

MEETING MINUTES

August 16, 2018

Meeting Minutes

The Practice of Law Board (PLB) met on August 16, 2018 at the offices of the Washington State Bar Association. PLB members attending were: Hon. Paul Bastine, ret., Chair, Trena Berton, Michele Carney, Prof. George Critchlow, Dominiqué Jinhong, Andre Lang, Amber Rush, Gary Swearingen, Sarah Sumadi (executive session only) and Doug Walsh. Paula Littlewood, Executive Director, Jean McElroy, Chief Regulatory Counsel, Doug Ende, Chief Disciplinary Counsel, Julie Shankland, Interim General Counsel, Michael Cherry, WSBA Governor-Elect, and Michele Lucas, ATJ Board Liaison, and Sherry Lindner, OGC Paralegal II, also attended.

The meeting began approximately 20 minutes after the scheduled time because the Board did not have a quorum present.

MINUTES

The Board approved the July 19, 2018 minutes by consensus, with amendments.

UPDATES

Liaison to ATJ Board: Amber Rush reported that she has court conflicts with many of the ATJ Board meetings and would like to offer this liaison opportunity to others. Chair Bastine asked Ms. Rush to provide more information to the Board about the time commitment involved in this liaison position.

GR 24- ONLINE DOCUMENT SERVICES PROJECT

The Board continued to discuss this concept and the draft proposal. The working draft was used to surface discussion issues. The Board is moving forward assuming that the court will retain jurisdiction over the definition and regulation of the practice of law. Given this assumption, the Board is developing a proposed modification GR 24 to submit to the court.

The Board discussed the need to establish and understand the harm to the public to justify regulating and to narrowly tailor the regulation of online document services. In the NY debate resisters assumed that because innovators would stay on sidelines without clear regulations. The Board discussed whether new regulations have the potential to close the markets. The Board also discussed whether to propose a rule first or ask for information from providers before proposing rule. The Board discussed that it is flawed thinking that innovators will wait for permission or regulations.

The New York discussion also pointed out a tendency to conflate pure publication of online software/text that is arguably protected by First Amendment or online service providers who engage in interactive commercial activity.



The Board discussed the requirement in the draft that provider refrain from any conflict of interest. The entity is not representing consumers when it sells documents to both parties in the same lawsuit. No lawyers are involved. In this context, what is the conflict of interest?

The Board discussed the need to protect consumer information and prevent the providers from selling the information or using it for any other purpose, without specific written consent of all parties.

The Board also discussed the need to further consider what delegations of court authority are needed in the disciplinary component and the authority to recommend denial. The Board briefly considered what due process might apply here.

The Board discussed whether it is realistic to get something to the court for preliminary comment by October 15.

A motion was made and seconded to recommend to the WSBA Board of Governors and other appropriate potential sponsoring entities, the legislative package making UPL a per se violation of the CPA. The motion passed unanimously.

RESOLUTION

A motion was made and seconded to adopt the Resolution strongly supporting the LLLT limited license as drafted and reviewed at the meeting. The motion passed unanimously.

The Board entered Executive Session to deliberate about the Unauthorized Practice of Law Complaints

Executive Session

The Board voted to end the Executive Session.

The meeting was adjourned.