

**WASHINGTON STATE  
BAR ASSOCIATION**

**Board of Governors Meeting**

**Late Materials**

**September 26-27, 2019  
WSBA Conference Center  
Seattle, Washington**

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

Board of Governors

<b>BOARD OF GOVERNORS MEETING</b> <b>Late Materials</b> <b>September 26-27, 2019</b> <b>Seattle, WA</b>	
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**WASHINGTON STATE**  
**BAR ASSOCIATION**

**TO:** WSBA Board of Governors  
**FROM:** Margaret Shane  
**DATE:** September 24, 2019  
**RE:** FY 2020 Keller Deduction Correction

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Attached please find an updated memo regarding the FY 2020 license fee deduction. This memo supersedes the memo in the main BOG Book and corrects the comparison table on page four.

# WASHINGTON STATE BAR ASSOCIATION

To: The President, President-elect, and The Board of Governors

From: Terra Nevitt, Interim Executive Director  
Jorge Perez, Chief Financial Officer  
Julie Shankland, General Counsel

Date: September 24, 2019

Re: FY 2020 License Fee Deduction –Correction to Comparison Table

**ACTION:** Approve 2020 Keller deduction schedule.

Each year the annual license fee form provides for an “optional Keller deduction” as approved by the Board of Governors. This is in response to the U. S. Supreme Court 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.” On August 30, 2019, the U.S. Court of Appeals for the 8<sup>th</sup> Circuit issued a decision in *Fleck v. Wetch*<sup>3</sup>, holding that *Janus* did not overrule *Keller* and affirming that a procedure similar to WSBA’s *Keller* refund procedure remains constitutional.

General Rules 12-12.3 set out the Washington Supreme Court’s plenary authority over WSBA, its regulatory objectives for regulating the practice of law, and WSBA’s authorized and prohibited activities. GR 12.2(c) prohibits WSBA from (1) taking positions on issues concerning the politics or social positions of foreign nations; (2) taking positions on political or social issues which do not relate to or affect the practice of law or the administration of justice; or (3) supporting or opposing, in an election, candidates for public office.

**The amount of the Keller deduction represents the amount of license fees used for activities permitted under GR 12, but subject to deduction under *Keller*.**

<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)

<sup>3</sup> *Fleck v. Wetch*, No. 16-1564 (8<sup>th</sup> Cir 2019)

## OVERVIEW OF OPTIONAL KELLER DEDUCTION CALCULATION

The optional Keller deduction amount is the sum of the following three numbers:

- (1) The actual direct and indirect costs of non-chargeable Legislative activities in the current fiscal year;
- (2) The budgeted cost for ABA delegate activities in the next fiscal year; and
- (3) The actual direct and indirect costs of other non-chargeable activities in the current fiscal year, including staff salary, benefits and overhead, including meeting time, conference call costs and overhead.

## LEGISLATIVE EXPENSE CALCULATION

We start by determining each license fee paying member's share of the entire legislative function budget. For FY 2020, the budgeted amount is \$160,404.00<sup>4</sup>. We divide this amount by the estimated total number of license fee paying members for 2020 (40,940) to arrive at each member's pro rata share (\$3.92).

$$\$160,404.00 \div 40,940 = \$3.92$$

We then reviewed a detailed list of the WSBA legislative staff's activity for the past year (FY 2019) to determine the proportion of the legislative budget spent on "non-chargeable" activities. We apply this percentage to the FY 2020 legislative budget. Attachment A is the detailed listing the legislative staff's activities for FY 2019. We reviewed each bill that the legislative staff spent time on and determined that 1788 was chargeable because it directly relates to regulating the legal profession. We determined that all of the remaining bills were non-chargeable because they do not relate directly to regulating the legal profession or improving the quality of legal services.<sup>5</sup> We included all time the legislative staff spent directly or indirectly on all bills other than 1788 in the "non-chargeable" calculation. This calculation also includes expenses related to legislative staff time spent during and preparing for BOG, BOG Legislative Committee and BOG Legislative Review Committee meetings. (The spreadsheet does not include time for the Access to Justice Board (ATJ) or Council on Public Defense (CPD) because the WSBA legislative staff did not spend time working on bills specifically for these entities during FY 2019. Part three of the Keller calculation captures the time ATJ and CPD spent on non-chargeable activities that were not directly related to legislation.)

For FY 2019<sup>6</sup>, the non-chargeable percentage was 27.72%. The per member legislative expense of \$3.92 is multiplied by the percentage of non-chargeable activities (27.72%) to arrive at a per member cost of \$1.09.

$$(\$160,404.00 \div 40,940) \times .2772 = \$1.09$$

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<sup>5</sup> These bills reasonably relate to or affect the practice of law or the administration of justice, so this activity complies with GR 12.2, but are appropriately subject to the *Keller* deduction.

<sup>6</sup> We use the actual expenses incurred in FY 2019 and apply those to the FY 20 budgeted amounts.



### ABA DELEGATION EXPENSE CALCULATION

The ABA delegates take political positions, so we treat the entire ABA delegation budget (\$5,600) as non-chargeable. We divide the budgeted amount by the estimated total number of license fee paying members. The per member cost associated with the ABA delegation budget for FY 2020 is \$.14.

$$\$5,600 \div 40,940 = \$.14$$

### OTHER NON-CHARGEABLE EXPENSES/GENERAL STAFF TIME

Finally, we review all other WSBA activities to identify other non-chargeable activities. This number is the total amount for staff time, including salaries, benefits, and overhead, BOG meeting time, including staff time, overhead, and conference call expenses not otherwise accounted for above, spent on meetings or activities involving legislative or political matters divided by the estimated total number of license fee paying members.

WSBA employees review FY 2019 meeting agendas and minutes and provide details of staff time and meeting expenses for activities that might be non-chargeable. The FY 2019 number includes staff time and meeting expenses for portions of Access to Justice Board and Committee meetings, Council on Public Defense Meetings, and Pro Bono and Public Service Committee meetings, including staff prep time. Attachment 2 is the detailed information used to prepare this calculation.

The total amount spent for staff time, overhead, and costs, including volunteer reimbursements for this category is \$12,197.22. We calculated the amount per member as \$.30.

$$\$12,197.22 \div 40,420 = \$.30$$

### KELLER DEDUCTION CALCULATION AND ROUNDING UP

The *Keller* deduction is the sum of the amounts in #1, #2, and #3 above and results in a deduction of \$1.53 (\$1.09 + \$0.14 + \$0.30). We recommend rounding this number up for simplicity and ease in calculations. Therefore, we recommend that the Keller deduction for FY 2020 be set at **\$1.55**.

The comparison to previous years is shown in this table:

<b>YEAR</b>	<b>DEDUCTION</b>
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

Based on these calculations, we recommend the following Keller deduction schedule for 2020 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	\$1.55
• Active Lawyer Admitted to any Bar in 2018 or 2019	\$229.00	\$.78
• Inactive/Emeritus Lawyer	\$200.00	\$.68
• New Active Admittee (Jan 1-Jun 30)	\$229.00	\$.78
• New Active Admittee (July 1-Dec 31)	\$114.50	\$.39
• Limited Legal License Technician	\$200.00	\$.68
• Limited Practice Officer	\$200.00	\$.68
• Judicial	\$50.00	\$.17



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

**To:** WSBA Board of Governors  
**From:** Governor P.J. Grabicki and Chief Communications and Outreach Officer Sara Niegowski  
**Date:** Sept. 19, 2019  
**Re:** Governor communication to members

**FIRST READING** Discuss and approve a process to allow governors to directly email members in their district and/or stakeholder group. This could include follow-up to create agreement on communication principles and accountability.

Governors discussed ongoing communication challenges and potential solutions at their July 2019 meeting. One recommendation—to send WSBA board-meeting updates per district with corresponding governor contact information—has already been implemented. Several more will come forward at later meetings.

At this September meeting, governors will consider a protocol for direct governor email communication with members, originally recommended by Governor P.J. Grabicki. After talking through logistics with Communication Department staff, that protocol has been revised to function through individual governor list serves as opposed to governors requesting and storing member email lists for each email message.

There are several reasons why the list-serve option is more favorable: Governors will still be able to send messages directly to district/stakeholder members, however they will not have to manage the data. A list serve is, essentially, a way for each governor to access an email list remotely while allowing members to subscribe and unsubscribe at will.

If approved, WSBA staff will begin to work out the logistics for individual governors who request a member list serve. One foundational item is a code-of-conduct agreement that several governors have requested so that governors will understand and be accountable to a uniform set of expectations. This will also help governors better understand if/when list serve access should be revoked.

See the attached, updated protocol for specific details.

**Background**

For several years, the WSBA has grappled with how to best support governors with their obligation to communicate with members while maintaining best organizational practices. Currently, the WSBA regularly sends out board information to members via e-blast recaps following each regular meeting, the OnBoard and Need to Know features and other articles in *NWLawyer* magazine, website updates, targeted outreach messages and meetups (including regular listening tours), and standalone emails as necessary. Governors who want to send a specific e-mail message/update to their district or associated stakeholders are invited to send a draft to the Chief Communication and Outreach Officer, who edits

lightly for typos and grammar errors and coordinates with General Counsel to screen for other potential liability. The Executive Director and WSBA President, as the organization's official spokespeople, screen the final draft and coordinate with the authoring governor, if necessary, when there are concerns about content. Governors can also work with WSBA's Outreach Team to set up meetings in their district. Because of multiple considerations, the current system of governor updates/communication neither adheres to best organizational practices nor appears to be satisfactory to most—or perhaps *all*—governors.

*With a goal of following organizational best practices, how can we recognize all the considerations at play to establish a communication procedure—and system for accountability—that allows governors to satisfactorily communicate with members? This is the fundamental question we will continue to try to answer through ongoing dialogue.*

**WASHINGTON STATE BAR ASSOCIATION  
GOVERNORS' COMMUNICATION PROTOCOL**

*Revised from original to reflect a list-serve preference*

1. **Availability of Member Email Addresses via List-Serves.** WSBA shall make available to each Member of the WSBA Board of Governors, upon request, a list serve populated with email addresses of WSBA members represented by that governor, pursuant to a revocable license agreement carrying out the provisions of this protocol.
2. **Email List Usage.** The list-serve account provided by the WSBA to a governor may only be used to communicate regarding WSBA matters. The list-serve account may not be used under any other circumstances or to communicate for any other purpose.
3. **Email Content.** The authoring governor is responsible for the email content. He or she shall indemnify the WSBA, its employees, officers, and other governors from any claim made against the indemnified parties arising out of the indemnitor governor's emails to members utilizing the list serve.
4. **Disclaimer.** Each list-serve shall contain in the footer, in bold type, the following disclaimer: "The content of this email reflects the view of the author only and not necessarily the official view or position of the Washington State Bar Association. Only communications directly from the Washington State Bar Association reflect its official position and view."
5. **Subscribe and unsubscribe.** The list serve function allows users to subscribe and unsubscribe at will. Upon creating the list serve for an individual governor, WSBA will populate it with all corresponding member email addresses. WSBA will advertise each available governor list serve via board-meeting updates to members and on the WSBA Board of Governors webpage.
6. **Copies of Emails.** All WSBA governors and officers and the WSBA executive director, general counsel, and chief communication officer will be part of each governor list-serve distribution list and, thus, receive copies of messages sent by individual governors.
7. **Violations.** Any violation of the above protocol shall result in revocation of the license to use the list serve provided by the WSBA to the governor. Upon notice of revocation, the governor shall immediately lose access to the list serve and cease further use of the same.



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

**To:** WSBA Board of Governors  
**From:** Governor Carla Higginson and Chief Communications and Outreach Officer Sara Niegowski  
**Date:** Sept. 16, 2019  
**Re:** The name of *NWLawyer* magazine

**FIRST READING** Change the name of WSBA's member magazine from *NWLawyer* back to *Washington State Bar News*, its original name.

WSBA's member magazine was named *Washington State Bar News* from its inception in 1947 until 2013, when it was switched to *NWLawyer*. After more than 5 years, it is time to revert back to the original name for three main reasons:

1. The name *NWLawyer* is not inclusive of all WSBA's legal license types, and WSBA has a practice and value around being inclusive in all of its communications and language;
2. Many members still prefer and call the magazine by its original name, *Bar News*; and
3. We want members to have a clear indication that the magazine is the official publication of WSBA.

### **Background**

The WSBA Board of Governors unanimously approved the title change for the magazine in September 2012, which was before the onset of the LLLT license and resulting communication practice and value to use language that is more inclusive than "lawyers" for all licensees.

The rationale for the name change was to "better reflect its content and readership," according to the board memo. It states the reasons for the change:

- *It carries a more progressive, slightly less formal tone;*
- *it comes across as more friendly and feels more approachable;*
- *it is more inclusive and speaks to our NW neighbors in Oregon and Idaho who are also members of WSBA;*
- *It speaks more holistically to one's life and lifestyle, not just his/her profession; and*
- *It better reflects the magazine's content and its intended audience.*

*The cover design would include the WSBA logo, the name NWLawyer, as well as a tagline that says: The official publication for members of the Washington State Bar Association. These three elements—the name, the tagline and the logo—make it clear what the magazine is, who it's for, and who provides it.*

Groups that provided input and review for the change included the Board of Governors, the Editorial Advisory Committee, and the staff of the communications department. The communications director also cleared the name with the bar associations in Idaho and Oregon to make sure they had no concerns about the "NW" portion of the name.

## **Member Feedback**

Following the inquiry about a potential name change at the July meeting, the *NWLawyer* team took the opportunity to gather feedback from membership to assist the Board of Governors in their decision. They published an online survey—advertised to members in Take Note, the website homepage, social-media postings, and other means—beginning in late August. The survey was reviewed by the Editorial Advisory Committee (EAC); the survey also assisted the EAC by asking for content suggestions and author contributors.

From Aug. 20 to Sept. 20, 134 members responded. The PDF with complete responses is enclosed. Some key findings:

- 21% said to keep the current name
- 28% said that they have no strong feelings either way about the name.
- 30% said to change the name back to *Washington State Bar News*.
- 21% said to change the name to a new name and offered recommendations (see below)—although many of those recommendations were *Washington State Bar News*, lending further support of reverting to the previous name.

In a separate question, sentiment was pretty much split between DO NOT AGREE AT ALL and AGREE COMPLETELY for the question: “I don’t have a strong feeling about the name as long as it reasonably represents legal news and voices.”

The strongest sentiments were around these name factors:

- 57% said it is NOT important that the name is inclusive of all legal professionals.
- 41% said it is NOT important that the name of the member magazine reflects a focus on a dialogue among legal professionals.
- 40% said it is EXTREMELY important that the name reflects Washington state specifically.

Some recommended new names:

- *Washington Legal Network*
- *State of Washington Attorney News*
- *NW Legal News*
- *Washington State Bar Journal*
- *WSBA News*
- *Washington State Bar News and Views*
- *Washington State Lawyer*
- *The REAL Washington Bar Legal News*
- Any name that specifically has “Washington” and makes it clear this is the magazine of the WSBA
- The Law and Different Aspects of the Law (as opposed to what is going on at the bar itself)

## **Implementation Considerations for a New Name**

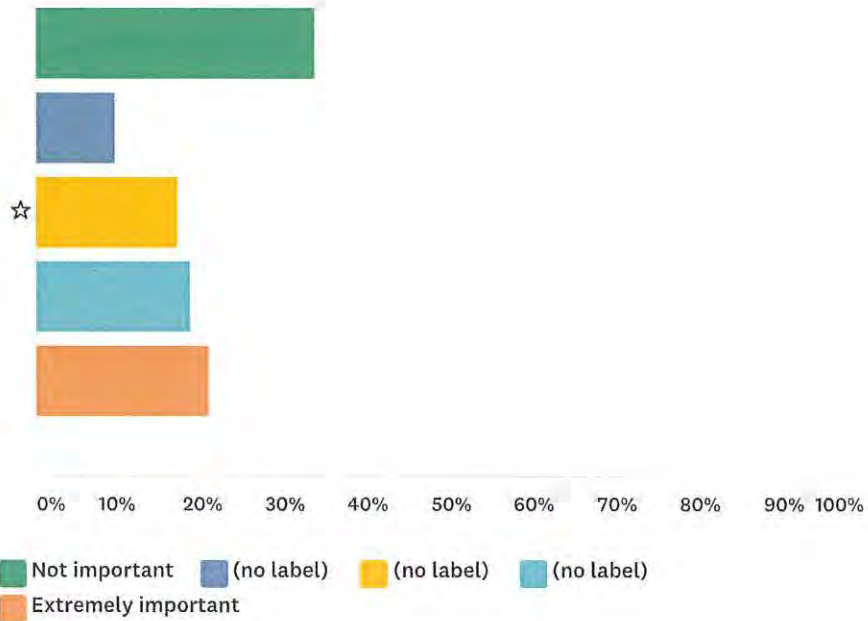
WSBA would need to register the name change with the Library of Congress to receive an updated ISSN (International Standard Serial Number) and ensure continuity of record keeping for the publication.

WSBA would announce the name change and rationale via Take Note, website, social media, and, significantly, in the magazine itself. We would likely devote some kind of special call-out alongside the name of the first issue with a new name.



# Q1 How important is it to you that the name of the member magazine reflects a focus on what's happening in the Washington State Bar Association?

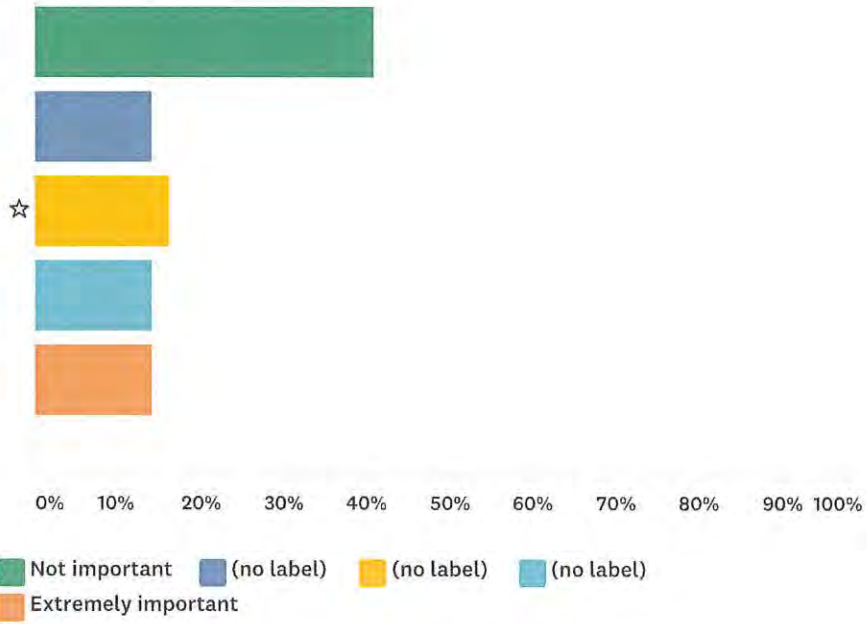
Answered: 134 Skipped: 0



	NOT IMPORTANT	(NO LABEL)	(NO LABEL)	(NO LABEL)	EXTREMELY IMPORTANT	TOTAL	WEIGHTED AVERAGE
☆	33.58%	9.70%	17.16%	18.66%	20.90%	134	2.84
	45	13	23	25	28		

## Q2 How important is it to you that the name of the member magazine reflects a focus on a dialogue among legal professionals?

Answered: 134 Skipped: 0

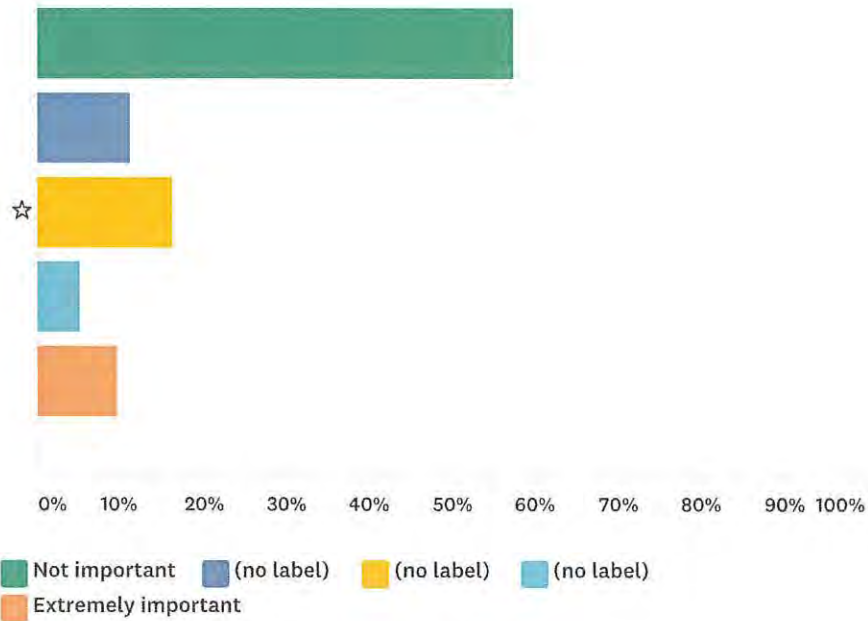


	NOT IMPORTANT	(NO LABEL)	(NO LABEL)	(NO LABEL)	EXTREMELY IMPORTANT	TOTAL	WEIGHTED AVERAGE
☆	41.04% 55	14.18% 19	16.42% 22	14.18% 19	14.18% 19	134	2.46

NWLawyer magazine feedback

Q3 How important is it to you that the name of the member magazine is inclusive of all legal professionals (all legal license types)?

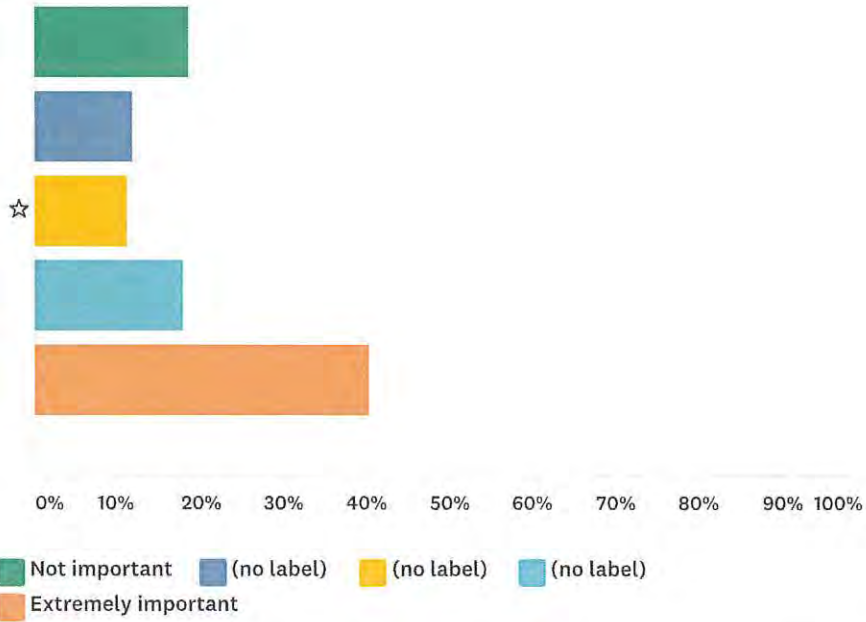
Answered: 134 Skipped: 0



	NOT IMPORTANT	(NO LABEL)	(NO LABEL)	(NO LABEL)	EXTREMELY IMPORTANT	TOTAL	WEIGHTED AVERAGE
☆	57.46% 77	11.19% 15	16.42% 22	5.22% 7	9.70% 13	134	1.99

### Q4 How important is it to you that the name of the member magazine reflects Washington state specifically?

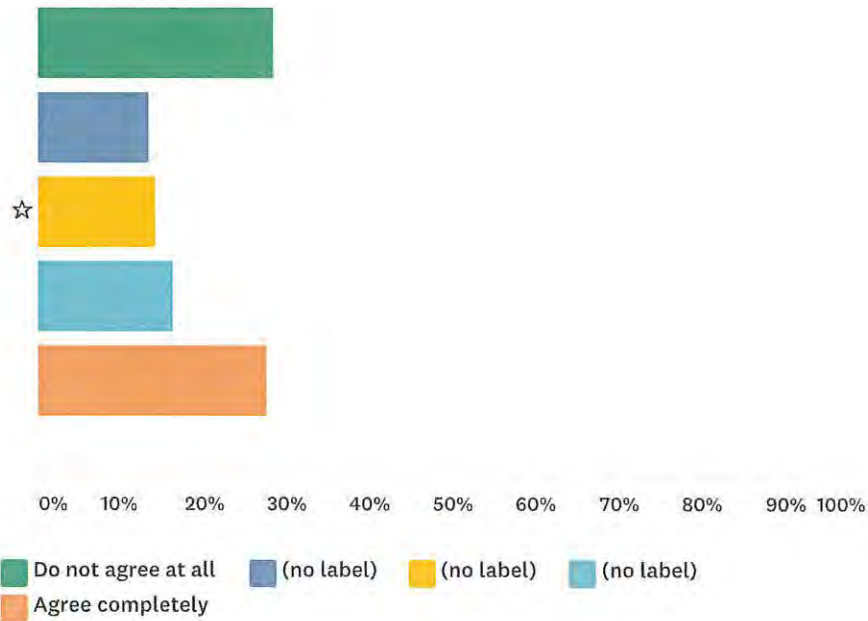
Answered: 134 Skipped: 0



	NOT IMPORTANT	(NO LABEL)	(NO LABEL)	(NO LABEL)	EXTREMELY IMPORTANT	TOTAL	WEIGHTED AVERAGE
☆	18.66%	11.94%	11.19%	17.91%	40.30%	134	3.49
	25	16	15	24	54		

Q5 I don't have a strong feeling about the name as long as it reasonably represents legal news and voices. How much do you agree with the preceding statement?

Answered: 134 Skipped: 0

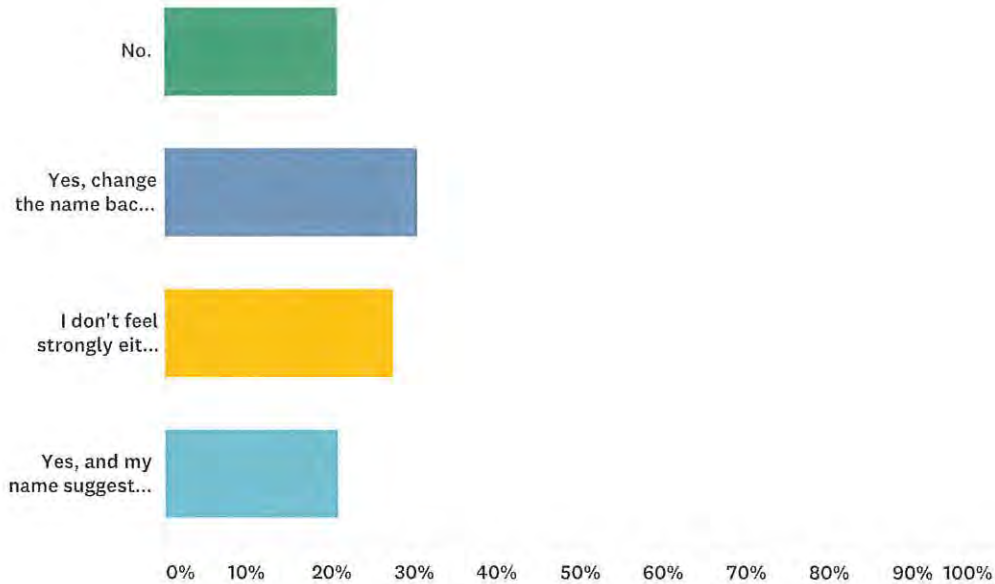


	DO NOT AGREE AT ALL	(NO LABEL)	(NO LABEL)	(NO LABEL)	AGREE COMPLETELY	TOTAL	WEIGHTED AVERAGE
☆	28.36% 38	13.43% 18	14.18% 19	16.42% 22	27.61% 37	134	3.01



## Q6 Should the name of WSBA's member magazine be changed?

Answered: 134 Skipped: 0



### ANSWER CHOICES

- No.
- Yes, change the name back to Bar News.
- I don't feel strongly either way.
- Yes, and my name suggestion is (specific name or attributes of a name):
- TOTAL

### RESPONSES

No.	20.90%	28
Yes, change the name back to Bar News.	30.60%	41
I don't feel strongly either way.	27.61%	37
Yes, and my name suggestion is (specific name or attributes of a name):	20.90%	28
TOTAL		134

#	YES, AND MY NAME SUGGESTION IS (SPECIFIC NAME OR ATTRIBUTES OF A NAME):	DATE
1	The Law and different aspects of the Law (as opposed to what is going on in the bar itself)	9/20/2019 6:27 AM
2	Washington St BAR nEWS	9/19/2019 9:17 AM
3	Washington State Bar News and Views	9/18/2019 12:56 PM
4	Washington State Bar News	9/18/2019 7:58 AM
5	Washington State Bar News	9/18/2019 7:32 AM
6	Washington legal Network	9/12/2019 1:48 PM
7	State of Washington Attorney News	9/11/2019 5:12 AM
8	WA bar news or similar	9/9/2019 9:00 AM
9	Thumbs up!	9/9/2019 4:58 AM
10	Washington State Bar News	9/7/2019 5:30 AM
11	Use the word Washington, not NW	9/6/2019 2:01 AM
12	Stop sending me this crap, I am tired of throwing it away	9/6/2019 1:01 AM
13	NW Legal News	9/5/2019 11:10 AM

## NWLawyer magazine feedback

14	no	9/5/2019 9:58 AM
15	Washington Bar Journal	9/5/2019 9:51 AM
16	Washington State Bar News	9/5/2019 8:58 AM
17	Washington State Bar News	9/5/2019 8:44 AM
18	Washington State Bar News	9/5/2019 7:52 AM
19	Washington State Lawyer	9/5/2019 7:51 AM
20	Washington State Bar News	9/5/2019 7:39 AM
21	Any name that specifically includes Washington, and makes it clear it is the magazine of the Washington State Bar Association	9/5/2019 7:39 AM
22	WSBA News	9/5/2019 7:29 AM
23	Washington State Bar News - we don't encompass ID or OR	9/5/2019 7:13 AM
24	Washington State Lawyers' Magazine	9/5/2019 6:48 AM
25	Washington State Bar News	9/3/2019 7:27 AM
26	Do not have a suggestion.	9/3/2019 6:34 AM
27	I liked the old titled, "WSBA Bar News"	8/27/2019 9:31 AM
28	The REAL Washington Bar Legal News	8/26/2019 3:44 AM



September 18, 2019

Clerk of the Supreme Court  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504-0929

Re: Stakeholder Outreach for Proposed Comment to Rule of Professional Conduct 6.5

Dear Honorable Members of the Washington State Supreme Court:

**MEMBERS**

ELOISE BARSHES, CO-CHAIR  
ELIZABETH FITZGEARLD, CO-CHAIR  
MAREN ANDERSON  
LORI BASHOR-SARANCIK  
QUINN DALAN  
ANNE DALY  
LAURIE DAVENPORT  
CHRIS GRAVES  
MICHAEL HEATHERLY  
JERRY KRÖON  
VEANEY MARTINEZ  
SHAUNA ROGERS MCCLAIN  
RACHAEL LUNDMARK  
BARB OTTE  
KRISTINA RALLS  
GAIL SMITH  
JOANNE SPRAGUE  
EVA WESCOTT

**STAFF**

CATHERINE BROWN  
PRO BONO COUNCIL MANAGER  
(206) 267-7026  
CATHERINEB@KCBA.ORG



The Pro Bono Council is a convening body to represent and advocate for the network of sixteen individual Volunteer Lawyer Programs (VLPs) in Washington. VLPs provide free, high quality, efficient, and innovative civil legal assistance to low income people through the recruitment, training, supervision, and support of volunteer lawyers. Each VLP is affiliated with a county bar association and is governed by a board of directors or steering committee comprised of local attorneys and other community members. Each VLP coordinates local attorneys and other volunteers to provide pro bono help at legal clinics and other service delivery models.

The Pro Bono Council is committed to increasing access to justice for as many eligible Washingtonians as possible. The proposed comment to Rule of Professional Conduct (RPC) 6.5 furthers access to free legal help by allowing pro bono volunteers to rely on a legal services program's screening mechanisms to avoid direct conflicts of interest at legal clinics.

To support the proposed comment to RPC 6.5, members of the Pro Bono Council reached out to the Washington State Access to Justice (ATJ) Board and the community of civil legal services providers through the ATJ Board's Delivery System Committee. The Delivery System Committee includes representatives of legal aid organizations such as Benefits Law Center, Columbia Legal Services, Lavender Rights Project, Legal Foundation of Washington, Northwest Justice Project, Office of Civil Legal Aid, Seattle University School of Law Access to Justice Institute, Solid Ground Benefits Assistance Center, Sexual Violence Law Center, TeamChild, Tenant Law Center, Unemployment Law Project, and many more. At the Delivery System Committee's March 2019 meeting, the Pro Bono Council explained the need to propose a comment to RPC 6.5 and asked for feedback from the community of legal services providers. Committee members expressed that the comment is a move in the right direction and offered no ideas for additional outreach to organizations with an interest in the comment.

Please contact Pro Bono Council Co-chairs, Eloise Barshes or Elizabeth Fitzgearld, or Pro Bono Council Manager, Catherine Brown, should you have additional questions or comments.

Sincerely,



Eloise Barshes  
Pro Bono Council Co-Chair  
[director@cdcvas.org](mailto:director@cdcvas.org)  
(509) 663-2778



Elizabeth Fitzgearld  
Pro Bono Council Co-Chair  
[elizabethf@ccvlp.org](mailto:elizabethf@ccvlp.org)  
(360) 823-0423



The Supreme Court  
State of Washington

MARY E. FAIRHURST  
CHIEF JUSTICE  
TEMPLE OF JUSTICE  
POST OFFICE BOX 40929  
OLYMPIA, WASHINGTON  
98504-0929

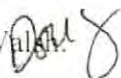


(360) 357-2053  
E-MAIL MARY.FAIRHURST@COURTS.WA.GOV

September 20, 2019

Douglas Walsh  
7310 Steamboat Island Rd. NW  
Olympia, WA 98502-9655

Re: Appointment as Interim Chair of Practice of Law Board


Dear Mr. Walsh 

Paul Bastine advised me that effective October 1, 2019 he is resigning from the Practice of Law Board (POLB) and is also stepping down as Chair. Paul also advised that at the Board meeting on September 19, 2019 you indicated that you would be willing to act as interim Chair of the POLB.

Based on that representation from Paul, I hereby appoint you interim Chair of the POLB. I request that you act as interim Chair starting October 1, 2019 until a new Chair is nominated by the POLB and Board of Governors and appointed by the court. I note that on September 17, 2019, I sent you a letter reappointing you to the POLB for a new term starting October 1, 2019 and ending September 30, 2022.

On behalf of the justices of the Supreme Court, I wish to thank you for your willingness to serve as interim Chair of the POLB. Should you have any questions or concerns, please feel free to contact me. Thank you.

Very truly yours,



MARY E. FAIRHURST  
Chief Justice

cc: William D. Pickett, WSBA President  
Rajeev Majumdar, WSBA President-Elect  
Terra Nevitt, WSBA Interim Executive Director  
Julie Shankland, WSBA staff liaison  
Pam Inglesby, WSBA Bar Services Manager  
Paul Bastine



**From:** [Tom McBride](#)  
**To:** [Kevin Plachy](#)  
**Subject:** Re: Amendments for CPD Appellate standards proposal  
**Date:** Friday, September 20, 2019 5:13:26 PM

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here is the material to be included in the Board packet  
FYI  
Tom

On Fri, Aug 2, 2019 at 8:10 AM Tom McBride <[tomamcbride@gmail.com](mailto:tomamcbride@gmail.com)> wrote:  
Kevin - could you forward this to Travis and Gideon (thanks).

I have a couple suggestions:

**First**, strike the (1)(b) definition of 'holistic representation' and insert the following as (1)(a)(iii)

"Appellate counsel should consider whether a client needs assistance with parole advocacy, re-entry, or unacceptable prison conditions and refer the client to counsel who might assist with such issues. If counsel is aware that the client is not a United States citizen, counsel should be alert to the potential effect the appeal may have on the client's immigration status."

This avoids inconsistent use/definition of an existing term . It does not imply OPD or local contract renegotiation, or the creation of taxpayer funded legal services beyond currently required. I'm curious whether you think appellate counsel has a duty to inquire about citizenship? (that is why I used the "If counsel is aware..." language)

**Second**, in the preface, strike the last sentence advising the court on whether the standards are relevant to claims of misconduct or ineffective assistance.

This language seems odd and unworkable.

**Third**, in section (7)(b) strike "and pursue those avenues where appropriate"

This language seems to imply a right to counsel at public expense for collateral attacks.

**Finally**, in section (3) the language linking public paid appellate counsel to private paid - what does this mean? Is it intended to re-open the caseload standards previously adopted? My limited personal experience with criminal appeals has been, that more often, publicly paid appellate counsel are better than privately retained appellate counsel.

Thanks  
Tom