

## **State of the Bar: A Look Back on the Year From a Grateful WSBA President**

**By Rajeev D. Majumdar**

**"Real change, enduring change, happens one step at a time."**

**~ U.S. Supreme Court Justice Ruth Bader Ginsburg**

Interacting with members near and far over this last year has confirmed for me the vital role each of you has in making our state, our nation, and our world a better one. I thank you all again for your service to the public and the role you play in our collective duty as officers of the court to advance the rule of law and bring accord to society when there is strife. I thank, *in particular*, the more than 1,500 volunteers who make the Bar's work possible—those members are the real leaders of our profession, and it has been an honor to facilitate the execution of their work.

This is my final President's Corner column and my penultimate duty as president of our Bar, which is to report to you on the state of the Washington State Bar Association and its accomplishments. Here is the brief version: The state of our Bar is good and on course to grow better every day through the tireless work of our volunteers and dedicated staff. That being said, there is always more work to do to make our Bar more robust in its ability to respond to the needs of our members, to facilitate access to the justice system, and to transparently and inclusively make decisions.

One of my goals this year has been to highlight and share my soapbox with groups of lawyers doing good work, often with underrepresented segments of society; hopefully you have been reading the guest-authored columns in the magazine over the past 12 months to learn more about why these groups of lawyers exist and what they do, especially the minority bar associations. I was not able to highlight every amazing group out there, but as my final month happens to be National Hispanic Heritage Month, I am proud to use my sunset to shine [some light on the Latina/o Bar Association of Washington.](#)

After four years involved in Bar governance, I am pleased at the direction the Bar has moved, especially during this last year. I have been most impressed at the Bar's ability to pivot and respond to the coronavirus and harness resources to provide members with information, resources, advocacy, and education. This was done despite complete physical disruption to our normal work processes and was made possible by a dedicated and hardworking professional staff who have proven beyond a doubt that they are more than capable of taking a pandemic-level disaster in stride. In the remainder of this column I summarize some of our major accomplishments this year.

My final comment as I sign off is a thank you for all the trust and support I have received from you, the members, and from the Washington Supreme Court, the WSBA staff, and the Board of Governors during this year of service. It was a humbling experience for which I am eternally grateful.

## **CORONAVIRUS: WSBA OPERATIONS, MEMBER SUPPORT, BAR EXAMS, AND HARDSHIP EXEMPTIONS**

Without any significant disruptions to service we were able to transition the WSBA to a remote workforce. Most importantly, the WSBA Coronavirus Response Task Force—internal and external groups formed with a wide range of representation to rapidly respond to members’ needs for information, resources, and advocacy—continue to collaboratively and quickly tackle pandemic-related issues as they arise. Go to [www.wsba.org/covid-19](http://www.wsba.org/covid-19) to view the many ongoing resources related to the coronavirus we have produced, including a guide for Washington law offices to reopen safely. Part of the Bar’s response included free live and on-demand continuing legal education programs designed to assist members throughout the pandemic. In total, members registered for 18,433 *free* on-demand CLE products (24,765.5 CLE credits) from April 3 through June 30, which represents a total value for members of \$1,492,320 in products. Additionally, more than 1,300 individuals, on average, tuned in for each of the five sessions of the live webinar series “Practicing During a Pandemic.”

The pandemic also had a significant impact on one of the WSBA’s most important regulatory events: the summer bar exam.<sup>1</sup> I am pleased to report that, by all accounts, the administration of the July bar exam went seamlessly according to plan, which is a testament to the abundance of preparation by all involved. While it was definitely a challenge to administer the exam in the midst of a global pandemic—with exacting safety directives from the court and the state health department—WSBA employees were able to provide a calm and productive testing environment in locations on both sides of the state.

As WSBA leaders have continued to try to understand and mitigate the many ways the coronavirus has affected members' lives and practices, we have forwarded to the Supreme Court a proposal to expand, beyond the once-in-a-lifetime use, the hardship exemption from paying the annual license fee. The hardship exemption was used by 43 members this licensing season, while 74 members used the payment plan option.

## **OVERHAUL OF JUDICIAL AND EMERITUS PRO BONO LICENSE CLASSES TO MEET MEMBER NEEDS**

The Washington Supreme Court approved our recommendation to remove several barriers—such as fees for background investigations and a reinstatement course—to make it easier for members to transition into and out of judicial status. Judicial members now have the option to transfer to a number of other membership statuses, aside from active, and vice-versa. Our overall goal is to keep people engaged in the Bar and the legal community—at the level that matches their ability and interest—even as they transfer in and out of the judiciary.

Additionally, the Board of Governors was proud to support a several-year effort by the Pro Bono and Public Service Committee's Rules Workgroup to draft rule changes to the emeritus pro bono license status. The proposed changes eliminate the rule that requires active practice for five out of the last 10 years, waive the annual license fee for lawyers who complete enough pro bono service per year, and eliminate the word "emeritus" from the license status to better include lawyers at all stages of their careers. If approved by the court, these changes will help keep lawyers engaged in pro bono work in their communities even if they choose not to maintain active status due to health, family, or other commitments.

## **TACKLING INEQUITY AND DISPARITY IN OUR PROFESSION**

The WSBA is dedicated to confronting the ongoing tragedy in our country concerning racism and the resultant unequal application of the laws to different members of our society, and to engaging our members to address these issues as well. The Washington Supreme Court has specifically charged the WSBA through its General Rule 12.2 with “promoting an effective legal system, accessible to all,” and “promoting diversity and equality in the courts and the legal profession.” This applies not only to our work with the public but also to the nature of our profession.

The Board of Governors in June unanimously passed a resolution that commits the WSBA to supporting its members in speaking out; the resolution included specific endorsements of the many statements from members and the legal community—including the Supreme Court, minority bar associations, and my own president’s message—that condemn racism and challenge us all to do better. ([Read the full resolution.](#)) Most importantly, the WSBA chartered a multi-stakeholder Equity and Disparity Work Group to actively identify and suggest remedies for rules, regulations, and laws related to the practice of law and administration of justice that facilitate injustice and perpetuate institutionalized racism. Our conversations about racism, access to justice, and representation in June were not easy. They were messy and difficult, but we must continue to have them. President-Elect Kyle Sciuchetti and I have committed the rest of our terms as leaders of the organization to engage the Board in hard conversations and training about the inequities in our system.

## **BAR FINANCES**

In January, certified public accounting firm Clark Nuber issued an unmodified “clean” audit opinion for the Bar’s previous fiscal year, certifying that the Bar’s finances are well managed and accurate in all material respects. This marks several decades of similar positive independent audit reports. The Board of Governors also felt it was important to implement an additional independent audit this year focusing on processes and execution of our Fiscal Policies and Procedures. We believe this type of audit is good practice for an organization every five to 10 years: it examines whether day-to-day financial processes and controls follow procedures and policies as written. In June, Clark Nuber representatives presented the report from that extended audit—another clean bill of health.

WSBA Treasurer Dan Clark, newly elected to a second term, has dedicated the past year to transparency and financial efficiency; he has done a tremendous job using this magazine to keep members informed (read the September 2020 treasurer’s report [here](#)), and I just want to underline the big takeaway: the WSBA has done such an effective job in finding efficiencies and prioritizing savings over the past year that we will end this fiscal year *significantly* ahead of original projections in the budget.

## **WSBA GOVERNANCE OVERHAUL**

After several years of examination and debate, the Board of Governors in 2020 moved forward with widespread consensus on a number of WSBA bylaw changes, including:

1. Setting a limit of 10 years on the term of any executive director, barring supermajority action by the Board of Governors.
2. Changing the definition of quorum slightly to help our entities achieve that meeting threshold.
3. Allowing members to serve more than one term on the Board of Governors while still prohibiting more than two consecutive terms.
4. Reversing procedurally flawed changes made to the composition of the Board of Governors that would have added positions for specific license types and members of the public.
5. Making all Board seats subject to election by the membership and opening every seat (except the seat reserved for new lawyers) to every member license type.

## **OUR BAR MAGAZINE**

By popular demand, *Washington State Bar News* returned to its former name, and the content of discipline notices was expanded to include an explanation of the practice area and brief summary of the misconduct to help better educate members. At the Board's direction, the magazine staff created a comprehensive plan to seamlessly change (back) the publication's name in early 2020, which involved working with advertisers and registering with the Library of Congress. Guided by members on the Editorial Advisory Committee, the magazine continues

to aim for content that balances hands-on practice advice and guidance, features that are relevant to the many diverse WSBA members across the state, and WSBA-related news and updates.

I also want to announce some exciting news: Our magazine recently won a prestigious award from the Public Relations Society of America's Puget Sound chapter. *Bar News* was the sole recipient of a Totem Award in the category of external publications (magazines), which means an independent panel of public relations professionals gave it the highest marks—specifically for the updated, modern content and design.

## **LEGAL DIRECTORY FACELIFT AND EXPANDED DATA FIELDS**

We continue to explore more user-friendly formats for the online [WSBA Legal Directory](#) to connect our members with clients and colleagues. In early fall 2020, we will debut a cleaner and more modern presentation of the search fields grouped to help our two main user groups: those who want a quick search based on the name or license number of a legal professional and those who are looking for a legal professional based on practice area and location. (Please note: the basic functionality and search options for the legal directory will *not* change.) Our IT Department has conducted user testing with new and high-frequency users of the directory to ensure the design meets their needs. Apart from the design, we also want to expand the search fields in two areas: past judicial experience and past WSBA volunteer service.

## **WSBA INSURANCE MARKETPLACE—EXPANDED OFFERINGS**



The WSBA Insurance Marketplace launched on Nov. 1, 2018, and is administered by Member Benefits, Inc. This year, we saw a noteworthy increase in enrollment and benefits, including an additional insurance coverage option (private and/or public) in all 39 counties in Washington. In addition, Member Benefits, Inc. continues to work toward adding and increasing marketplace opportunities and benefits. Over the last 12 months we have added the following new products to our Marketplace offerings:

- Dental/vision (added to Marketplace in December 2019).
- Term life (added to Marketplace in December 2019).
- Telemedicine (added to Marketplace in March 2020; offered as a *complimentary* benefit from March-June).

## **RURAL PRACTICE PROJECT**

Several members of the Board of Governors, WSBA staff, the Washington Young Lawyers Committee (WYLC), and Washington state law schools have been working together to explore how the WSBA might be more supportive of rural practices. The project is currently in the research phase, focused on gathering data to inform next steps. So far, the project team has sent surveys to rural practitioners and followed up with outreach calls to members practicing in Adams, Benton, Chelan, Clark, Columbia, Douglas, Ferry, Franklin, Garfield, Grays Harbor, Grant, Klickitat, Lincoln, Pacific, San Juan, Skamania, Wahkiakum, and Whitman counties. The next step is to brainstorm potential solutions to the problems identified from the research data and present them to the WSBA Board of Governors for consideration.

## **CIVIL LITIGATION RULES REVISION WORK GROUP**

A work group has been meeting over the past year to review previously recommended amendments drafted by WSBA's Civil Litigation Rules Drafting Task Force. The work group has been outreaching directly with litigation stakeholders to hear and respond to their input. The work group is expected to submit its final report in the fall, after which the Board of Governors anticipates making proposals to the court aimed at decreasing the cost of litigation and increasing access to justice for the citizens of Washington.

## **AD HOC ADVISORY COMMITTEE TO INVESTIGATE ALTERNATIVES TO MANDATORY MALPRACTICE INSURANCE**

The Board of Governors in January reaffirmed its position opposing a "free market" model for mandatory malpractice insurance for lawyers but approved formation of an ad hoc committee to look at other public-protection alternatives, including alternative ideas discussed in the Mandatory Malpractice Insurance Task Force's final report from 2019. The committee has met multiple times since its inception and is on track to report its recommendation this month.

## **NATIONAL AWARD FOR WSBA'S CHIEF DISCIPLINARY COUNSEL**

Chief Disciplinary Counsel Doug Ende was recognized in July by the National Organization of Bar Counsel (NOBC) with its highest honor, the President's Award. We are fortunate to have

such a national expert and resource leading Washington's legal profession. NOBC's President Wendy Muchman wrote in her nomination: "Doug is a big thinker who strives to make the world a better place; we benefit immeasurably from his wisdom and guidance. While most people are process or outcome driven, detail or big-picture types, Doug Ende is the full complement. He will graciously edit to perfection every last detail of your work product and then push you to think outside the box on a big issue of organizational policy. We are fortunate indeed to have him in our midst."

## **SUNSET OF THE APEX BANQUET, BUT NOT THE AWARDS**

The Acknowledging Professional Excellence (APEX) Awards honor exemplary members of the legal community, including legal professionals, judges, and members of the public.

Traditionally, we have celebrated the winners at an annual dinner ceremony each September; however, given annual financial losses from the event and the inability of many to travel to Seattle for the evening, we have decided to discontinue the dinner event while striving to honor the winners in other ways. Moving forward, our intent is to travel to winners' communities to celebrate with the local legal community; however, because our travel plans are on hold through at least early 2021, we are exploring a virtual awards ceremony for winter 2021 and honoring this year's winners with videos highlighting their great work. This year's esteemed winners are:

- **Award of Merit:** Capt. Daniel G. Jones, Silverdale.
- **Angelo Petruss Award for Lawyers in Government Service:** Nancy Koptur, Olympia.

- **Justice Charles Z. Smith Excellence in Diversity Award:** Catherine C. A. Romero, Redmond.
- **Legal Innovation Award:** LatinX Law Day, Vancouver.
- **Lifetime Service Award:** Patricia J. Chvatal, Richland; Carol Pidduck, Ellensburg; and D. Jean Shaw, Vancouver.
- **Norm Maleng Leadership Award:** Malou Chavez, Seattle.
- **Outstanding Judge Award:** Hon. Michael McCarthy, Yakima, to receive the award posthumously.
- **Outstanding Young Lawyer Award:** Jordan Couch, University Place.
- **Pro Bono and Public Service Awards:** Thurston County Volunteer Legal Services, Olympia, and Joanna Plichta Boisen, Seattle.
- **Professionalism Award:** Jean M. McCoy, Vancouver.
- **Sally P. Savage Leadership in Philanthropy Award:** Lembhard (Lem) Howell, Seattle.

Please go to [www.wsba.org/about-wsba/apex-awards](http://www.wsba.org/about-wsba/apex-awards) to learn more.

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<sup>i</sup> As an additional unexpected regulatory hurdle the WSBA had to react rapidly to, on June 12, 2020, the Washington Supreme Court issued an order granting an exemption to the UBE portion of our bar exam requirements (“diploma privilege”) to applicants with a J.D. from an ABA-accredited law school who were registered for the Washington July or September 2020 Uniform Bar Exam. Many applicants opted for diploma privilege, although some applicants eligible for diploma privilege still opted to take the exam, along with all of those who were not eligible.