landlords enter a dispute resolution process in which qualifying tenants can receive rental assistance if they've fallen behind on rent and, crucially, be matched with a pro bono attorney if they need legal assistance or protection.

It's a win-win-win program, offering housing security for tenants, solutions to overdue payments for landlords, and early resolutions to cases for a court system that may soon be overwhelmed by the anticipated wave of evictions once the state's moratorium is lifted. The ERP is an example of how civil legal aid programs make our justice system more effective and more just.

Unlike in criminal cases, in which people are represented by a public defender if they need one, those in civil court don't generally have the right to an attorney. Due to COVID-19, many people across our state are dealing with unanticipated legal issues jeopardizing their income, safety, housing, and much more, often for the first time.

These legal problems can be difficult to resolve and, if unaddressed, can drag people deeper into poverty. And they disproportionately harm Black and Indigenous people, immigrants, and others least protected by our justice system and now most impacted by the COVID-19 crisis.

Connecting with a civil legal aid program often makes all the difference for individuals seeking greater justice in our society. Free professional advice and representation, provided by staff and private attorneys volunteering their time, helps low-income people stay housed, remain safe from abuse, receive their rightful benefits, and much more.

Local legal aid programs were already delivering these essential services before the pandemic. For example, the connections between Spokane Community Court and legal aid attorneys have long helped people experiencing homelessness transition away from their legal issues and toward more stable housing. Spokane's community court has become a model for jurisdictions throughout the country.

And recent articles in this paper have demonstrated the increased urgency of civil legal aid in response to the pandemic. Jefferson Coulter at the Spokane office of the Northwest Justice Project, Julie Griffith at the Spokane County Bar Association and Juliana Repp at the Spokane Unemployment Law Project have each shared compelling stories of the COVID-19 legal crises their clients are experiencing, including imminent threats to their housing and income.

We should not be surprised to find civil legal aid on the front lines of this crisis. Thankfully, state leaders in the judicial, executive and legislative branches have supported key emergency investments, through the Washington state Office of Civil Legal Aid, that have helped expand services like the Eviction Resolution Program, to ensure essential lifelines are available to people in need in the Spokane area. If you, or someone you know, needs help with a civil legal issue, call the CLEAR hotline at (888) 201-1014.

The reality of the current crisis is that, unfortunately, more assistance will be necessary, as the fallout from the pandemic unfolds and our region works to recover.

The Legislature can do its part by continuing funding for these front-line COVID response services. And we can all do our part by supporting civil legal aid.

Civil legal aid is a highly valuable tool for fixing some of the damage of COVID-19. It addresses critical legal problems, connects people with resources, and builds stronger communities. We need to continue to make it work for the most vulnerable among us.

*Debra Stephens, a longtime resident of the Spokane Valley, is a Justice of the Washington Supreme Court and served as Washington's 57th Chief Justice.*

*Francis Adewale is a public defender for the City of Spokane and Chair of the Washington state Supreme Court's Access to Justice Board.*



# On the Front Lines: Lawyer helps the unemployed access their claims

Epperly, Emma . TCA Regional News ; Chicago [Chicago]02 May 2020.

[ProQuest document link](#)

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## FULL TEXT

May 02– May 2–Editor's note: On the Front Lines recognizes those in the community who are confronting the coronavirus pandemic head-on, while the rest of us do our part by stepping back.

Juliana Repp has spent her entire life helping the underdogs.

And with nearly 1 million unemployment claims filed in recent weeks due to layoffs caused by the coronavirus pandemic, there is no shortage of underdogs these days.

As the managing attorney at the Spokane Unemployment Law Project, Repp's phone has been ringing off the hook. Repp didn't have an easy childhood. Her mother, a full-blooded Nez Perce tribal member, developed arthritis and was disabled. She experienced discrimination both because of her heritage and disability, Repp said. Repp's twin sister died less than a week after the girls were born prematurely.

"That whole backdrop shaped our early years," Repp said.

Despite their struggles, Repp's parents helped others and instilled the same values in their children, Repp said.

"I have a passion for helping the underdog," Repp said. "Maybe it's partially because I started out life as a three-and-a-half-pound underdog myself."

Repp went to law school at Gonzaga University and began her career as a public defender on the Colville Indian Reservation.

She had her own practice, focused on federal Indian law and tribal law, for 15 years that caused her to travel extensively.

In 2019, Repp was ready for a change but wanted to continue serving others, so she took a job at the Unemployment Law Project.

The Seattle-based nonprofit belongs to the Washington State Alliance for Equal Justice and represents claimants in court proceedings within the Washington State Office of Administrative Hearings after their unemployment claims have been denied. Repp's office takes the vast majority of the cases people come to it with. When they can't take a case, they often offer advice.

Call volume has increased by 200% since Gov. Jay Inslee's "Stay Home, Stay Healthy" order went into effect, Repp said.

Many of the recent calls haven't been about claims being denied but rather about problems with filing claims.

"A lot of them called us because they couldn't get through to the Employment Security Department," Repp said.

Someone from the office usually gives advice on new federal and state regulations and on the process of pursuing a claim.

"They're trying to figure out why the process hasn't gone smoother, and they're anxious because they don't know where their check is," Repp said. "They want to buy groceries and they want to pay their mortgage payment. You know, they want to pay their bills."

To help with the increase in calls, Repp said, the Unemployment Law Project used grant funding from the Legal Foundation of Washington to hire a paralegal and part-time attorney. The office has law interns almost year-round and plans to hire extra interns this summer, while also working with lawyers who want to volunteer their time.

know legal resources are out there.

With hundreds of thousands of unemployment claims filed weekly during the pandemic, people can fall through the cracks and get frustrated. But chatting with people on the phone can be calming and healing, Repp said.

"Claimants, I think, want to talk to someone and so they'll talk a little bit and we may even find something to laugh about," Repp said. "It's kind of good medicine for both of us, just connecting with the outside world and trying to help them in any way that I can."

CREDIT: By Emma Epperly

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# Legal groups seek moratorium on evictions in Clark County

Hastings, Patty . TCA Regional News ; Chicago [Chicago]17 Mar 2020.

[ProQuest document link](#)

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## FULL TEXT

March 17-- Mar. 17--Northwest Justice Project's Vancouver office and the Clark County Volunteer Lawyers Program are urging Clark County Superior Court judges to adopt a moratorium on evictions.

An email sent Monday afternoon says evictions during the COVID-19 pandemic pose serious public health risks and asks for a moratorium until April 24, which coincides with the current scheduled end to school closures.

"We recognize the court is in a difficult position when balancing the rights of tenants and landlords in these trying times. However, given the harsh impact evictions have on low-income communities during a public health pandemic and the logistical difficulty of holding these large dockets remotely while still providing access to counsel, these proceedings must be stayed," said the email sent from Northwest Justice Project staff attorney Tim Murphy.

Communities across the country have already postponed evictions including New York, Boston and Seattle. Last weekend, Seattle Mayor Jenny Durkan ordered a temporary halt on residential evictions for non-payment of rent, according to The Seattle Times. "The order says landlords may not issue termination (pay-or-vacate) notices for non-payment of rent, may not initiate eviction actions in court and may not advance termination notices already posted. For existing eviction cases, Durkan's order should be a defense in court. In cases where a tenant doesn't appear for a hearing, the court may postpone the case to a later date. Tenants must continue making rent payments, to the extent they can, the mayor's office said, and those struggling with money should work with their landlords on payment plans. But Durkan's order prohibits late fees and other charges for late rent payments," The Times' Daniel Beekman wrote.

In an interview with The Columbian, Murphy described the proposed moratorium in Clark County as "hitting the pause button" on nonessential evictions such as nonpayment of rent and minor lease violations. He noted that holding the Friday eviction docket doesn't make sense because it requires tenants and lawyers to pack into a courtroom, violating Public Health's recommendation to avoid gatherings where people are in close contact with others.

Elizabeth Fitzgearld, executive director of the Clark County Volunteer Lawyers Program, said without a roof over your head, it's difficult to follow those recommendations to protect against the novel coronavirus. Her organization provides free civil legal aid for low-income people and has lawyers available to counsel people every Friday during the eviction docket.

If the docket, also called the unlawful detainer docket, were to happen by telephone, tenants facing eviction could miss their hearings or miss out on help from volunteer lawyers.

"We're trying to think big picture of what are the dominoes that are going to fall," Murphy said. "I think this is the best step to take at this point."

The idea is that tenants facing eviction would not be ordered to leave their homes until April 24. At that point the situation would be re-evaluated.

The Volunteer Lawyers Program and Northwest Justice Project are asking the court system to consider the public health consequences of evictions and possible increased homelessness, particularly when some tenants may lose

"This pandemic will most sharply impact people with disabilities, wage workers and low-income families who disproportionately lack the same access to housing, income, paid sick leave and health care," the email said.

Legislative or judicial?

A moratorium could result in a backlog of evictions and a larger eviction docket when the situation stabilizes.

Fitzgearld said her organization is prepared to help more clients if that happens. For now, the Volunteer Lawyers Program is providing scaled-down services to protect against the virus.

Clark County Superior Court Presiding Judge Scott Collier said Monday he hadn't had a chance to read Murphy's email but noted there would be a judges' meeting Tuesday. A potential moratorium on evictions is further down the list of things to discuss at the meeting.

"I have no idea what we'll do with that request at this point," Collier said.

He noted that a statewide moratorium ordered by the governor could provide consistency as opposed to a county-by-county approach, which could get complicated.

"Is this more of a legislative function than a judicial function because it's a social issue?" Collier said.

Balancing the rights of tenants and landlords is something that needs to be discussed, he said. Tenants already have protections in place, and it's unclear how a moratorium would address landlords not getting paid. The line between the court system laying down the law and offering social services has long been a blurry one, Collier added.

For now, Friday's eviction docket is still scheduled, with Judge Jennifer Snider presiding. It's unclear what, if any, decision will be made regarding evictions. Collier said the ripple effect of COVID-19 on the judicial system could be wide, impacting a variety of people and cases beyond those on the unlawful detainer docket.

"This is all very fluid," he said.

CREDIT: By Patty Hastings

## DETAILS

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OP-ED

# Legal aid is key to fixing pandemic-damaged lives in Washington state

BY ROB MCKENNA AND SALVADOR A. MUNGIA

JUNE 14, 2020 12:00 PM



TacomaProBono is offering free COVID-19 legal advice during the stay-at-home order. Questions about Washington state's eviction moratorium are among the most common. BY DREW PERINE

The COVID-19 outbreak has shaken our state, exposing and widening gaps between people with resources and those without. Working-class families face not just health issues, but also challenges in gaining protections that federal and state governments have deemed so important to keep our society, and economy, from spiraling out of control.

We were happy to see the recent allocation of \$3 million in state COVID-19 emergency funding to help front-line civil legal aid providers address two critical needs: claiming unemployment insurance and protecting against eviction.

This funding will help families obtain the governmental assistance to which they are entitled to pay for groceries, pay for healthcare needs and stay in their homes.

Since March, more than 1.5 million Washingtonians have filed for unemployment insurance to compensate them for lost jobs, hours and wages. They include retail workers, servers and bartenders, hairdressers, rideshare drivers and many others.

Pierce County and the South Sound have been hit especially hard by the economic consequences of the pandemic.

While the recent allocation of emergency civil legal aid funding is important, it won't be enough to help thousands of our friends and neighbors who will be confronted with legal issues in the weeks and months to come.

For these people, access to justice will be key to stabilizing their lives.

Civil legal aid is a critical front-line service in this time of crisis, well beyond the important role it serves in our justice system during "normal" times.

Newly unemployed people and their families face evictions, foreclosures, barriers to health care, denials of claims to key government benefits, increasing levels of domestic violence, consumer debt and bankruptcy, among many other problems.

As our state recovers, many will face challenges reclaiming their jobs and ensuring safe working conditions.

Data show the crisis is disproportionately affecting low-wage workers, people without college degrees, people with disabilities and people of color. We know our state has a responsibility to address the inequitable impacts. Civil legal aid is critical to our ability to do so.

In Pierce County and the South Sound, front-line legal aid providers and volunteer lawyers at programs like the Northwest Justice Project and TacomaProBono are working to address the surge of COVID-19 related legal problems.

Despite recent state legislative efforts to address the lack of civil legal aid capacity, we know more will be required as waves of problems resulting from the crisis continue to hit.

Ensuring equal access to justice for everyone helps us all. Every worker able to secure their essential benefits, every resident able to stay safe and healthy in their home, every person protected from violence and instability, reduces the impact of this crisis on our community.

We recognize the critical role that our front-line legal aid providers have and must continue to play as we dig out from this pandemic.

We encourage our federal, state, and local leaders to recognize the relationship between these front-line programs and an inclusive and equitable recovery.

*Rob McKenna of Bellevue is a former Washington state attorney general and past co-chair of the Campaign for Equal Justice. Salvador A. Mungia is a Tacoma attorney and chair of the Washington State Access to Justice Board and past co-chair of the Campaign for Equal Justice.*



# CORONAVIRUS:

## Información sobre las prestaciones de asistencia pública para personas sin estatus migratorio

Usted no tiene un número de Seguro Social. Usted no tiene un seguro médico. Tiene que tomar días libres del trabajo o lo han despedido por el coronavirus. No puede obtener beneficios de desempleo. ¿Qué beneficios puede obtener usted o su familia? ¿Tiene la preocupación de que si usted o su familia reciben beneficios eso le impida pasar la prueba de carga pública si solicita la tarjeta de residencia permanente? **Aquí están los datos.**

### ATENCIÓN MÉDICA

Si usted tiene bajos ingresos, el gobierno estatal pagará:

- a una clínica u hospital para que le hagan la prueba para el coronavirus, y
- si necesita tratamiento, pagará por su tratamiento.

Necesitará pedir esta ayuda al gobierno estatal. Pida a la clínica u hospital que le ayuden a solicitar esta ayuda. El nombre del programa de esta asistencia es "Alien Emergency Medical" o AEM (emergencia médica para extranjeros). No tiene que esperar para ver si califica bajo AEM para que le hagan la prueba o le den tratamiento para el coronavirus. AEM también puede pagar por otros tratamientos médicos de emergencia recibidos por usted en el hospital.

#### **Si recibo la asistencia AEM ¿afectaría mi capacidad para obtener la tarjeta de residencia por la nueva prueba de carga pública?**

No. Recibir la ayuda AEM para hacerse la prueba y recibir tratamiento por el coronavirus y obtener otro tipo de atención hospitalaria de emergencia no contará para la prueba de carga pública.

#### **¿Qué es el programa de Atención Caritativa?**

Todos los hospitales en Washington tienen que proporcionar atención médica gratuita para las personas con bajos ingresos quienes:

- no tienen seguro médico, o
- cuyo seguro no cubre todas las facturas del hospital.

La atención gratuita o de costo reducido se llama Atención Caritativa. Aun si usted tiene más dinero, algunos hospitales reducirán el costo de la atención médica para las personas que no pueden pagarla.

El hospital le pedirá que solicite para el AEM. Usted puede solicitar para el programa AEM y la Atención Caritativa al mismo tiempo. Pida al hospital que le dé una solicitud para el programa de Atención Caritativa.

**Usted NO necesita un número de Seguro Social para obtener el AEM o la Atención Caritativa. Usted NO necesita poner un número de Seguro Social en la solicitud para el AEM o la Atención Caritativa.**

#### **Si recibo la asistencia Atención Caritativa, ¿afectaría mi capacidad para obtener la tarjeta de residencia por la prueba de carga pública?**

La Atención Caritativa no cuenta para la prueba de Carga Pública. Esto es cierto para toda la atención hospitalaria pagada por la Atención Caritativa. Y, la Atención Caritativa se aplica al cuidado hospitalario, no solamente a la atención recibida por el coronavirus.

#### **Y si necesito atención médica, ¿a dónde puedo ir?**

Usted puede llamarle a su proveedor de atención médica, si tiene una, o a su clínica de salud comunitaria local, si necesita atención médica.

#### **Si voy a la clínica comunitaria de salud, ¿eso contaría contra mí en la prueba de Carga Pública?**

No.

## CORONAVIRUS: Información sobre las prestaciones de asistencia pública para personas sin estatus migratorio

### EMPLEO

#### Si no tengo documentos, ¿tengo derecho de tomar días libres pagados en relación con el coronavirus?

Sí. Todos los beneficios que se enumeran a continuación están a su disposición sin importar cuál sea su estatus migratorio.

#### ¿Puedo recibir permiso por enfermedad pagado si me enfermo con el coronavirus o si un familiar se enferma y tengo que cuidarlo?

Sí. Hay una nueva ley federal sólo para la crisis del coronavirus que le paga hasta 80 horas de permiso por enfermedad pagado a partir del 1 de abril, 2020, y menos horas si usted trabaja a tiempo parcial. Usted puede usar este beneficio si:

- tiene síntomas del coronavirus y toma un tiempo libre para consultar con un médico;
- está en cuarentena por el gobierno o su médico porque tiene el coronavirus; o
- está cuidando a alguien que está en cuarentena porque tiene el coronavirus (pagados al dos tercios de su salario regular).

Puede usar este nuevo permiso por enfermedad pagado antes de usar cualquier otro permiso de enfermedad que haya acumulado en el trabajo. Después de haber agotado este nuevo permiso por enfermedad pagado, puede usar el permiso por enfermedad que recibe bajo la ley de Washington. El permiso por enfermedad pagado que puede recibir bajo la ley de Washington depende de cuánto tiempo que ha trabajado para su empleador actual. Su empleador debe decirle en su talón de pago cuánto tiempo de permiso por enfermedad ha acumulado.

#### ¿Qué sucedería si yo o un miembro de mi familia se enferma pero no se le diagnostica con el coronavirus?

Usted puede usar el permiso por enfermedad de Washington que ha acumulado para cualquier tipo de enfermedad.

#### ¿Qué sucedería si mi lugar de trabajo está cerrado y no puedo trabajar desde mi casa?

Usted puede usar el permiso por enfermedad de Washington si su lugar de trabajo está cerrado por una orden del gobierno. Si usted trabaja en *Seattle*, también hay una ley local que le permite usar su permiso por enfermedad si su lugar de trabajo está cerrado por cualquier razón relacionada con la salud (no se requiere una orden del gobierno).

#### ¿Que sucedería si la escuela o el lugar de cuidado de mis hijos cierra o si el proveedor de cuidado infantil de mis hijos no esta disponible por el coronavirus?

Usted tiene varias opciones:

- Puede tomar sus 80 horas de permiso por enfermedad federal (pagados al dos tercios de su salario regular).
- Bajo otra ley federal, si usted ha trabajado para su empleador por 30 días, puede tomar hasta 12 semanas de permiso parcialmente pagadas por el cierre de la escuela o la guardería de sus hijos. Bajo esa ley, su trabajo estaría protegido durante su tiempo fuera del trabajo si su empleador tiene al menos 25 empleados.
- Si un funcionario publico ha cerrado la escuela o el lugar de cuidado de sus hijos puede recibir los siguientes beneficios, *que no están disponibles si su proveedor de cuidado infantil de su hijo (como la abuela de su hijo) no está disponible:*
  - o Puede usar cualquier permiso por enfermedad pagado de Washington que haya acumulado.
  - o Si trabaja en *Seattle*, puede usar su permiso por enfermedad pagado para cuidar a cualquier miembro de la familia cuya escuela o lugar de cuidado esté cerrado por cualquier razón.

#### ¿Cómo tomo el permiso por enfermedad pagado?

Si se siente enfermo, avise a su empleador de inmediato y quédese en casa. Si sabe que necesitará tiempo libre, por ejemplo si tiene una cita programada, avise a su empleador con la mayor anticipación posible. Si usted desea usar el permiso por enfermedad federal antes de usar el permiso por enfermedad de Washington, dígaselo a su empleador.

## CORONAVIRUS: Información sobre las prestaciones de asistencia pública para personas sin estatus migratorio

Su empleador deberá pagarle por el tiempo que esté enfermo (hasta el número de horas que le permita la ley federal o que haya acumulado según la ley de Washington). La tarifa de pago será su tarifa regular, excepto que bajo la ley federal, usted sólo recibe 2/3 de su tarifa regular de pago por proveer cuidado de niños o cuidar a un familiar enfermo. Si su empleador no le permite tomar tiempo libre o no le paga por su tiempo de enfermedad, póngase en contacto con el Departamento de Labor e Industrias de Washington al [360-902-5316](tel:360-902-5316).

### ¿Qué pasaría si yo o alguien de mi familia se enferma gravemente con el coronavirus?

El programa de Permiso Familiar Pagado de Washington le proporcionará hasta 12 semanas de permiso pagado si la enfermedad es “grave.” Este permiso está disponible si usted trabajó 820 horas en el mismo año en Washington. Usted puede combinar las horas de varios trabajos para alcanzar el número de horas requerido.

Si no tiene documentos y desea solicitar, imprima una solicitud en español desde el sitio web <https://paidleave.wa.gov/es/apply-now/> (el botón de descarga de la aplicación se encuentra en la parte baja del sitio web) o si no puede imprimir o necesita la solicitud en cualquier otro idioma que no sea el español, llame al [833-717-2273](tel:833-717-2273) para que le envíen una solicitud por correo. **Si usted no tiene un número de seguro social válido, NO PONGA un número de seguro social o el ITIN en la solicitud.** Una vez que su solicitud haya sido enviada, alguien del programa de Permiso Familiar Pagado se pondrá en contacto con usted para asegurar que tienen la información que necesitan para calcular sus horas trabajadas.

**Si ha llamado al número anterior y no puede comunicarse con alguien, o tiene problemas para obtener o presentar una solicitud,** llame a la oficina del defensor del pueblo al [844-395-6697](tel:844-395-6697).

### ¿Puedo obtener cobertura de compensación para trabajadores (Seguro Industrial, L&I) si me contagio con el coronavirus en el trabajo?

*Si usted es un profesional médico o un socorrista que está en cuarentena por haber estado expuesto al coronavirus, tiene derecho automáticamente a recibir este beneficio.*

Si usted no es un profesional médico o un socorrista, tiene que demostrar que fue expuesto al coronavirus por su trabajo, lo cual es muy difícil de realizar. **NO se requiere un número de seguro social para presentar una solicitud de compensación para trabajadores.** Para obtener ayuda con un reclamo de compensación para trabajadores, póngase en contacto con el Departamento de Labor & Industrias al [360-902-5800](tel:360-902-5800).

### ¿Y si quiero aislarme porque tengo miedo del coronavirus, pero mi lugar de trabajo sigue abierto?

Usted no tiene cobertura bajo ninguna ley de permisos por enfermedad pagados a menos que un médico o el gobierno haya ordenado que se ponga en cuarentena.

**Si uso el permiso por enfermedad federal, o el permiso por enfermedad del estado de Washington, o solicito para los beneficios de compensación para trabajadores, ¿se me hará más difícil solicitar una tarjeta de residencia permanente?**

No. Ninguno de estos beneficios laborales contaría contra usted en la prueba de carga pública si solicita una tarjeta de residencia permanente.

**Si no tengo documentos, ¿puedo solicitar para los beneficios de desempleo si cierran mi trabajo por el coronavirus?**

No. Usted necesita un número de seguro social válido para solicitar este beneficio.

## VIVIENDA

### ¿Puedo obtener ayuda para pagar el alquiler si me despiden del trabajo?

Si vive en Seattle, puede solicitar asistencia para ayudar a pagar su alquiler en <https://www.gofundme.com/f/rent-fund-for-un-documented-people-covid19>. **Usted NO necesita proporcionar un número de seguro social o información privada,** solamente su información de contacto.

## CORONAVIRUS: Información sobre las prestaciones de asistencia pública para personas sin estatus migratorio

### ASISTENCIA PÚBLICA

**¿Puedo obtener otra ayuda del gobierno si soy indocumentado?** Si sus ingresos son bajos, puede que obtenga:

- AEM—véase la información sobre AEM que figura arriba,
- Asistencia médica para mujeres embarazadas y madres primerizas,
- Vacunas para enfermedades contagiosas,
- Programa de Nutrición WIC (por sus siglas en inglés) para Mujeres, Infantes y Niños,
- Desayuno y almuerzos escolares para niños (verifique con su distrito escolar local),
- Asistencia médica para niños hasta la edad de 21 años, y
- Dinero en efectivo una vez al año para emergencias, llamado CEAP.

**Si uso estos beneficios, ¿eso afectará mi capacidad de aprobar la prueba de Carga Pública?**

No. Obtener cualquiera de estos beneficios no cuenta para la prueba de Carga Pública.

**¿Dónde puedo solicitar estos beneficios?**

Puede solicitar para WIC en las clínicas locales. Para localizar una clínica, llame al [800-322-2588](tel:800-322-2588). Cada persona en el programa WIC recibe \$50 al mes. WIC le ayuda a comprar ciertos alimentos si está embarazada y para usted y sus hijos hasta la edad de 5 años.

Para hacer una solicitud en el programa AEM, asistencia médica para mujeres embarazadas, madres primerizas, y niños menores de 21 años, llame al [877-501-2233](tel:877-501-2233).

### ASISTENCIA GENERAL

**¿Hay alguna otra ayuda para las personas indocumentadas durante la orden del Gobernador de quedarse en casa para mantenerse sanos?**

Sí. Puede solicitar para el fondo de ayuda “Covid-19 Fondo de Ayuda para los indocumentados de WA” en el internet en <https://www.scholarshipjunkies.org/relief#aid>.

**El recibir ayuda del fondo “Covid-19 Fondo de Ayuda para los indocumentados de WA” ¿cuenta contra la prueba de Carga Pública?**

No. El recibo de esta ayuda no se contará en la prueba de la Carga Pública.

### ASISTENCIA LEGAL

**¿Dónde puedo conseguir asistencia legal?**

- **Si Ud. no vive en el condado de King:** Puede contactar a CLEAR, la línea de servicio gratuito de Washington para obtener asesoramiento y referencias para personas con bajos ingresos que buscan asistencia legal gratuita para problemas legales civiles llamando al [888-201-1014](tel:888-201-1014).
- **Si vive en el condado de King:** Puede llamar al [211](tel:211) para información y referencias a un proveedor legal apropiado.

# CORONAVIRUS:

## Benefits Information for People without Immigration Status

You don't have a Social Security Number. You don't have health care. You have to take time off work or you are laid off because of the coronavirus. You can't get unemployment benefits. What benefits can you or your family get? Worried that if you or your family get benefits it will keep you from passing the Public Charge test if you apply for a green card? **Here are the facts.**

### HEALTH CARE

If you are low-income, the state government will pay:

- a clinic or hospital to test you for the coronavirus, and
- if you need treatment, pay for your treatment.

You have to ask the state for this help. Ask the clinic or hospital to help you apply. The name of the program that can help is Alien Emergency Medical or AEM. You do not have to wait to see if you are eligible for AEM to get tested or treated for the coronavirus. AEM can also pay for other kinds of emergency medical treatment you get in the hospital.

#### **Does getting AEM affect my ability to get permanent residency ("green card") under the new Public Charge test?**

No. Getting AEM help to get tested and treated for the coronavirus and getting other kinds of emergency hospital care will not count for the Public Charge test.

**What is Charity Care?** Every Washington hospital has to provide free care for low-income people who:

- don't have insurance, or
- whose insurance doesn't cover all the hospital bills.

Free or reduced cost care is called Charity Care. Even if you have more money, some hospitals will reduce the cost of medical care for people who are not able to pay for their care.

The hospital will ask you to apply for AEM. You can apply for both AEM and Charity Care at the same time. Ask the hospital to give you a Charity Care application.

***You do NOT need a Social Security Number to get AEM or Charity Care. You do NOT need to put a Social Security Number on the application for AEM or Charity Care.***

#### **Does getting charity care affect my ability to get a green card under the Public Charge test?**

Charity Care does not count for the Public Charge test. This is true for all hospital care paid for by Charity Care. And, Charity Care applies to hospital care, not just care for the coronavirus.

#### **If I need medical assistance, where can I go?**

You can call your health care provider, if you have one, or your local community health clinic, if you need medical care.

#### **Will going to a community health clinic count against me in the Public Charge test?**

No.

## EMPLOYMENT

### **If I am undocumented, do I have any right to take paid time off in connection with the coronavirus?**

Yes. All of the benefits listed below are available to you no matter what your immigration status is.

### **Can I get paid time off if I get sick with the coronavirus or if a family member does and I have to take care of them?**

Yes. There is a new federal law just for the coronavirus crisis that gives you up to 80 hours of paid sick time starting on April 1, 2020, fewer if you are a part-time employee. You can use this benefit if:

- you have symptoms of the coronavirus and take time off to consult a doctor;
- you are quarantined by the government or your doctor because you have the coronavirus; or
- you are taking care of someone who is quarantined because they have the coronavirus (paid at two-thirds your regular pay).

You can use this new sick time before using any other sick time you have built up at work. After this new sick time runs out, you can use the sick time you get under Washington law. The amount of sick time that you can get under Washington law depends on how long you have worked for your current employer. Your employer must tell you on your pay stub how much sick time you have earned.

### **What if I or my family member gets sick but are not diagnosed with the coronavirus?**

You can use the Washington sick time that you have earned for any kind of sickness.

### **What if my workplace is closed and I can't work from home?**

You can use your Washington sick time if your workplace is closed by a government order. If you work *in Seattle*, there is also a local law that allows you to use your sick time if your workplace is closed for any health-related reason (no government order required).

### **What if my children's school or place of care closes or my child's care provider isn't available because of the coronavirus?**

You have several options:

- You can take your 80 hours of federal sick time (paid at two-thirds your regular pay).
- Under another federal law, if you have worked for your employer for 30 days, you can take up to 12 weeks partially paid leave because your children's school or daycare closes. Under that law, your job will be protected during your time off if your employer has at least 25 employees.
- If your child's school or place of care has been closed by a public official you can receive the following benefits, *which are not available if your care provider (like your child's grandma) is unavailable*:
  - o You can use whatever Washington paid sick time you have earned.
  - o If you work *in Seattle*, you can use your paid sick time to care for *any family member* whose school or place of care is shut down *for any reason*.

### **How do I take paid sick time?**

If you feel sick, just give your employer notice right away and stay home. If you know that you will need time off, for example if you have a scheduled appointment, give your employer as much notice as you can. If you want to use your federal sick time before your Washington sick time, tell your employer so.



Your employer will be required to pay you for the time you are out sick (up to the number of hours you are allowed under federal law or have earned under Washington law). The pay rate will be your regular rate, except that under the federal law, you only get 2/3 your regular rate of pay for providing childcare or caring for a sick family member. If your employer doesn't allow you to take time off or doesn't pay you for your sick time, contact the Washington Department of Labor & Industries at [360-902-5316](tel:360-902-5316).

## What if I or someone in my family gets really sick with the coronavirus?

The Washington Paid Family and Medical Leave program will provide you with up to 12 weeks paid time off if the illness is "serious." This time off is available if you have worked 820 hours in the same year in Washington. You can combine hours from multiple jobs to reach the required number of hours.

If you are undocumented and want to apply, print a Spanish application from the website <https://paidleave.wa.gov/es/apply-now/> (the application download button is found at the bottom of the website) or if you can't print or you need an application in any language other than Spanish, call [833-717-2273](tel:833-717-2273) for an application to be mailed to you. **If you do not have a valid social security number, do NOT put a social security number or ITIN on the application.** Once your application has been sent in, someone at the paid leave program will contact you to make sure they have the information they need to calculate your hours worked.

**If you have called the number above and cannot get through to someone, or you have a problem getting or submitting an application,** call the ombudsperson's office at [844-395-6697](tel:844-395-6697).

## Can I get workers' compensation (Industrial Insurance, L&I) if I get the coronavirus at work?

*If you are a medical professional or first responder who is quarantined because you were exposed to the coronavirus, you are automatically eligible to receive this benefit.*

If you are not a medical professional or first responder, you have to show that you got sick with the coronavirus because of your work, which is very difficult to do. **A social security number is NOT required to file an application for workers' compensation.** For help with a workers' compensation claim, contact the Department of Labor & Industries at [360-902-5800](tel:360-902-5800).

## What if I want to isolate myself because I am afraid of the coronavirus, but my workplace is still open?

You are not covered by any paid leave laws unless a doctor or the government has ordered you to quarantine yourself.

## Will using the federal sick time, Washington sick time, and applying for workers' compensation benefits make it harder for me to apply for a green card?

No. None of these employment benefits would count against you on the Public Charge test if you apply for a green card.

## If I am undocumented, can I apply for unemployment benefits if my employment is closed because of the coronavirus?

No. You need a valid social security number to apply for this benefit.

## HOUSING

### Can I get help for paying my rent if I am laid off of work?

*If you live in Seattle,* you can request assistance to help pay your rent from <https://www.gofundme.com/f/rent-fund-for-undocumented-people-covid19>. **You do NOT need to provide a social security number or private information,** just your contact information.

## PUBLIC BENEFITS

**Can I get other help from the government if I am undocumented?** If you are low-income, you may be able to get:

- AEM—see information about AEM above,
- Medical care for pregnant women and new mothers,
- Immunizations for communicable diseases,
- Women, Infants, and Children or WIC,
- Breakfast and school lunches for children (check with your local school district),
- Health care for children up to 21 years of age, and
- Once per year cash for emergencies called CEAP.

**Will using these benefits affect my ability to pass the Public Charge test?**

No. Getting any of these benefits doesn't count for the Public Charge test.

**Where can I apply for these benefits?**

You apply for WIC at local clinics. To find a clinic, call [800-322-2588](tel:800-322-2588). Each person on WIC gets \$50 per month. WIC helps you buy certain foods if you are pregnant and for you and your children up to age 5.

You apply for AEM, medical care for pregnant women, new mothers, and children under 21 by calling [877-501-2233](tel:877-501-2233).

## GENERAL ASSISTANCE

**Is there other assistance for undocumented individuals during the Governor's order to stay home to stay healthy?**

Yes. You can apply for the "Covid-19 Relief Fund for WA Undocumented Folks" at <https://www.scholarshipjunkies.org/relief#aid>.

**Does receiving the assistance from the "Covid-19 Relief Fund for WA Undocumented Folks" count against the Public Charge test?**

No. Receiving this assistance will not count against the Public Charge test.

## LEGAL HELP

**Where can I get legal help?**

- **If you do not live in King County:** You can contact CLEAR, Washington's toll-free advice and referral service for low-income people seeking free legal assistance with civil legal problems by calling [888-201-1014](tel:888-201-1014).
- **If you live in King County:** You can call [211](tel:211) for information and referral to an appropriate legal services provider.





## 2020 Race Equity Grant Recipients

### Colectiva Legal del Pueblo

Building community power for migrant justice through pro bono and low bono legal services, advocacy, and education to combat the immigration detention and deportation systems.

### Cowlitz-Wahkiakum Legal Aid

Increasing access to justice for underserved communities in Southwest Washington, through an Equity & Justice Community Coordinator position to conduct community trainings and outreach.

### Disability Rights Washington

Working to shift power so Black, Indigenous, and people of color with disabilities can provide real input to King County and the State about healthcare needs and revising crisis standards of care.

### Dispute Resolution Center of Yakima & Kittitas

Expanding services for Spanish-speaking families working through divorce or parenting plans by training bilingual mediators in Yakima County, where Latinx people are half of the population.

### Fair Work Center

Establishing a peer training *promotores* program to prepare farmworkers to facilitate health and safety and know-your-rights trainings for their coworkers throughout the Yakima Valley.

### Freedom Project

Increasing community-centered legal support by and for Black, Indigenous, and people of color impacted by the legal system through organizing, mentoring, and leadership development.

### Legal Counsel for Youth and Children

Conducting focus groups to understand how the civil legal aid system can improve accessibility and cultural competency to better serve youth and young adults of color in King County.

### Living with Conviction

Empowering formerly incarcerated individuals to end onerous legal financial obligations (LFOs), which disproportionately impact communities of color and perpetuate cycles of poverty.

### Seattle Clemency Project

Providing people recently released from prison through the state clemency process with legal services and the other assistance they need to successfully reintegrate into society.

South King County Discipline Coalition

Ending disproportionate discipline of students of color and interrupting the school-to-prison pipeline through anti-racist organizing, leadership development, and advocacy that centers directly impacted parents and youth.

West African Community Council

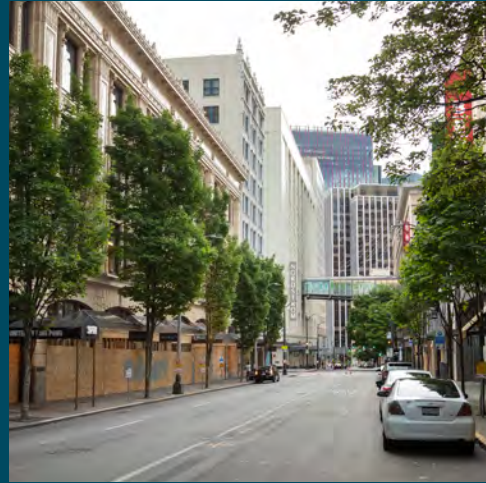
Assisting members of the refugee and immigrant community with limited English proficiency in gaining legal status and permission to work in the United States.

Yakima County Volunteer Attorney Services

Expanding outreach about pro bono legal services to members of the Spanish-speaking community in Yakima County, where Latinx people are half of the population.

### 2021 Partnership Grants with Funding Sources

Partnership Grantees	2021 LFW General Funds (includes state funding)	Pro Bono Salary Parity	Specialty Salary Parity	Total 2021 Partnership Grants
Benefits Law Center	\$424,500		\$65,000	\$489,500
Benton Franklin Legal Aid	\$89,700	\$8,600		\$98,300
Blue Mountain (Walla Walla)	\$36,810	\$18,990		\$55,800
Chelan Douglas VAS	\$96,930	\$14,170		\$111,100
Clallam Jefferson Pro Bono	\$69,550	\$18,850		\$88,400
Clark Co. VLP	\$99,980	\$38,420		\$138,400
Columbia Legal Services	\$3,656,500			\$3,656,500
Community Action- Skagit Co. VLP	\$118,680	\$9,220		\$127,900
Cowlitz Wahkiakum Legal Aid	\$36,500	\$25,500		\$62,000
Eastside Legal Assistance Program	\$160,810	\$12,390		\$173,200
King Co. Bar Foundation	\$533,210	\$14,890		\$548,100
Kitsap Co. Legal Services	\$72,600	\$36,700		\$109,300
LAW Advocates	\$194,070	\$12,930		\$207,000
Legal Counsel for Youth and Children	\$103,000			\$103,000
Northwest Immigrant Rights	\$1,300,500			\$1,300,500
Snohomish Co. Legal Services	\$148,380	\$21,120		\$169,500
Solid Ground	\$253,100			\$253,100
Spokane Co. Bar VLP	\$116,760	\$5,240		\$122,000
TacomaProBono	\$249,880	\$43,320		\$293,200
TeamChild	\$557,400		\$115,000	\$672,400
Thurston Co. VLS	\$147,170	\$13,630		\$160,800
Unemployment Law Project	\$415,400		\$20,000	\$435,400
Yakima Co. VAS	\$130,070	\$6,030		\$136,100
<b>Totals</b>	<b>\$9,011,500</b>	<b>\$300,000</b>	<b>\$200,000</b>	<b>\$9,511,500</b>



# Legal Aid is a Lifeline in a Time of Crisis

CAMPAIGN for  
**EQUAL  
JUSTICE**

**LFW**  
LEGAL FOUNDATION  
OF WASHINGTON

ENDOWMENT for  
**EQUAL  
JUSTICE**

2020 IMPACT REPORT

## DEAR FRIENDS AND COLLEAGUES,

As we reflect on this past year of extreme hardship, heightened awareness of inequities across our society, and the rapidly increasing need for legal services, we are grateful for you and your unwavering support for equal justice. Legal aid is a lifeline in a time of crisis and you helped extend that lifeline to tens of thousands of Washingtonians in need in 2020.

Together, our community of lawyers, judges, legal aid providers, and supporters of access to justice rallied and donated thousands of virtual pro bono hours and dollars to help people solve legal problems.

In 2020, LFW invested more than \$11.3 million in grants to Washington’s legal aid system, including more than \$1.8 million in emergency grants in response to COVID-19. As a result, more than 20,000 families received free legal services for help with urgent legal issues, many due to the pandemic. In addition, new policies to reform the civil and criminal justice systems were advanced successfully at the state and county levels by many of our partners, benefiting hundreds of thousands of workers and families.

In 2021, LFW’s grantmaking will continue to fight unjust systems and target inequities in the civil legal system, where people seeking justice in a wide variety of cases — including housing, immigration, worker rights, and domestic violence — need a lawyer to navigate complex legal systems. Even though we are slowly coming out of the pandemic, the number of low-income people continues to rise, putting increasing demand on an overburdened and underfunded legal aid system. With your help, we can and must do better.

We look forward to working with you as we recover from the pandemic to give low-income people and those historically unrepresented a seat and voice at the table to forge a more equitable future.

Thank you for walking with us toward justice.

With gratitude,

**CAITLIN DAVIS**  
EXECUTIVE DIRECTOR  
LFW

**MIKE PONTAROLO**  
PRESIDENT  
LFW, Board of Trustees

**JOHN HOERSTER**  
CO-PRESIDENT  
Endowment for Equal Justice

**MICHELLE MOERSFELDER**  
CO-PRESIDENT  
Endowment for Equal Justice

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Juli Farris

Mark Griffin  
Mark Johnson  
Fred Rivera

# Funding Systemic Reform

LFW is committed to long-term systemic change, and we currently commit more than half of our funding for impact litigation and policy reform to advance rights for people in poverty.

## 5-YEAR LEGAL BATTLE OVERTURNS DISCRIMINATORY POLICIES

Washington farmworkers have been at especially high risk during the COVID-19 pandemic, where their work has been more essential and dangerous than ever. But for the last 60 years, state law has allowed farmworkers to be excluded from overtime pay despite long, hazardous workdays. Jose Martinez-Cuevas and Patricia Aguilar, dairy workers from Yakima County, challenged this discriminatory practice in a lawsuit by Columbia Legal Services (CLS).



*Plaintiffs in Martinez-Cuevas v. DeRuyter Brothers Dairy, Inc. at the Washington Supreme Court.*

In a landmark decision, the Washington Supreme Court ruled the exclusion violated the state constitution's "fundamental right for Washington workers to health and safety protections." The Court also denied a motion to reconsider the case earlier this year. The Court's ruling entitles the 300 workers in this case to overtime pay, and this decision could impact more than 200,000 farmworkers in our state.

## ALL PEOPLE SHOULD HAVE A RIGHT TO COUNSEL

2021 saw a remarkable state legislative session that bolstered access to justice for Washington's poorest residents. Three bills listed below affirmed what legal aid advocates have been saying for years: low-income people should have right to legal representation in civil cases.

### LEGAL AID FOR UNDOCUMENTED IMMIGRANTS

HB 1072 removes the restriction on using state funds to serve undocumented people with civil legal issues. This prohibition was contrary to the state's commitment to not discriminate against its residents on the basis of immigration status.

### RIGHT TO COUNSEL IN EVICTIONS

SB 5160 provides a right to legal counsel for people facing eviction. This is a huge win for tenants that will stem the tidal wave of need when the state's eviction moratorium is lifted by resolving disputes and keeping families in their homes.

### RIGHT TO COUNSEL FOR YOUTH

HB 1219 provides a right to legal counsel for youth in dependency court proceedings. The current system for child legal representation was inadequate and resulted in a patchwork system that varied by county, where Black and Indigenous children of color were more likely to be removed from their parents and kept in the child welfare system longer than white children. This bill represents a huge step forward to a future where every single child will have an advocate in court.



# LFW Invests in Communities Across Washington

In a year of extraordinary needs and deepening inequities, we are proud to have made impactful and responsive investments in justice. The COVID-19 pandemic created complex legal challenges for low-income people. High unemployment and economic

LFW  
invested  
\$11.3  
million  
in grants  
in 2020.

insecurity resulted in an eviction crisis with an estimated 200,000 renters in Washington unable to pay their rent<sup>1</sup>. Intimate partner violence has risen along with COVID shutdowns and isolation<sup>2</sup>. Communities of color, already disproportionately impacted by civil legal issues due to structural

racism in the legal system, have been disproportionately harmed by COVID-19. Injustices in our systems have left communities of color at greater risk of infection and more likely to incur housing insecurity, denial of unemployment benefits, and other legal issues.

## RESPONDING TO COVID-19

To ease the burden of unstable funding for legal aid programs, LFW responded to the

pandemic by coordinating funding from various sources, providing emergency grants and resources to respond to increased needs, and reducing administrative load on programs.

In partnership with the Office of Civil Legal Aid and the King County Dept. of Community and Human Services, we distributed more than \$1.8 million in funding for legal services related to eviction defense, unemployment, domestic violence, personal protective equipment, and more.

With LFW's enhanced support, legal aid providers quickly adapted their services to meet the escalating needs and advocates mobilized to target systemic injustices through impact litigation and policy reform.

## COVID-19 IMMIGRANT RELIEF FUND

Last fall, LFW proudly supported immigrant-led community organizations like Washington Immigrant Solidarity Network, Fair Work Center, and Scholarship Junkies in partnership with Governor Inslee and the Washington State Dept. of Social and Health Services in establishing the Washington COVID-19 Immigrant Relief Fund. The fund provides economic relief to people impacted by COVID-19 but excluded from federal relief funds because of immigration status. Thanks to this coalition, we disbursed \$60 million in financial assistance to tens of thousands of families to help them stay housed and safe.

<sup>1</sup> Crosscut, "WA scrambles to avoid mass evictions as moratorium nears end" <https://crosscut.com/news/2021/02/wa-scrambles-avoid-mass-evictions-moratorium-nears-end>

<sup>2</sup> Time, "Domestic violence is a pandemic within the COVID-19 pandemic" <https://time.com/5928539/domestic-violence-covid-19/>



## 2020 Grantees

Asian Counseling and Referral Service

Benefits Law Center

Benton-Franklin Legal Aid

Blue Mountain Action Council

Center for Justice

Chelan-Douglas County Vol. Attorney Services

Civil Survival Project

Clallam-Jefferson County Pro Bono Lawyers

Clark County Volunteer Lawyers Program

Colectiva Legal del Pueblo

Columbia Legal Services

Communities Rise

Cowlitz-Wahkiakum Legal Aid

Disability Rights Washington

Dispute Resolution Center of Yakima & Kittitas

Eastside Legal Assistance Program

Fair Work Center

Freedom Project

King County Bar Association

Kitsap Legal Services

Laurel Rubin Farmworker Justice Project

Lavender Rights Project

LAW Advocates of Whatcom County

Legal Counsel for Youth and Children

Living with Conviction

Northwest Immigrant Rights Project

Northwest Justice Project

Nuestra Casa

Planned Parenthood of Greater Washington and North Idaho

Scholarship Junkies

Seattle Clemency Project

Sexual Violence Law Center

Skagit Volunteer Lawyer Program

Snohomish County Legal Services

Solid Ground

South King County Discipline Coalition

Spokane County Bar Volunteer Lawyers Program

Tacomaprobono Community Lawyers

TeamChild

Thurston Co. Volunteer Legal Services

Unemployment Law Project

WA Immigrant Solidarity Network

West African Community Council

Yakima County Volunteer Attorney Services



# Legal Aid for Individuals & Families

Yakima VAS helps seal a juvenile record and make a dream possible



## MEET CHRIS

Chris's childhood was tumultuous, with a father addicted to drugs and sentenced to life in prison. Without his father around, Chris lacked a strong family support system, and he turned to gangs, drinking, and drugs. In a short period of time, Chris picked up several juvenile convictions and dropped out of high school.

When Chris reached adulthood, he wanted a different life. He got his GED, a job, and moved away from criminal behavior. Though he was proud of the growth he had made as a person, Chris had always wanted to be in a career where he could help the people around him. He tried

to apply for a volunteer position at the fire department, but he was turned away because of his juvenile record.

Chris felt ashamed of his past and scared to seal his juvenile record because of the rejection he received.

But, after a few years, he built up the courage to contact Yakima County Volunteer Attorney Services (VAS) to see if they could help.

Yakima VAS was able to seal his juvenile record, taking a huge weight from Chris's shoulders and opening doors to future career opportunities. Chris plans to attend college and register for an EMT program.

# Your gifts help vulnerable people across Washington

## LEGAL PROBLEMS SOLVED IN 2020

Consumer & Bankruptcy 4%



Domestic Violence & Family Law 34%



Education & Youth Justice 3%



Eviction Defense & Housing 21%



Access to Benefits & Workers' Rights 9%



Immigration/Naturalization 13%



Disability, LGBTQ+, & Civil Rights 3%

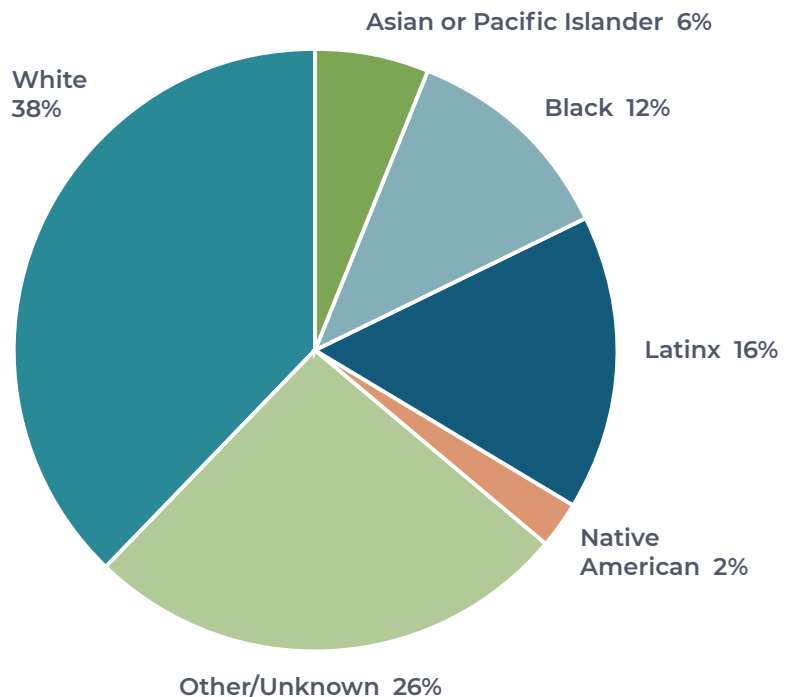


Other (Health, Nonprofit Law, Wills, etc.) 13%



## 2020 CLIENT RACIAL DEMOGRAPHICS

LFW is responsive to the changing needs of communities across Washington. We use demographic data to examine who is being served by legal aid and who needs more resources. We compare client service data to the poverty statistics for counties across the state to inform our grantmaking decisions.





## Benefits Law Center secures disability benefits and pathways out of poverty

Benefits Law Center (BLC) helps provides life-saving legal advocacy to one of our society's most invisible populations: people living with physical and mental disabilities, many of whom are homeless, who need help to obtain the resources necessary to secure financial, medical, and housing stability.

### **MEET DANNY**

Prior to linking with BLC's attorneys, Danny had filed multiple applications for disability benefits over many years but was always denied, as his mental health disabilities made it nearly impossible for him to navigate the system. Danny filed a new application with BLC's help and, through the diligence of BLC, Danny was awarded his SSI disability benefits in February 2020. Danny was able to receive appropriate medical coverage and found the financial stability to live independently.

LFW is proud to fund BLC with an annual general operating grant. Your donations help us fund 40 legal aid programs like this every year.

# 2020 Financial Statements

LFW is a responsible steward of your investment

## LEGAL FOUNDATION OF WASHINGTON

### Revenue

Campaign Donations	\$2,637,079
Endowment Disbursement	\$847,512
Public Funding	\$3,728,500
IOLTA	\$6,961,705
COVID-Related Funding	\$40,946,092
Investment Income	\$1,141,458
Cy Pres	\$489,341

**Total Revenue** **\$56,751,687**

### Expenses

Grants & Grantee Support	\$12,722,384
COVID-Related Grants & Expenses	\$40,744,696
Management	\$508,104
Fundraising	\$480,067

**Total Expenses** **\$54,455,251**

### Statement of Financial Position

Total Assets	\$29,472,845
Total Liabilities	\$11,756,022
Total Net Assets	\$17,716,823

**Thank You  
for Helping  
us Close the  
Justice Gap**

## Public Funding for Legal Aid

The Equal Justice Coalition (EJC) educates policymakers about the importance of civil legal aid and advocates for sufficient public funding for civil legal aid programs, many of which are funded by LFW.

### STATE FUNDING FOR LEGAL AID

The state of Washington stepped up with a record funding increase for civil legal aid thanks to the bipartisan support in the Legislature and the civil justice advocates who raised their voices during the EJC's Virtual Lobby Days. In addition to new funding associated with new right to counsel bills, the Legislature's final biennial budget fully funded the ongoing civil legal aid COVID-19 response services that began with temporary emergency funds in 2020. This investment means expanded legal aid work around eviction defense, unemployment benefits, protection against domestic violence, and other issues exacerbated by the pandemic will continue over the next two years and help ensure our state's COVID recovery is fair and equitable.

### FEDERAL & LOCAL FUNDING

The EJC worked with Washington's Congressional delegation to push for increased funding in legal services in the annual budget and in emergency COVID-19 relief packages including the CARES Act. In King County, the EJC's advocacy led the King County Council to allocate emergency funds to LFW to distribute to local programs in 2020.



# Campaign for Equal Justice

The Campaign is our state's largest annual fund drive for civil legal aid in Washington. Thank you for contributing to fund equal access to justice. Since 1992, the Campaign has raised more than \$30 Million!

## 2020 NUMBERS

**6,700**  
Campaign  
Donors

**\$2  
Million**  
Raised

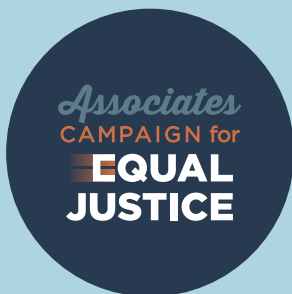
**100**  
Law  
Firms



The Rainier Cup is awarded annually to the county with the highest percentage of attorneys donating to the Campaign for Equal Justice.

**2020 WINNER – 26% participation**

Whatcom County



The Associates Campaign is a group of 10 law firms in Seattle that raise money for civil legal aid.

**2020 WINNER – highest average gift**

Keller Rohrback

# First Virtual Event

## GOLDMARK LUNCHEON

**With your help, we raised more than \$420,000 for legal aid. Thank you!**



**Lembhard C. Howell**  
Goldmark Distinguished Service Award Recipient



**Doug Baldwin Jr.**  
Keynote Speaker



Thank you to these donors for contributing \$100,000+ in 2020 to ensure equal access to justice.

Jim Degel & Jeanne Berwick

Perkins Coie

Davis Wright Tremaine

Brad Smith & Kathy

Lucy Lee Helm

Surace-Smith



Thank you to our Justice League donors, who give monthly to support the Campaign for Equal Justice.

Joshua Anfinson

Julie Diaz

Michelle and

Lauren Berkowitz

Wick & Sheila

Matthew

Donna Fay Mustard

Dufford

Moersfelder

Bond

Nathan and

Rachel Morowitz

Hon. Laura Thomas  
Bradley

Amanda Dwyer

Najja Morris

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Matthew Clark

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Ella Vincent

and Melissa  
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Debbie Maranville

Robert Wyler

# Corporate Campaign for Equal Justice

**THANK YOU** to the following corporate leaders for investing in equity and justice.

**\$40,000**

Microsoft

**\$10,000**

Amazon  
Starbucks  
T-Mobile

**\$5,000**

Expedia Group

**\$3,500**

Seattle Mariners  
Washington Trust Bank

**\$2,500**

AT&T  
Canterbury Consulting

**\$1,000**

Buell Realtime  
Reporting  
JND Legal  
Administration  
Lighthouse Global  
Russell Investments  
Seattle Seahawks

**\$500**

BECU

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“ We cannot succeed as companies if the communities in which we are based are not doing well. The right lawyer at the right time can make all the difference in the world for someone. It can literally change the trajectory of their life. ”

**BRAD SMITH**

Chief Legal Officer and President, Microsoft

# LAW FIRM CHAMPIONS

**THANK YOU** for supporting civil legal aid and helping us break cycles of poverty for families across Washington.



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Evergreen Personal  
Injury Counsel  
FAVROS Law  
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GLP Attorneys  
Gordon Thomas Honeywell  
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& Cordell LLP  
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Herrmann Law Group  
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Hilyer Dispute Resolution  
Hintze law  
Inslee Best  
Johnson Flora Sprangers  
Joyce Ziker Parkinson  
K&L Gates  
Karr Tuttle Campbell  
Keller Rohrback  
Kinsel Law Offices, PLLC  
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Yakima Law



Champions of Justice donate \$300 per attorney or \$25,000 or more to fund legal aid in Washington.

“The King County Law Firm Campaign has proven to be one of the most efficient and effective ways to support civil legal aid in our region. We give to this campaign each year and make it part of our annual budget to make “access to justice for all” a reality.

**JAMES WILLIAMS**

Seattle Office Managing Partner, Perkins Coie



**T**he Endowment for Equal Justice is the only sustainable fund for legal aid in Washington and the largest fund of its kind in the nation. Founded in 2000 by David Andrews, Mark Hutcheson and Ada Shen Jaffe, the Endowment exists to provide stability in the form of long-term, unrestricted funding to legal aid organizations through its annual disbursement to the Legal Foundation of Washington. The Endowment for Equal Justice cultivates a broad community of engaged donors and stewards their gifts to enable civil legal aid organizations and those they serve to overcome individual injustices and dismantle systemic barriers to equitable justice in Washington State.

## Reach 20

With your help, we've raised more than \$5 Million to grow our investment fund for legal aid to more than \$20 Million

### A SPECIAL THANK YOU TO OUR \$5,000+ DONORS

Rima Alaily & Ryan McBride

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# Justice Society Honor Roll

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Andrea Axel  
Judge Rebecca M.  
Baker  
Jim A. Bamberger  
Kirsten Barron and  
Steven Brinn  
Beth and Rebecca  
Bloom  
Paula Boggs and  
Ranee Fox  
Bruce Brooks and  
Debra Prinzing  
Carolyn Cairns  
Greg and June  
Dallaire  
Steve DeForest

Pam DeRusha  
Kirk Dublin  
Loren and Dana  
Etengoff  
Sharon L. Grant  
Lucy Lee Helm  
John and Carol  
Hoerster  
Scott and Turie Holte  
Donald J. and  
Lynda Horowitz  
Mark A. and Julie  
Hutcheson  
Mark A. Johnson  
Karen and Ronald  
Kohut  
J. Richard Manning

Gail Mautner and  
Mario Shaunette  
John McKay  
Michael McKay  
Geoff Revelle  
Sara Sandford  
Ada Shen-Jaffe and  
Dr. Kenneth M. Jaffe  
Judge Michael  
Schwab  
Paul Stritmatter  
Linda and David Strout  
Robert V. Taylor and  
Jerry Judkins Smith  
Tracey Thompson  
Pat and Ed Wagner  
Gordon W. Wilcox  
Nancy Williams



“ We joined the Justice Society because everyone in our state deserves equal access to an attorney when times are tough. Leaving a legacy of sustainable legal aid funding was as easy as completing a form naming the Endowment for Equal Justice as a beneficiary in our retirement accounts. ”

**BETH & REBECCA BLOOM**



The Honor Roll consists of the founding members of the Justice Society who have named the Endowment for Equal Justice as a beneficiary of their estate, thereby planting a seed of justice that will bloom for future generations.

## ENDOWMENT FOR EQUAL JUSTICE

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Gordon W. Wilcox

## 2020 Financial Statements

### Revenue

Donations and Pledges	\$1,683,003
In-Kind Donations	\$47,506
Investment Income	\$2,603,263

**Total Revenue** **\$4,333,772**

### Expenses

Grant to LFW	\$847,512
Program	\$23,423
Fundraising	\$234,318

**Total Expenses** **\$1,105,253**

### Statement of Financial Position

Net Assets Beginning of Year	\$18,998,351
Net Assets End of Year	\$22,226,869
Change in Assets	\$3,228,518

# LFW Advances Equity in Yakima

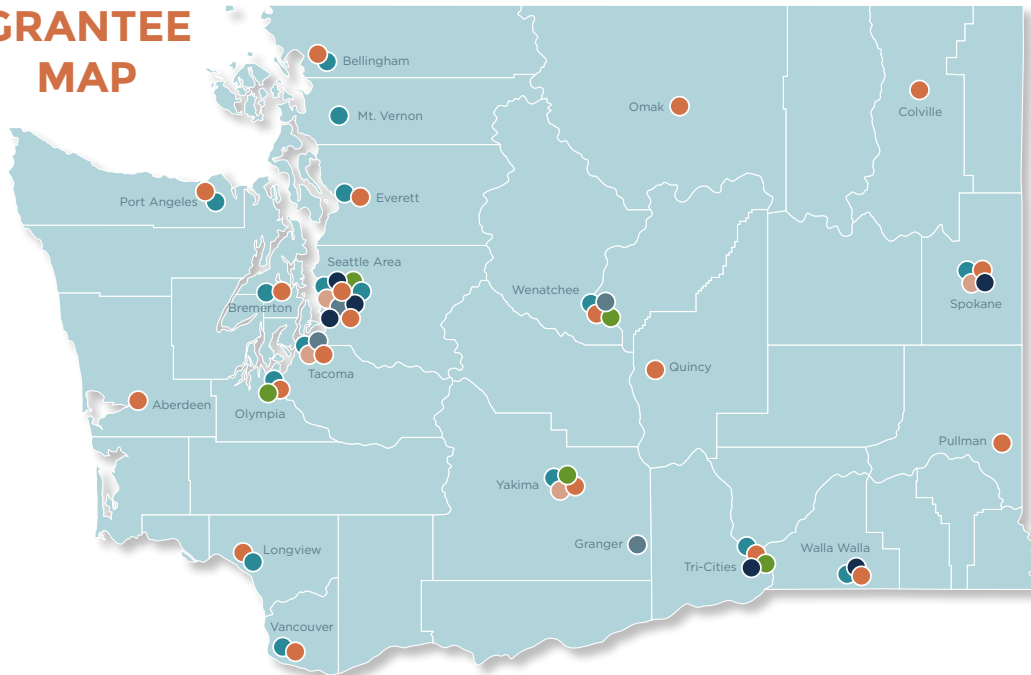
In 2019, LFW examined the racial demographics of poverty populations in Washington, looking for areas where legal aid is underfunded. One area that stood out was the Yakima Valley, which has the highest percentage of low-income people of color in LFW's grantee network, as well as the highest poverty rate in the state. 68% of people in poverty in the region are Latinx. Using a racial equity lens, we compared the Yakima Valley with other regions similar in size, geography, and immigrant populations.

**LFW'S IMPACT:** From our analysis, it was clear that Yakima was underfunded, and the grants that we had previously allocated for the area were not sufficient to meet the need for civil legal aid. To begin to remedy this disparity, LFW increased the grant for Yakima Co. Volunteer Attorney Services in both 2019 and



2020, helping the program add a full-time staff person and increase capacity to help those in need. Yakima VAS is one of 16 pro bono legal aid organizations around the state that LFW funds, and in 2020, Yakima VAS's 84 volunteer attorneys were able to help 351 families.

## GRANTEE MAP



### LEGEND

- Northwest Justice Project
- Columbia Legal Services
- Pro Bono Program
- TeamChild
- Northwest Immigrant Rights Project
- Other Specialty Legal Aid Providers

This map includes local offices for all LFW Partnership Grantees and also Northwest Justice Project offices.

# THANK YOU!