

**WASHINGTON STATE  
BAR ASSOCIATION**



**Examining the Historical Organization  
and Structure of the WSBA  
(ETHOS of the WSBA)**

**Saturday, April 23, 2022, 9:00 a.m. – 4:00 p.m.  
1325 4th Avenue, Ste 600, Seattle**

<https://wsba.zoom.us/j/87811097920?pwd=N3ViS25hNkVqelhYMWdIM0s2L25sUT09>

Meeting ID: 878 1109 7920

Passcode: 064826

Attend via Phone: 1-888-788-0099

**Reading Materials:**

[Public Comments Submitted to 2018 Structures Workgroup](#)

Public Comments Submitted to ETHOS (attached)

**AGENDA**

9:00 AM	Welcome, Approval of Mar. 5, 2022 ETHOS Meeting Minutes	Pres. Brian Tollefson
9:05 AM	Member/Public Input from Minority Bar Associations	
10:05 AM	Member/Public Input from WSBA Sections	
11:05 AM	Member/Public Input from Supreme Court Boards	
12:05 PM	Lunch	
1:00 PM	Member/Public Input from Alliance for Equal Justice Community	

**Examining the Historical Organization and Structure of the WSBA  
(ETHOS of the WSBA) – Agenda for April 23, 2022**

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1:30 PM	Member/Public Input from WSBA Committees	
2:00 PM	Break	
2:45 PM	Comments from the General Membership and General Public	
3:00 PM	Board of Governors Questions, Comments and Discussion	
3:50 PM	Future Agenda Items and Action Item Review	Pres. Brian Tollefson
4:00 PM	Adjourn	Pres. Brian Tollefson

*Next scheduled meeting: May 21, 2022, 9:00 a.m. – 4:00 p.m.*

From 3/4/22 Listening Session

Pacific County Bar Association

Generally, PCBA members supported the status quo. One person present was highly critical of the integrated bar structure because they viewed some aspects of WSBA's work as "political," and thought bifurcation would be the best solution.

From 3/3/22 Member Engagement Council Meeting

An attendee supported the current integrated bar structure because they prefer having all the bar functions lodged in a single place.

## Shelly Bynum

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**From:** Board Feedback  
**Subject:** FW: [External]issues for attorneys

**From:** Mary White <[mary.virginia.white@gmail.com](mailto:mary.virginia.white@gmail.com)>  
**Sent:** Thursday, December 2, 2021 11:31 AM  
**To:** Bar Leaders <[BarLeaders@wsba.org](mailto:BarLeaders@wsba.org)>  
**Subject:** [External]issues for attorneys

Hello WSBA leadership.

I'm not sure if these comments are germane to the upcoming bar "structure" meeting or go elsewhere, but I was reading a bar newsletter this morning and wanted to mention a few themes- places where I know I am not alone, thinking about our profession- and positive change I'd love to see.

The biggest changes I would like to see in how our profession operates statewide touch upon two main themes—first the narrow question of how courts conduct themselves, and second, how opportunities for legal work are shaped and limited, in the public and private sectors.

1. Courts- RETAINING REMOTE PARTICIPATION. Since Covid, it has become astoundingly clear that court operations (and correspondingly operations in public and private law firms) CAN BE conducted remotely to a staggering extent. This is my personal input but I can say that as an AAG I have now conducted L&I hearings, Dependency and Termination proceedings, appeals at OAH, and adult guardianship/ VAPO matters remotely, from start to finish. While courts vary in their procedures and expectations, and in their technical sophistication, we found that necessity is the mother of invention. Now I have started to see – and fear—the “baby thrown out with the bath water,” as courts strive to return to their old routines, even where these are less safe and efficient, dollar wise, for public and private parties. From what I have seen, it is “easier” for judges (and maybe court staff/ administration?) to have warm bodies packed into courtrooms. Maybe it's slightly easier to watch demeanor, to negotiate objections and arguments, to monitor juries, to gather information from the presence of all players in the courtroom. But easier for the courts can mean much harder and more expensive for those they serve and can narrow the interests of justice. The courts do not exist to serve themselves, they serve the people of our great state. Many elderly are more likely to participate in hearings conducted by Zoom or other remote/ video / audio methods. Many low income persons are more able to attend dependency/ juvenile and other such hearings if they can do so by phone. Courthouse security is always an issue particularly in rural areas such as Okanogan and Douglas County where I can attest *it remains close to non-existent*. Obviously remote participation detours around the escalation, rage and violence that erupts now and then in certain kinds of cases. Remote participation also allows every attorney participating to “multi task” as they await their turn on dockets, etc., which probably would save millions, over time. Not to mention the driving back and forth and all the related waste of time, gas, etc. Transport of persons in custody becomes a non-issue and is fair to the incarcerated/ institutionalized. THEREFORE I think a strong, united voice should confront our local, county and state bars to take a fair-minded look at this issue, not just a selfish one. Also for the many, MANY of us who care for kids, grandkids, elders and others at home, the flexibility allows us to do our work while not neglecting those duties, or paying for it unnecessarily. Telecommuting has proved amazingly viable and in many ways conserves public resources (institutional care, paid in-home care, subsidized daycare etc.) and well as environmental ones. It also expands the opportunities for pro bono work incredibly! I am beyond horrified to think that when Covid recedes, the lack of a united voice on retaining these many gains will result in a return to a “normal” which should rightly be improved by our experiences in 2020 and 2021.

2. Professional Work Opportunities for Attorneys – EXPANDING HOW WE WORK AND CHANGING THE LEGAL CULTURE In close relation to the above, if I could change how our profession works, I would greatly expand the acceptance and “cultural support” for part time and unconventional employment options. Of course, the private sector must compete for dollars and has to lean forward and flex as the market and economy demand. BUT, we can have an impact on the overall “culture” of the practice of law, right? A great example is how “diversity” issues have slowly moved from marginal to utterly central in almost every field of practice due to the unrelenting insistence and focus of players like the Bar, UW law school, WDA, NAACP, ACLU, etc.. Specifically, working a 20, 30 hour week or other unconventional schedule should be an option far more widely available than it is. This sort of work schedule should not be viewed as the realm of the unmotivated or unambitious. It is the realm of those who also care about health, family, schools, volunteerism, politics and more. It is the realm of those who want to participate in many, many fronts of a vibrant life, not just two or three. It is also the realm of those who might live 1-2 hours from their “office” who don’t want to sit in traffic or a bus for 80 hours/ month, wasting gas, time, emotion, money and energy. It is now cheaper to have a nice home farther from town, and there is no reason one should have to sacrifice 80 hours/ month in a car just to have a decent home. When kids get off school at 1:30 or 3:00 and need light supervision, why spend over 1,000 / month on a brief sitter/ daycare when the kids can come home and we work in the next room?

Increasing acceptance and availability of currently “unconventional” job schedules and structures also allows people with illness and disability to continue contributing to our community and working to the greatest extent they can, rather than being put out to pasture on disability. I have had severe scoliosis (spinal curvature developed in childhood) my whole life. Despite staying very athletic, I needed a six level spine fusion in 2006, which took six months to heal from, during which my ability to work was limited and some severe pain was involved. After that, to maintain my health and limit future disability I had to stay active, flexible, and lean. My “disability” was not visible to peers and supervisors which was good in one way (no pity or discomfort) but bad in another (no appreciation for the struggle, the “difference,” the chronic pain and the time I had to devote to health maintenance.)

The more sedentary I was, the worse my spine became. I did my best to accommodate—standing desks, balance chairs, frequent breaks, etc. I actually had to be labeled “disabled” to get the accommodations that would help me AVOID becoming disabled!! I had a second surgery in 2019 with more levels fused due to intensive referred pain arising from compression of the spinal nerves at L-4-5. Another six months off -fortunately supported by paid leave and donations of leave covered without reduction in my single parent income. Today, I am contending with chronic pain, trying to fit physical therapy, and other treatments into my schedule, as much as I can. Often, I do my work at unconventional hours—late at night or on weekends. If I had my druthers, I’d be salaried at 30 hours a week not 40 – something the current system is not well designed to accommodate. I have immense legal and work and personal experience to offer, and it will be a loss to me and to the legal community if I cannot continue to work and contribute as I am able. How is that unacceptable in any way? This is where a paradigm shift is needed and will benefit every one of us. We start with the premise that we all have much to offer and what/ how we offer will change over time with our health, demands of family, professional capacity, and needs of the community. I would love to teach half time and practice law half time—but this cannot be accomplished under the current structure of my employer or most, statewide.

Such opportunities could also include hybrid agreements like “job shares,” where two attorneys jointly commit to support a given case or case load, providing that one will always be available to attend court, field calls, generate briefs, draft motions, meet with parties, etc. Our culture discourages this, but it is totally possible and could lead to better work product and greater accountability and collegiality.

Let me close by saying that I have been a lawyer for over 25 years now. I graduated UW Law in December of ’93, had a baby in February of ’94 and ALSO passed the February 94 bar exam, two days before having that baby. I have left the profession twice—once to stay home with a new child for 2 years when I would have preferred to keep my amazing job (with local attorney Gilbert Levy) but work part time, and again when I returned to grad school for an M.Ed. and worked as a special education teacher for a few years. My stint in education was motivated by my experience as a public

defender working as co-lead (with Cindy Arends) in the King County Mental Health Courts. In addition to my work as an AAG, I have served in the Navy Reserve as an Intelligence Specialist Third Class, and have briefly practiced in areas such as Environmental Law, First Amendment/ free speech, plaintiff's personal injury, Special Education Law, and family law. I have served as a GAL, and done a modest amount of pro bono work. As a public defender, I worked in the jails daily, and spent countless hours sitting in courtrooms with crowded dockets, waiting and waiting for my case to be called. I have worked for small and large law firms, for two different public defenders, and now for ten years with the Attorney General of Washington. I have two kids now ages 21 and 25, and have put them both through school myself. Their dad died when they were teens. I am a Phi Beta Kappa, Magna Cum Laude double major in English and Philosophy. I am an avid gardener and a devoted daughter/ mom. I am a creative writer. I love being a lawyer but I also love being many other things and when my profession tries to "gut" me and insist that I can't be much else, I am saddened and disappointed. Accountable for myself, I am not laying blame but rather trying to paint a bit of vision here about how things could be different.

THANKS FOR LISTENING!

Mary V White  
WSBA 23900  
(206) 235-6463

## Shelly Bynum

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**From:** Board Feedback  
**Subject:** FW: [External]Input on bar integration/de-integration

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**From:** Mickey Moritz <atmoritz@gmail.com>  
**Sent:** Monday, December 13, 2021 11:18 AM  
**To:** Board Feedback <BoardFeedback@wsba.org>  
**Subject:** [External]Input on bar integration/de-integration

Dear Board of Governors,  
The following are my comments regarding the upcoming special meeting on WSBA structure.

I am currently on the Executive Committee of the Civil Rights Law section and I am a past Chair of the World Peace Through Law section. I am writing in my personal capacity today because our section has not had time to thoroughly discuss this issue.

I urge the Board to take no action at this time to alter the WSBA's structure. Any action now would be premature.

As you know, in 2019 the WA Supreme Court undertook an extremely intensive and thorough evaluation of the structure of the WSBA. The work group's report indicated that we have a healthy well-functioning bar and the structure meets all criteria for a mandatory bar. The recent 5th Circuit case, *McDonald v. Longley*, does not alter this finding.

Aside from the fact that *McDonald* comes from a different Circuit, the WSBA differs in significant ways from the Texas State bar. First, Washington has a clear, precise, and easy *Keller* deduction process. Second, we have a robust GR 12 review in place to test for germaneness. Third, our sections fully fund themselves through section dues.

Sections benefit from sharing staff with the WSBA - I have been consistently impressed by all the staff with whom I have interacted. Furthermore, it appears that states with de-integrated bars are substantially less economically efficient.

We need to be sure that if changes to structure are made, it is only after we have clear guidance from a binding court decision. There may be challenges to WSBA structure in the future, but I have every confidence that the WSBA would defend against those challenges recognizing that we have an excellent system worth protecting. In the end, however, if changes are required there will be plenty of time to do the careful analysis needed to find the best possible alternative structure.

Thank you for your consideration.

Sincerely,  
Anna "Mickey" Moritz  
WSBA # 49157

Date: 1/13/2022  
To: WSBA Board of Governors and Section Leaders  
From: Family Law Section

The Family Law Section opposes the proposal submitted in Late Late materials with regard to analysis of the WSBA structure. Our comments below reflect only a portion of our substantive and procedural concerns. We hope that our section and other sections are given a substantive decision-making role in answering the questions posed by the Washington Supreme Court. As you will see below, we believe that sections should be "at the table" for discussions and decision-making.

We urge you to remember the following:

No case has struck down any portion of the WSBA structure.  
No case has struck down another state's structure that matched our own  
Mandatory bar associations have been approved by case law for more than sixty years.

With regard to the structure considerations, our approach must be changed. Our approach should be in support of a unified bar association. Anything less would weaken our organization, cost more money, distract the organization for years from our goals of improving the court system and meeting the needs of litigants and the public and lawyers, etc. The idea that we are likely to be suddenly ordered to split is not based on an objective analysis of the case law or the WSBA's activities. It is based on unjustified fear and not confidence. That approach should be soundly rejected.

The "current problem" as stated in the proposal is inaccurate and misguided in significant ways. (1) Bar associations differ from unions in significant ways. The proposed process lists cases supposedly about mandatory bar associations but those lists include many union cases. (2) The 5<sup>th</sup> Circuit did NOT order the Texas Bar Association to disband or cease mandatory dues collection. In fact, the Texas Bar Association's activities were largely upheld. A significant difference between Texas and WA was Texas' lack of an appropriate Keller deduction. This is not true in WA. We have a robust and easily defensible Keller deduction. (3) The three Circuits referenced in the description of the so-called "current problem" do not include the 9<sup>th</sup> Circuit.

The description of Phase One is based on an erroneous assumption that case law in the past two years renders the 2019 Structure Work Group irrelevant. In fact, the cases since 2019 do not find fault with any action by another bar association that matches actions done by WSBA.

The description of Phase Two is based on an erroneous assumption that a change of structure must occur and that Virginia, California and Texas have the expertise to tell us what structure change should occur. [Other provisions are based on an assumption that we can learn from Louisiana's practice or that of other states.] On the contrary, all of those states can learn from us!

The description of Phase Three assumes that the BOG will get to make structure decisions after predicting the future. Predictions have been made for years now by WSBA; none have come true. Thus far all predictions might have well been based on the briefs of persons who don't want mandatory or integrated bar associations in their state and/or don't want labor unions. All prior predictions then lead to one course of action: avoiding a nonexistent lawsuit instead of winning such a lawsuit.

Our approach now should be quite different. It should reflect objective and fact-based confidence rather than fear. We should not be bound by the knee-jerk reactions of some bar associations that do not share our overall values. The draft plan cherry-picks certain bar associations and make misguided assumptions. The revised draft submitted yesterday erroneously refers to the Idaho Bar Association and the Oregon Bar Association as “similar” bar associations. This is not so. While they are neighboring bar associations, they are not “similar.” For example, the Idaho Bar Association does NO work involving their legislature. That Idaho does not think their expertise on various subjects could be a benefit to their legislature does not mean that WSBA should abandon its belief that we can provide information/analysis that is beneficial to our legislature. We do have some similarities with the Oregon Bar Association.

Frankly, the experiences of other bar associations should have little effect on our process. We should be leaders on these topics, not blind followers.

The Washington Bar Association should not be afraid of having our work examined.

We utilize a Keller deduction. We have offered members a Keller deduction for many years now. A relatively small number of members take advantage of this reduction of their license fees. A method for an aggrieved member to challenge that calculation exists and has been used. I believe every such challenge has been unsuccessful. That means that our work on this topic is objectively fair. We should be proud of it.

The Keller deduction calculation that WSBA makes each year is supported by objective facts and figures. The amount is low, not because the calculation is false, but because the vast majority of the WSBA expenses are associated with licensing and discipline.

Our thoughtful and objective approach to a Keller deduction differs from some other states who either provide no such deduction at all or use a subjective system that requires individual members to request a deduction and provides for an individual and subjective response. Again, our approach is objective and fact-based. We should be proud of it. We should not, however, now use it to reflect unwarranted fears about the validity of our substantive work.

The recent discussions on structure have sometimes focused on WSBA’s legislative activities. This approach must also change. The objective facts are clear; the WSBA initiates very few legislative proposals. Our various sections collectively review hundreds of bills each normal legislative session or preceding each legislative session. By doing so, we provide valuable input to our legislature about technical and substantive issues with such bills, including obvious unintended consequences. Pointing out how a bill would hurt litigants, make court costs more expensive, make justice more difficult to achieve, etc. provides important and needed information.

There are some that argue that the WSBA cannot comment on bills due to a concern that a member may object to the position urged by a section on behalf of the WSBA. This is simply the wrong approach and is not justified. A section cannot take a position unless 75% of its Executive Committee supports the position. This ensures that a significant super-majority supports the position. The bylaws and/or policies do not require 100% support because that is an impossible and inappropriate standard. An individual member is not required to join a section at all and can certainly renounce his/her section membership if a position taken is so reprehensible to that member. He/she can also utilize the Keller

deduction to further distance from a disfavored position.

The case law that is driving the present structure discussion does not prohibit legislative activity by sections of bar associations. First, and most important, the 5<sup>th</sup> Circuit case out of Texas is not binding on the WSBA. But, that case is also not damning. Texas ended up amending its Keller deduction process which was far different from Washington's. It had required a member to pay dues, request a partial refund from the Executive Director who then made the decision based on "the convenience of the Bar Association." Texas was, in effect, ordered to adopt our type of Keller deduction procedure. Contrary to the erroneous statement of one BOG member at a December meeting, Texas was not ordered to "restructure within 50 days." The 10<sup>th</sup> Circuit case out of Oklahoma is also not binding on the WSBA. So, these 2021 cases do not justify the level of fear that is motivating some of the BOG at this time. Again, we must prepare to defend our organization, not oversee its demise. We must defend the work of our sections, not fear any scrutiny of it. So, how can we do so?

One approach could be to look at the positions taken by our sections over the past 3-5 years. What are the topics and why are they "germane" to our goals and values? This analysis should not be conducted by legal counsel or the BOG. While there could be a role for staff, the bulk of the work must be done by sections. Topics determined to be germane should remain germane. We must explain why a particular bill needed our analysis and how that work was "germane" to the overall mission of the WSBA and, in particular, that section. Too often, sections are offered a few minutes to provide "input" and are relegated to the sidelines while the "adults" do the discussing. Sections cannot accept that role; we know our topics, we know our work, we must provide the analysis. The BOG and legal counsel can add to that discussion after that.

The line of demarcation cannot be a lack of controversy. Whether a topic is also a "social issue" does not end the analysis. Working on ending discrimination is a "social issue" but it is one that is a vital part of our work. We cannot allow anyone to label a topic as a "social issue" in order to prevent comment to the legislature on that topic.

The WSBA must change its public pronouncements on structure. We have been, in effect, creating a road map for people to sue us. Our comments about case law should not do so. We should reflect objective analysis of case law rather than take dicta and extend it to its worst possible interpretation. We should convey confidence that our organization would survive any similar challenges because of our fact-based approaches. We should distinguish ourselves from other state's bar associations that do not follow similar approaches. Again, we should lead rather than follow. Be proud rather than afraid.

Very recently the Chief Justice has asked the WSBA to answer the following questions:

1. Are there changes in the law that require changes to the WSBA?
2. Even if changes are not required, but changes are made, what would that new structure look like
3. Regardless of the answers to the first two questions, are there suggested changes for improvements

The present structure issues have focused on Talking Points that do not reflect sufficient confidence in our systems. Just as BOG presentations have a slanted focus, so do these Talking Points. That slanted focus makes it even more important that others are significantly involved in the response to the Washington Supreme Court. The proposed process does not sufficiently reflect this need.

The format for discussion presented in the Late Late materials anticipated that the BOG alone would decide the answers to the questions posed by the Washington Supreme Court. This is not acceptable. The occasional hour where sections are allowed to “comment” along with every other non-BOG member or entity is not the same as sections being **at the table**. Note that the process proposal provides for 75 minutes to discuss all aspects of sections including “historical tensions between sections and the WSBA.” This is ironic, of course, since the tensions have arisen in the past when the BOG attempts to make decisions that affect sections without them being **at the table**. Making comments along with a staff person (even one that is as beloved as Kevin) on all aspects of sections in 75 minutes does not reflect a serious attempt to deal with the effect upon sections that structure change would cause.

The 2019 Structure Work Group chaired by Justice Fairhurst was not composed of BOG members. It had three BOG members. Tribal court concerns were not relegated to a portion of an hour of “public” comment; a representative of the Colville Tribe was on the Work Group and **at the table**. The concerns of public defenders were not relegated to a few minutes of public comment; a defense attorney was on the Work Group and **at the table**. The needs of low income people were similarly considered important enough to have a legal assistance program director on the Work Group and **at the table**. Section representatives had several seats **at the table**. Several Work Group members were from Court-appointed Boards.

It was also quite disappointing to again see that the BOG proposes to have some of its discussions in secret Executive Sessions. The BOG has already had many hours of such discussions in Executive Session. Unseen and unheard deliberations as to WSBA’s future should not be allowed.

The WSBA must remain integrated and mandatory. We must focus on issues that truly matter. Doing so will demonstrate our value. Imagine what we could do if we spent 50 hours hearing about the needs of low income litigants or the over-burdened public defender process. That would be far more valuable than hearing why Louisiana and Idaho do not see value in providing comments on pending bills in their own legislatures.

The Family Law Section wants a seat **at the table** along with other knowledgeable and interested people/entities.

## Shelly Bynum

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**From:** Board Feedback  
**Subject:** FW: [External]FW: March 2022 Board Meeting Recap

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**From:** Dominic Lindauer <dominic@lindauerip.com>  
**Sent:** Thursday, March 17, 2022 6:16 PM  
**To:** tomamcbride@gmail.com  
**Cc:** Board Feedback <BoardFeedback@wsba.org>  
**Subject:** [External]FW: March 2022 Board Meeting Recap

Dear Governor McBride and the Board,

Regarding the proposed structure of WSBA, I strongly support a transition from the current “integrated bar” structure to a structure that separates the regulatory and the professional-association functions.

I am a member of other bars that use this approach. It works well and avoids contentious issues, such as forcing members to support particular speech/activities.

Sincerely,

Dominic Lindauer, Managing Patent Attorney  
[dominic@lindauerip.com](mailto:dominic@lindauerip.com)

## Shelly Bynum

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**From:** Barry, Seamus Kevin CIV USN TRF KINGS BAY GA (USA)  
<seamus.k.barry.civ@us.navy.mil>  
**Sent:** Tuesday, March 29, 2022 1:31 PM  
**To:** Board Feedback  
**Subject:** [External]Respect the First Amendment Give us the choice of membership in the WSBA

Greetings Sir or Ma'am,

I am writing to express my opinion that the WSBA should be re-structured to in a way that the Maryland State Bar Association is. There is the mandatory fees of the client protection fund and other fees that go to the regulation of the practice of law. It's association is voluntary. Those who agree or want the services of an Association pay a separate fee. Why can't the WSBA do the same thing. As a member about 90 percent of the issues and services the mandatory bar association provides I do not use nor do I agree with. Yet I am forced to pay almost \$400 a little under half of that goes to the regulation of law. If you truly value your members and First Amendment Freedom of Association then you will de integrate the bar and make your Association voluntarily. Thank you for taking the time to read this comment.

v/r

Seamus Barry  
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## Shelly Bynum

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**From:** Bennett, Vincent <Vincent.Bennett@ssa.gov>  
**Sent:** Thursday, April 7, 2022 2:12 PM  
**To:** Board Feedback  
**Subject:** [External]WSBA change input.

I recommend being proactive; eliminate the integrated Bar.  
Vincent Bennett  
WSBA 19282.



**Shaina R. Johnson**  
sjohnson@bpmlaw.com

April 19, 2022

**VIA E-MAIL**

Washington State Bar Association  
Board of Governors  
1325 Fourth Avenue, Ste. 600  
Seattle, WA 98101-2539

**Re: Business Law Section Comments for ETHOS Work Group**

Dear Board of Governors:

I write as the Chair of the Executive Committee of the Business Law Section. Unfortunately, we are not able to attend the April 23, 2022 ETHOS meeting, but we wanted to provide our input for your consideration.

The Business Section has not reached a conclusion about any particular structure the WSBA should pursue. The structure of the WSBA itself is a complicated question both in terms of the federal court decisions and in terms of the finances and governance of the WSBA regardless of the constitutional challenges. We have concluded, however, that the structure of the WSBA probably will not have much of an impact on the Business Section itself **provided** the new structure does not interfere with certain core functions of the Business Section. The core functions that need to be preserved are the following:

1. Proposing / Opposing Substantive Legislation. Some of the federal court decisions suggest an integrated bar association may not use mandatory bar dues to participate in the legislative process, except with respect to legislation concerning the courts or lawyers as such. The Business Section and its subcommittees, however, have long been very active in studying, proposing and in some cases opposing substantive legislation within their practice areas. Recent examples include seemingly annual changes to the Business Corporations Act, the complete rewrite of the Nonprofit Corporation Act, and the revisions to the Limited Liability

Company Act. The Business Section has often been called on to study and recommend uniform laws promulgated by the National Conference of Commissioners on Uniform State Laws, such as the Uniform Commercial Code and the Uniform Electronic Transactions Act. The review and promulgation of substantive legislation is a vital function of the Business Section that provides valuable benefits to practicing lawyers, the legislature, and the public at large. It seems unlikely anyone other than Business Section lawyers can effectively perform these valuable services. **Whatever the final structure of the WSBA, the Business Section and other WSBA Sections must retain the authority to study, propose, and oppose substantive legislation.**

2. Sharing Expenses. Although the Business Section theoretically might be able to function separately from the WSBA, it currently benefits from sharing administrative costs and expenses with the other Sections. For example, the Business Section benefits from the availability of WSBA lobbyists in promoting Business Section proposals for substantive legislation. Other Sections that participate in the legislative process also benefit from these services. Sections should not need to bear these and other administrative costs and expenses on their own. The sharing common administrative costs and expenses among the Sections is an effective and efficient function of the WSBA. **Whatever the final structure of the WSBA, the Business Section and other WSBA Sections should have the ability to share common administrative costs and expenses.**

3. CLEs, Publications and Events. The Business Section and its subcommittees have always sponsored continuing legal education programs (“CLEs”), publications and other events (e.g., recruiting activities and outreach to law students and practitioners). These activities provide necessary educational opportunities and resources for lawyers in Washington and serve as valuable social engagements and networking activities. As a practical matter, it is the members of the Business Section and other Sections who research, organize and present new or updated material to keep lawyers well-informed and up to date with new trends in the law. These programs, publications and events also provide the Business Section and other Sections the opportunity to raise revenue the Sections can use in other activities and programs. Opinions in the recent federal constitutional cases indicate an integrated bar association may generally use mandatory dues to support these functions. **Nonetheless, whatever the final structure of the WSBA, the Business Section and other WSBA Sections must retain the authority to conduct CLEs, develop and distribute publications, sponsor events, and retain the proceeds from such activities.**

In our opinion, it is critical for the Business Section to conduct these core activities regardless of how the WSBA itself is structured. It seems likely that the various structural alternatives being discussed by the ETHOS group can accommodate the Business Section

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Board of Governors  
April 19, 2022  
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continuing to support lawyers and the public through these core activities. The plan proposed by the ETHOS group should include specific proposals concerning the preservation of these activities of the Business Section and other WSBA Sections.

Sincerely,

A handwritten signature in black ink, appearing to read "Shaina Johnson", written in a cursive style.

Shaina R. Johnson  
Chair, Business Law Section Executive  
Committee

SRJ